UNITED STATES SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 10-Q

☒ **Quarterly report pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934**

For the Quarterly Period Ended: June 30, 2015

☐ **Transition report pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934**

Commission File Number: 001-36002

NRG Yield, Inc.

(Exact name of registrant as specified in its charter)

Delaware	**46-1777204**
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification No.)
211 Carnegie Center, Princeton, New Jersey	**08540**
(Address of principal executive offices)	(Zip Code)

(609) 524-4500
(Registrant's telephone number, including area code)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.

Yes ☒ No ☐

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files).

Yes ☒ No ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of "large accelerated filer," "accelerated filer," and "smaller reporting company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer ☒	**Accelerated filer ☐**	**Non-accelerated filer ☐** (Do not check if a smaller reporting company)	**Smaller reporting company ☐**

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act).

Yes ☐ No ☒

As of July 31, 2015, there were 34,586,250 shares of Class A common stock outstanding, par value $0.01 per share, 42,738,750 shares of Class B common stock outstanding, par value $0.01 per share, 62,784,250 shares of Class C common stock outstanding, par value $0.01 per share, and 42,738,750 shares of Class D common stock outstanding, par value $0.01 per share.

TABLE OF CONTENTS
Index

CAUTIONARY STATEMENT REGARDING FORWARD-LOOKING INFORMATION

This Quarterly Report on Form 10-Q of NRG Yield, Inc., together with its consolidated subsidiaries, or the Company, includes forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, or the Securities Act, and Section 21E of the Securities Exchange Act of 1934, as amended, or the Exchange Act. The words "believes," "projects," "anticipates," "plans," "expects," "intends," "estimates" and similar expressions are intended to identify forward-looking statements. These forward-looking statements involve known and unknown risks, uncertainties and other factors that may cause the Company's actual results, performance and achievements, or industry results, to be materially different from any future results, performance or achievements expressed or implied by such forward-looking statements. These factors, risks and uncertainties include the factors described under Item 1A — *Risk Factors* in Part I, Item 1A of the Company's Annual Report on Form 10-K for the year ended December 31, 2014, and the following:

- The Company's ability to maintain and grow its quarterly dividend;
- The Company's ability to successfully identify, evaluate and consummate acquisitions from third parties;
- The Company's ability to acquire assets from NRG;
- The Company's ability to raise additional capital due to its indebtedness, corporate structure, market conditions or otherwise;
- Hazards customary to the power production industry and power generation operations such as fuel and electricity price volatility, unusual weather conditions, catastrophic weather-related or other damage to facilities, unscheduled generation outages, maintenance or repairs, unanticipated changes to fuel supply costs or availability due to higher demand, shortages, transportation problems or other developments, environmental incidents, or electric transmission or gas pipeline system constraints and the possibility that the Company may not have adequate insurance to cover losses as a result of such hazards;
- The Company's ability to operate its businesses efficiently, manage maintenance capital expenditures and costs effectively, and generate earnings and cash flows from its asset-based businesses in relation to its debt and other obligations;
- The willingness and ability of counterparties to the Company's offtake agreements to fulfill their obligations under such agreements;
- The Company's ability to enter into contracts to sell power and procure fuel on acceptable terms and prices as current offtake agreements expire;
- Government regulation, including compliance with regulatory requirements and changes in market rules, rates, tariffs and environmental laws;
- Operating and financial restrictions placed on the Company and its subsidiaries that are contained in the project-level debt facilities and other agreements of certain subsidiaries and project-level subsidiaries generally, in the NRG Yield Operating LLC revolving credit facility, in the indenture governing the Senior Notes and in the indenture governing the Company's convertible notes; and
- The Company's ability to borrow additional funds and access capital markets, as well as the Company's substantial indebtedness and the possibility that the Company may incur additional indebtedness going forward.

Forward-looking statements speak only as of the date they were made, and the Company undertakes no obligation to publicly update or revise any forward-looking statements, whether as a result of new information, future events or otherwise. The foregoing review of factors that could cause the Company's actual results to differ materially from those contemplated in any forward-looking statements included in this Quarterly Report on Form 10-Q should not be construed as exhaustive.

GLOSSARY OF TERMS

When the following terms and abbreviations appear in the text of this report, they have the meanings indicated below:

2014 Form 10-K	NRG Yield, Inc.'s Annual Report on Form 10-K for the year ended December 31, 2014
2019 Convertible Notes	$345 million aggregate principal amount of 3.50% Convertible Notes due 2019
2020 Convertible Notes	$287.5 million aggregate principal amount of 3.25% Convertible Notes due 2020
Alta TE Holdco	Alta Wind X-XI TE Holdco LLC
Alta Wind Portfolio	Seven wind facilities that total 947 MW located in Tehachapi, California and a portfolio of associated land leases
AOCL	Accumulated Other Comprehensive Loss
ASC	The FASB Accounting Standards Codification, which the FASB established as the source of authoritative U.S. GAAP
ASU	Accounting Standards Updates – updates to the ASC
Buffalo Bear	Buffalo Bear, LLC, the operating subsidiary of Tapestry Wind LLC, which owns the Buffalo Bear project
CAFD	Cash Available For Distribution
COD	Commercial Operations Date
DGPV Holdco	NRG DGPV Holdco 1 LLC
Distributed Solar	Solar power projects, typically less than 20 MW in size, that primarily sell power produced to customers for usage on site, or are interconnected to sell power into the local distribution grid
Drop Down Assets	Collectively, the June 2014 Drop Down Assets and the January 2015 Drop Down Assets
El Segundo	NRG West Holdings LLC, the subsidiary of Natural Gas Repowering LLC, which owns the El Segundo Energy Center project
EME	Edison Mission Energy
ERCOT	Electric Reliability Council of Texas, the Independent System Operator and the regional reliability coordinator of the various electricity systems within Texas
EWG	Exempt Wholesale Generator
Exchange Act	The Securities Exchange Act of 1934, as amended
FASB	Financial Accounting Standards Board
FERC	Federal Energy Regulatory Commission
GenConn	GenConn Energy LLC
GHG	Greenhouse Gases
HLBV	Hypothetical Liquidation of Book Value
ISO	Independent System Operator, also referred to as RTO
January 2015 Drop Down Assets	The Laredo Ridge, Tapestry and Walnut Creek projects, which were acquired from NRG on January 2, 2015
June 2014 Drop Down Assets	The TA High Desert, Kansas South and El Segundo projects, which were acquired from NRG on June 30, 2014
Kansas South	NRG Solar Kansas South LLC, the operating subsidiary of NRG Solar Kansas South Holdings LLC, which owns the Kansas South project
Laredo Ridge	Laredo Ridge Wind, LLC, the operating subsidiary of Mission Wind Laredo, LLC, which owns the Laredo Ridge project
LIBOR	London Inter-Bank Offered Rate
Marsh Landing	NRG Marsh Landing LLC, formerly GenOn Marsh Landing LLC
MMBtu	Million British Thermal Units
MW	Megawatt
MWh	Saleable megawatt hour, net of internal/parasitic load megawatt-hour
MWt	Megawatts Thermal Equivalent
NERC	North American Electric Reliability Corporation

Net Exposure	Counterparty credit exposure to NRG Yield, Inc. net of collateral
NOLs	Net Operating Losses
NRG	NRG Energy, Inc.
NRG Yield	Accounting predecessor, representing the combination of the projects that were acquired by NRG Yield LLC
NRG Yield, Inc.	NRG Yield, Inc., together with its consolidated subsidiaries, or the Company
NRG Yield LLC	The holding company through which the projects are owned by NRG, the holder of Class B and Class D common units, and NRG Yield, Inc., the holder of the Class A and Class C common units
NRG Yield Operating LLC	The holder of the project assets that are owned by NRG Yield LLC
OCI/OCL	Other comprehensive income/loss
Pinnacle	Pinnacle Wind, LLC, the operating subsidiary of Tapestry Wind LLC, which owns the Pinnacle project
PPA	Power Purchase Agreement
PUCT	Public Utility Commission of Texas
PURPA	Public Utility Regulatory Policies Act of 1978
QF	Qualifying Facility under PURPA
ROFO Agreement	Amended and Restated Right of First Offer Agreement between the Company and NRG
RTO	Regional Transmission Organization
RPV Holdco	NRG RPV Holdco 1 LLC
SEC	U.S. Securities and Exchange Commission
Senior Notes	NRG Yield Operating LLC's $500 million of 5.375% unsecured senior notes due 2024
TA High Desert	TA-High Desert LLC, the operating subsidiary of NRG Solar Mayfair LLC, which owns the TA High Desert project
Taloga	Taloga Wind, LLC, the operating subsidiary of Tapestry Wind LLC, which owns the Taloga project
Tapestry	Collection of the Pinnacle, Buffalo Bear and Taloga projects
Thermal Business	The Company's thermal business, which consists of thermal infrastructure assets that provide steam, hot water and/or chilled water, and in some instances electricity, to commercial businesses, universities, hospitals and governmental units
U.S.	United States of America
U.S. GAAP	Accounting principles generally accepted in the U.S.
Utility Scale Solar	Solar power projects, typically 20 MW or greater in size (on an alternating current, or AC, basis), that are interconnected into the transmission or distribution grid to sell power at a wholesale level
VaR	Value at Risk
VIE	Variable Interest Entity
Walnut Creek	NRG Walnut Creek, LLC, the operating subsidiary of WCEP Holdings, LLC, which owns the Walnut Creek project

PART I - FINANCIAL INFORMATION

ITEM 1 — FINANCIAL STATEMENTS

NRG YIELD, INC.

CONSOLIDATED STATEMENTS OF INCOME

	Three months ended June 30,		Six months ended June 30,	
(In millions, except per share amounts)	2015	2014 [a]	2015	2014 [a]
Operating Revenues				
Total operating revenues	$ 217	$ 173	$ 397	$ 313
Operating Costs and Expenses				
Cost of operations	67	53	142	113
Depreciation and amortization	59	54	113	78
General and administrative — affiliate	3	2	6	4
Acquisition-related transaction and integration costs	1	—	1	—
Total operating costs and expenses	130	109	262	195
Operating Income	87	64	135	118
Other Income (Expense)				
Equity in earnings of unconsolidated affiliates	9	14	10	15
Other income, net	—	—	1	1
Loss on debt extinguishment	(7)	—	(7)	—
Interest expense	(44)	(34)	(114)	(61)
Total other expense, net	(42)	(20)	(110)	(45)
Income Before Income Taxes	45	44	25	73
Income tax expense	4	2	—	5
Net Income	41	42	25	68
Less: Pre-acquisition net income of Drop Down Assets	—	17	—	25
Net Income Excluding Pre-acquisition Net Income of Drop Down Assets	41	25	25	43
Less: Net income attributable to noncontrolling interests [b]	31	19	20	33
Net Income Attributable to NRG Yield, Inc.	$ 10	$ 6	$ 5	$ 10
Earnings Per Share Attributable to NRG Yield, Inc. Class A and Class C Common Stockholders				
Weighted average number of Class A and Class C common shares outstanding - basic and diluted	35	23	35	23
Earnings per Weighted Average Class A and Class C Common Share - Basic and Diluted	$ 0.15	$ 0.13	$ 0.07	$ 0.21
Dividends Per Class A Common Share	0.20	0.35	0.59	0.68
Dividends Per Class C Common Share	$ 0.20	N/A	$ 0.20	N/A

[a] Retrospectively adjusted as discussed in Note 1, *Nature of Business*.

[b] The calculation of income attributable to noncontrolling interests excludes pre-acquisition net income of the Drop Down Assets.

See accompanying notes to consolidated financial statements.

NRG YIELD, INC.

CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME (LOSS)

	Three months ended June 30,		Six months ended June 30,	
	2015	2014 [a]	2015	2014 [a]
	(In millions)			
Net Income	$ 41	$ 42	$ 25	$ 68
Other Comprehensive Income (Loss), net of tax				
Unrealized gain (loss) on derivatives, net of income tax benefit (expense) of ($4), $0, $4 and $0	21	(22)	4	(34)
Other comprehensive income (loss)	21	(22)	4	(34)
Comprehensive Income	62	20	29	34
Less: Pre-acquisition net income of Drop Down Assets	—	17	—	25
Less: Comprehensive income attributable to noncontrolling interests	46	1	31	8
Comprehensive Income (Loss) Attributable to NRG Yield, Inc.	$ 16	$ 2	$ (2)	$ 1

[a] Retrospectively adjusted as discussed in Note 1, *Nature of Business*.

See accompanying notes to consolidated financial statements.

NRG YIELD, INC.

CONSOLIDATED BALANCE SHEETS

ASSETS	June 30, 2015	December 31, 2014 [a]
	(In millions)	
Current Assets		
Cash and cash equivalents	$ 281	$ 406
Restricted cash	38	45
Accounts receivable — trade	98	85
Accounts receivable — affiliate	1	—
Inventory	29	27
Derivative instruments	4	—
Notes receivable	7	6
Deferred income taxes	14	16
Prepayments and other current assets	19	21
Total current assets	491	606
Property, plant and equipment		
In service	4,919	4,796
Under construction	8	8
Total property, plant and equipment	4,927	4,804
Less accumulated depreciation	(449)	(338)
Net property, plant and equipment	4,478	4,466
Other Assets		
Equity investments in affiliates	549	227
Notes receivable	13	15
Intangible assets, net of accumulated amortization of $64 and $36	1,389	1,423
Derivative instruments	4	2
Deferred income taxes	140	118
Other non-current assets	144	108
Total other assets	2,239	1,893
Total Assets	$ 7,208	$ 6,965

[a] Retrospectively adjusted as discussed in Note 1, *Nature of Business*.

See accompanying notes to consolidated financial statements.

NRG YIELD, INC.

CONSOLIDATED BALANCE SHEETS (Continued)

LIABILITIES AND STOCKHOLDERS' EQUITY	June 30, 2015	December 31, 2014 [a]
	(In millions, except share information)	
Current Liabilities		
Current portion of long-term debt	$ 407	$ 214
Accounts payable	23	20
Accounts payable — affiliate	60	46
Derivative instruments	43	48
Accrued expenses and other current liabilities	37	61
Total current liabilities	570	389
Other Liabilities		
Long-term debt	4,336	4,573
Derivative instruments	44	69
Other non-current liabilities	52	49
Total non-current liabilities	4,432	4,691
Total Liabilities	5,002	5,080
Commitments and Contingencies		
Stockholders' Equity		
Preferred stock, $0.01 par value; 10,000,000 shares authorized; none issued		
Class A, Class B, Class C and Class D common stock, $0.01 par value; 3,000,000,000 shares authorized (Class A 500,000,000, Class B 500,000,000, Class C 1,000,000,000, Class D 1,000,000,000); 182,848,000 (Class A 34,586,250, Class B 42,738,750, Class C 62,784,250, Class D 42,738,750) and 154,650,000 (Class A 34,586,250, Class B 42,738,750, Class C 34,586,250, Class D 42,738,750) shares issued and outstanding at June 30, 2015 and December 31, 2014	1	—
Additional paid-in capital	1,852	1,240
Retained earnings	8	3
Accumulated other comprehensive loss	(16)	(9)
Noncontrolling interest	361	651
Total Stockholders' Equity	2,206	1,885
Total Liabilities and Stockholders' Equity	$ 7,208	$ 6,965

[a] Retrospectively adjusted as discussed in Note 1, *Nature of Business*.

See accompanying notes to consolidated financial statements.

NRG YIELD, INC.
CONSOLIDATED STATEMENTS OF CASH FLOWS

	Six months ended June 30,	
	2015	2014 [a]
	(In millions)	
Cash Flows from Operating Activities		
Net income	$ 25	$ 68
Adjustments to reconcile net income to net cash provided by operating activities:		
Distributions in excess of equity in earnings of unconsolidated affiliates	18	(8)
Depreciation and amortization	113	78
Amortization of financing costs and debt discount/premiums	6	5
Amortization of intangibles and out-of-market contracts	26	1
Adjustment for debt extinguishment	7	—
Changes in deferred income taxes	—	5
Changes in derivative instruments	(35)	(5)
Changes in other working capital	(72)	(69)
Net Cash Provided by Operating Activities	88	75
Cash Flows from Investing Activities		
Acquisition of businesses, net of cash acquired	(37)	—
Acquisition of Drop Down Assets, net of cash acquired	(489)	(336)
Capital expenditures	(8)	(29)
Decrease in restricted cash	7	49
Decrease in notes receivable	3	5
Proceeds from renewable energy grants	—	137
Investments in unconsolidated affiliates	(313)	(15)
Other	—	11
Net Cash Used in Investing Activities	(837)	(178)
Cash Flows from Financing Activities		
Contributions from noncontrolling interests	119	—
Capital contributions from NRG	—	2
Distributions and return of capital to NRG	—	(25)
Proceeds from the issuance of common stock	600	—
Payment of dividends and distributions to shareholders	(61)	(44)
Proceeds from issuance of long-term debt	575	386
Payment of debt issuance costs	(11)	(13)
Payments for long-term debt	(598)	(154)
Net Cash Provided by Financing Activities	624	152
Net (Decrease) Increase in Cash and Cash Equivalents	(125)	49
Cash and Cash Equivalents at Beginning of Period	406	59
Cash and Cash Equivalents at End of Period	$ 281	$ 108

[a] Retrospectively adjusted as discussed in Note 1, *Nature of Business*.

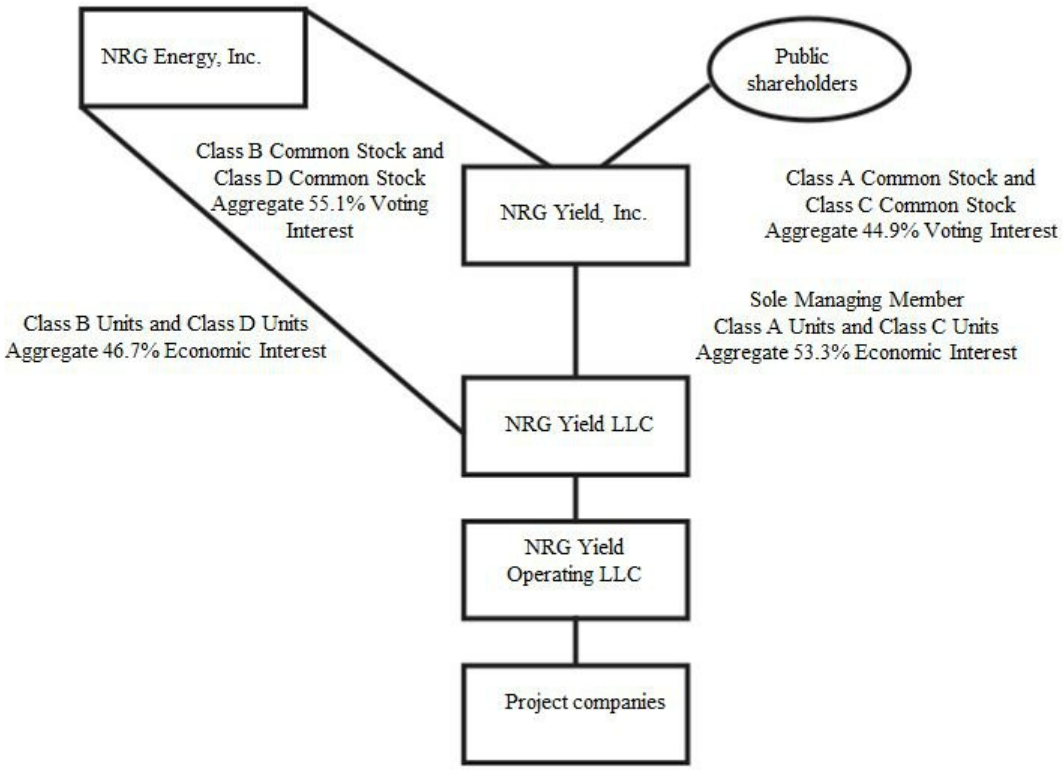
See accompanying notes to consolidated financial statements.

Note 1 — Nature of Business

NRG Yield, Inc., or the Company, is a dividend growth-oriented company formed as a Delaware corporation on December 20, 2012, to serve as the primary vehicle through which NRG owns, operates and acquires contracted renewable and conventional generation and thermal infrastructure assets. The Company owns 100% of the Class A units and Class C units of NRG Yield LLC, including a controlling interest through its position as managing member. NRG Yield LLC, through its wholly owned subsidiary, NRG Yield Operating LLC, or Yield Operating, is the holder of a portfolio of renewable and conventional generation and thermal infrastructure assets, primarily located in the Northeast, Southwest and California regions of the U.S.

The Company consolidates the results of NRG Yield LLC through its controlling interest, with NRG's interest shown as noncontrolling interest in the financial statements. On May 14, 2015, the Company completed a stock split in connection with which each outstanding share of Class A common stock was split into one share of Class A common stock and one share of Class C common stock, and each outstanding share of Class B common stock was split into one share of Class B common stock and one share of Class D common stock. The stock split is referred to as the Recapitalization and all references to share or per share amounts in the accompanying consolidated financial statements and applicable disclosures have been retrospectively adjusted to reflect the Recapitalization. In addition, on June 29, 2015, NRG Yield, Inc. completed the issuance of 28,198,000 shares of Class C common stock for net proceeds of $600 million. See further discussion in Note 10, *Changes in Capital Structure*. The holders of the Company's outstanding shares of Class A and Class C common stock are entitled to dividends as declared. NRG receives its distributions from NRG Yield LLC through its ownership of NRG Yield LLC Class B and Class D units.

The following table represents the structure of the Company as of June 30, 2015:



As of June 30, 2015, the Company's operating assets are comprised of the following projects:

Projects	Percentage Ownership	Net Capacity (MW)[a]	Offtake Counterparty	Expiration
Conventional				
GenConn Middletown	49.95%	95	Connecticut Light & Power	2041
GenConn Devon	49.95%	95	Connecticut Light & Power	2040
Marsh Landing	100%	720	Pacific Gas and Electric	2023
El Segundo	100%	550	Southern California Edison	2023
Walnut Creek	100%	485	Southern California Edison	2023
		1,945		
Utility Scale Solar				
Alpine	100%	66	Pacific Gas and Electric	2033
Avenal	49.95%	23	Pacific Gas and Electric	2031
Avra Valley	100%	25	Tucson Electric Power	2032
Blythe	100%	21	Southern California Edison	2029
Borrego	100%	26	San Diego Gas and Electric	2038
Roadrunner	100%	20	El Paso Electric	2031
CVSR	48.95%	122	Pacific Gas and Electric	2038
Kansas South	100%	20	Pacific Gas and Electric	2033
TA High Desert	100%	20	Southern California Edison	2033
Desert Sunlight 250	25%	63	Southern California Edison	2035
Desert Sunlight 300	25%	75	Pacific Gas and Electric	2040
		481		
Distributed Solar				
AZ DG Solar Projects	100%	5	Various	2025 - 2033
PFMG DG Solar Projects	51%	5	Various	2032
		10		
Wind				
Alta I	100%	150	Southern California Edison	2035
Alta II	100%	150	Southern California Edison	2035
Alta III	100%	150	Southern California Edison	2035
Alta IV	100%	102	Southern California Edison	2035
Alta V	100%	168	Southern California Edison	2035
Alta X [b]	100%	137	Southern California Edison	2038[c]
Alta XI [b]	100%	90	Southern California Edison	2038[c]
South Trent	100%	101	AEP Energy Partners	2029
Laredo Ridge	100%	80	Nebraska Public Power District	2031
Taloga	100%	130	Oklahoma Gas & Electric	2031
Pinnacle	100%	55	Maryland Department of General Services and University System of Maryland	2031
Buffalo Bear	100%	19	Western Farmers Electric Co-operative	2033
Spring Canyon II [b]	90.1%	31	Platte River Power Authority	2038
Spring Canyon III [b]	90.1%	26	Platte River Power Authority	2039
		1,389		
Thermal				
Thermal equivalent MWt[d]	100%	1,310	Various	Various
Thermal generation	100%	124	Various	Various
Total net capacity (excluding equivalent MWt)		3,949		

(a) Net capacity represents the maximum, or rated, generating capacity of the facility multiplied by the Company's percentage ownership in the facility as of June 30, 2015.

(b) Projects are part of tax equity arrangements, as further described in Note 2, *Summary of Significant Accounting Policies.*

(c) PPA begins on January 1, 2016.

(d) For thermal energy, net capacity represents MWt for steam or chilled water and excludes 134 MWt available under the right-to-use provisions contained in agreements between two of the Company's thermal facilities and certain of its customers.

Substantially all of the Company's generation assets are under long-term contractual arrangements for the output or capacity from these assets. The thermal assets are comprised of district energy systems and combined heat and power plants that produce steam, hot water and/or chilled water and in some instances, electricity at a central plant. Three of the district energy systems are subject to rate regulation by state public utility commissions while the other district energy systems have rates determined by negotiated bilateral contracts.

In connection with its initial public offering in 2013, the Company entered into a management services agreement with NRG for various services, including human resources, accounting, tax, legal, information systems, treasury, and risk management. Costs incurred by the Company under this agreement were $6 million and $4 million for the six months ended June 30, 2015, and 2014, respectively, which included certain direct expenses incurred by NRG on behalf of the Company.

Stockholders' equity represents the equity associated with the Class A and Class C common stockholders, with the equity associated with the Class B and Class D common stockholder, or NRG, classified as noncontrolling interest.

As described in Note 3, *Business Acquisitions*, on January 2, 2015, the Company acquired the Laredo Ridge, Tapestry, and Walnut Creek projects, or the January 2015 Drop Down Assets, for total cash consideration of $489 million, including $9 million for working capital, plus assumed debt of $737 million. Additionally, on June 30, 2014, the Company acquired the TA High Desert, Kansas South, and El Segundo projects, or the June 2014 Drop Down Assets, from NRG for total cash consideration of $357 million plus assumed project level debt. These acquisitions were accounted for as transfers of entities under common control. The accounting guidance requires retrospective combination of the entities for all periods presented as if the combination has been in effect since the inception of common control. Accordingly, the Company prepared its consolidated financial statements to reflect the transfer as if it had taken place from the beginning of the financial statements period, or from the date the entities were under common control, which was April 1, 2014, for the January 2015 Drop Down Assets, which represents the date these entities were acquired by NRG.

The accompanying unaudited interim consolidated financial statements have been prepared in accordance with the SEC's regulations for interim financial information. Accordingly, they do not include all of the information and notes required by U.S. GAAP for complete financial statements. The following notes should be read in conjunction with the accounting policies and other disclosures as set forth in the notes to the Company's annual financial statements for the year ended December 31, 2014. Interim results are not necessarily indicative of results for a full year.

In the opinion of management, the accompanying unaudited interim consolidated financial statements contain all material adjustments consisting of normal and recurring accruals necessary to present fairly the Company's consolidated financial position as of June 30, 2015, and the results of operations, comprehensive income and cash flows for the six months ended June 30, 2015, and 2014.

Note 2 — Summary of Significant Accounting Policies

Use of Estimates

The preparation of consolidated financial statements in accordance with U.S. GAAP requires management to make estimates and assumptions. These estimates and assumptions impact the reported amount of assets and liabilities and disclosures of contingent assets and liabilities as of the date of the consolidated financial statements. They also impact the reported amount of net earnings during the reporting period. Actual results could be different from these estimates.

Tax Equity Arrangements

Certain portions of the Company's noncontrolling interest in subsidiaries represent third-party interests in the net assets under certain tax equity arrangements, which are consolidated by the Company, that have been entered into to finance the cost of wind facilities eligible for certain tax credits. Additionally, certain portions of the Company's investments in unconsolidated affiliates reflect the Company's interests in tax equity arrangements that are not consolidated by the Company that have been entered into to finance the cost of solar energy systems under operating leases eligible for certain tax credits. The Company has determined that the provisions in the contractual agreements of these structures represent substantive profit sharing arrangements. Further, the Company has determined that the appropriate methodology for calculating the noncontrolling interest and investment in unconsolidated affiliates that reflects the substantive profit sharing arrangements is a balance sheet approach utilizing the hypothetical liquidation book value, or HLBV, method. Under the HLBV method, the amounts reported as noncontrolling interests and investment in unconsolidated affiliates represent the amounts the investors that are party to the tax equity arrangements would hypothetically receive at each balance sheet date under the liquidation provisions of the contractual agreements, assuming the net assets of the funding structures were liquidated at their recorded amounts determined in accordance with GAAP. The investors'

interests in the results of operations of the funding structures are determined as the difference in noncontrolling interests and investment in unconsolidated affiliates at the start and end of each reporting period, after taking into account any capital transactions between the structures and the funds' investors. The calculations utilized to apply the HLBV method include estimated calculations of taxable income or losses for each reporting period.

Noncontrolling Interests

The following table reflects the changes in the Company's noncontrolling interest balance:

	(In millions)
Balance as of December 31, 2014	651
Payment to NRG for acquired January 2015 Drop Down Assets	(489)
Contributions from noncontrolling interest for Alta Wind X-X1 TE Holdco	119
Noncontrolling interest acquired in Spring Canyon acquisition	74
Comprehensive income	31
Non-cash contributions	9
Cash distributions to NRG	(34)
Balance as of June 30, 2015	$ 361

On June 30, 2015, the Company sold an economic interest in Alta Wind X-XI TE Holdco, holder of the Alta Wind X and Alta Wind XI projects, to a financial institution in order to monetize cash and tax attributes, primarily production tax credits. The net proceeds of $119 million are reflected as noncontrolling interest in the Company's balance sheet.

As described in Note 3, *Business Acquisitions*, the Company acquired Spring Canyon on May 7, 2015. The Company owns 90.1% of the Class B shares of Spring Canyon. The seller, Invenergy, owns the remaining 9.9% of the Class B shares and the Class A shares are owned by a tax equity investor. The interests of Invenergy and the tax equity investor of $74 million are shown as noncontrolling interests.

On January 2, 2015, the Company acquired the January 2015 Drop Down Assets, as discussed in Note 3, *Business Acquisitions*. The difference between the cash paid of $489 million and the historical value of the entities' net assets of $61 million, as well as $23 million of AOCL, was recorded as a distribution to NRG and reduced the balance of its noncontrolling interest. In addition, as the January 2015 Drop Down Assets were owned by NRG until January 2, 2015, the pre-acquisition earnings of such projects are recorded as attributable to NRG's noncontrolling interest.

Distributions

On August 4, 2015, NRG Yield LLC announced the declaration of a distribution on its units of $0.21 per unit payable on September 15, 2015 to unit holders of record as of September 1, 2015. On May 20, 2015, NRG Yield LLC declared a distribution on its units of $0.20 per unit, which was paid on June 15, 2015. On February 17, 2015, NRG Yield LLC declared a distribution on its units of $0.39 per unit, which was paid on March 16, 2015. The portion of the distributions paid by NRG Yield LLC to NRG was recorded as a reduction to the Company's noncontrolling interest balance.

Recent Accounting Developments

ASU 2015-03 — In April 2015, the FASB issued ASU No. 2015-03, *Interest - Imputation of Interest (Subtopic 835-30): Simplifying the Presentation of Debt Issuance Costs*, or ASU No. 2015-03. The amendments of ASU No. 2015-03 were issued to reduce complexity in the balance sheet presentation of debt issuance costs. ASU No. 2015-03 requires that debt issuance costs be presented in the balance sheet as a direct deduction from the carrying amount of debt liability, consistent with debt discounts or premiums. The recognition and measurement guidance for debt issuance costs are not affected by the amendments in this standard. The guidance in ASU No. 2015-03 is effective for financial statements issued for fiscal years beginning after December 15, 2015, and interim periods within those fiscal years. Early adoption is permitted for financial statements that have not been previously issued. Had the Company adopted this guidance early, other assets would have been lower by $66 million and $67 million with corresponding decreases in debt as of June 30, 2015, and December 31, 2014, respectively. The adoption of this standard will have no impact on the Company's results of operations, cash flows or net assets.

ASU 2015-02 — In February 2015, the FASB issued ASU No. 2015-02, *Consolidation (Topic 810): Amendments to the Consolidation Analysis*, or ASU No. 2015-02. The amendments of ASU No. 2015-02 were issued in an effort to minimize situations under previously existing guidance in which a reporting entity was required to consolidate another legal entity in which that reporting entity did not have: (1) the ability through contractual rights to act primarily on its own behalf; (2) ownership of the majority of the legal entity's voting rights; or (3) the exposure to a majority of the legal entity's economic benefits. ASU No. 2015-02 affects reporting entities that are required to evaluate whether they should consolidate certain legal entities. All legal entities are subject to reevaluation under the revised consolidation model. The guidance in ASU No. 2015-02 is effective for periods beginning after December 15, 2015. Early adoption is permitted. The Company adopted the standard effective January 1, 2015 and the adoption of this standard did not impact the Company's results of operations, cash flows or financial position.

ASU 2014-16 — In November 2014, the FASB issued ASU No. 2014-16, *Derivatives and Hedging (Topic 815): Determining Whether the Host Contract in a Hybrid Financial Instrument Issued in the Form of a Share Is More Akin to Debt or to Equity*, or ASU No. 2014-16. The amendments of ASU No. 2014-16 clarify how U.S. GAAP should be applied in determining whether the nature of a host contract is more akin to debt or equity and in evaluating whether the economic characteristics and risks of an embedded feature are "clearly and closely related" to its host contract. The guidance in ASU No. 2014-16 is effective for fiscal years, and interim periods within those fiscal years, beginning after December 15, 2015. Early adoption is permitted. The Company adopted the standard effective January 1, 2015 and the adoption of this standard did not impact the Company's results of operations, cash flows or financial position.

ASU 2014-09 — In May 2014, the FASB issued ASU No. 2014-09, *Revenue from Contracts with Customers (Topic 606)*, or ASU No. 2014-09. The amendments of ASU No. 2014-09 complete the joint effort between the FASB and the International Accounting Standards Board, or IASB, to develop a common revenue standard for U.S. GAAP and International Financial Reporting Standards, or IFRS, and to improve financial reporting. The guidance in ASU No. 2014-09 provides that an entity should recognize revenue to depict the transfer of goods or services to customers in an amount that reflects the consideration to which the entity expects to be entitled to in exchange for the goods or services provided and establishes the following steps to be applied by an entity: (1) identify the contract with a customer; (2) identify the performance obligations in the contract; (3) determine the transaction price; (4) allocate the transaction price to the performance obligations in the contract; and (5) recognize revenue when (or as) the entity satisfies the performance obligation. On July 9, 2015, the FASB voted to defer the effective date by one year to make the guidance of ASU No. 2014-09 effective for annual reporting periods beginning after December 15, 2017, including interim periods therein. Early adoption is permitted, but not prior to the original effective date, which was for annual reporting periods beginning after December 15, 2016. The Company is currently evaluating the impact of the standard on the Company's results of operations, cash flows and financial position.

Note 3 — Business Acquisitions

2015 Acquisitions

Desert Sunlight — On June 29, 2015, the Company acquired 25% of the membership interest in Desert Sunlight Investment Holdings, LLC, which owns two solar photovoltaic facilities that total 550 MW, located in Desert Center, California from EFS Desert Sun, LLC, an affiliate of GE Energy Financial Services for a purchase price of $285 million. Power generated by the facilities is sold to Southern California Edison and Pacific Gas and Electric under long-term PPAs with approximately 20 years and 25 years of remaining contract life, respectively. The Company accounts for its 25% investment as an equity method investment.

Spring Canyon — On May 7, 2015, the Company acquired a 90.1% interest in Spring Canyon II, a 34 MW wind facility, and Spring Canyon III, a 29 MW wind facility, each located in Logan County, Colorado, from Invenergy Wind Global LLC. The purchase price was funded with cash on hand. Power generated by Spring Canyon II and Spring Canyon III is sold to Platte River Power Authority under long-term PPAs with approximately 24 years of remaining contract life.

University of Bridgeport Fuel Cell — On April 30, 2015, the Company completed the acquisition of the University of Bridgeport Fuel Cell project in Bridgeport, Connecticut from FuelCell Energy, Inc. The project added an additional 1.4 MW of thermal capacity to the Company's portfolio, with a 12 year contract, with the option for a 7-year extension. The acquisition is reflected in the Company's Thermal segment.

January 2015 Drop Down Assets from NRG — On January 2, 2015, the Company acquired the following projects from NRG: (i) Laredo Ridge, an 80 MW wind facility located in Petersburg, Nebraska, (ii) Tapestry, which includes Buffalo Bear, a 19 MW wind facility in Buffalo, Oklahoma; Taloga, a 130 MW wind facility in Putnum, Oklahoma; and Pinnacle, a 55 MW wind facility in Keyser, West Virginia, and (iii) Walnut Creek, a 485 MW natural gas facility located in City of Industry, California, for total cash consideration of $489 million, including $9 million for working capital, plus assumed project-level debt of $737 million. The Company funded the acquisition with cash on hand and drawings under its revolving credit facility. The assets and

liabilities transferred to the Company relate to interests under common control by NRG and were recorded at historical cost in accordance with ASC 805-50, *Business Combinations - Related Issues*. The difference between the cash paid and the historical value of the entities' equity of $61 million, as well as $23 million of AOCL, was recorded as a distribution to NRG and reduced the balance of its noncontrolling interest. Since the transaction constituted a transfer of assets under common control, the guidance requires retrospective combination of the entities for all periods presented as if the combination has been in effect since the inception of common control. NRG acquired the majority of EME's assets, including Laredo Ridge, Tapestry and Walnut Creek, on April 1, 2014.

The following table presents the historical information summary combining the financial information for the January 2015 Drop Down Assets transferred in connection with the acquisition:

	December 31, 2014				
	As Previously Reported	Walnut Creek	Tapestry	Laredo Ridge	As Currently Reported
	(In millions)				
Current assets	$ 539	$ 46	$ 14	$ 7	$ 606
Property, plant and equipment	3,487	575	286	118	4,466
Non-current assets	1,726	57	61	49	1,893
Total assets	5,752	678	361	174	6,965
Debt	4,050	437	192	108	4,787
Other current and non-current liabilities	222	62	5	4	293
Total liabilities	4,272	499	197	112	5,080
Net assets	$ 1,480	$ 179	$ 164	$ 62	$ 1,885

Supplemental Pro Forma Information

As described above, the Company's acquisition of the January 2015 Drop Down Assets was accounted for as a transfer of entities under common control and all periods were retrospectively adjusted to reflect the entities as if they were transferred on the date the entities were under common control, which was April 1, 2014, the date NRG acquired Walnut Creek, Laredo Ridge and Tapestry. The following unaudited supplemental pro forma information represents the results of operations as if the Company had acquired the January 2015 Drop Down Assets on January 1, 2014, including the impact of acquisition accounting with respect to NRG's acquisition of the projects. While the financial statements have been retrospectively adjusted, all net income or losses prior to the Company's acquisition of the projects is reflected as attributable to NRG and accordingly, no pro forma impact to earnings per Class A and Class C common share was calculated.

	For the six months ended
(In millions)	June 30, 2014
Operating revenues	$ 339
Net income	65

Since the acquisition date, the January 2015 Drop Down Assets contributed $73 million in operating revenues and $23 million in net income.

2014 Acquisitions

Alta Wind Portfolio Acquisition — On August 12, 2014, the Company acquired 100% of the membership interests of Alta Wind Asset Management Holdings, LLC, Alta Wind Company, LLC, Alta Wind X Holding Company, LLC and Alta Wind XI Holding Company, LLC, which collectively own seven wind facilities that total 947 MW located in Tehachapi, California and a portfolio of associated land leases, or the Alta Wind Portfolio. Power generated by the Alta Wind Portfolio is sold to Southern California Edison under long-term PPAs, with 21 years of remaining contract life for Alta Wind I-V. The Alta X and XI PPAs begin in 2016 with a term of 22 years and currently sell energy and renewable energy credits on a merchant basis.

The purchase price for the Alta Wind Portfolio was $923 million, which consisted of a base purchase price of $870 million, as well as a payment for working capital of $53 million, plus the assumption of $1.6 billion of non-recourse project-level debt. In order to fund the purchase price, the Company completed an equity offering of 12,075,000 shares of its Class A common stock at an offering price of $54.00 per share on July 29, 2014, which resulted in net proceeds of $630 million, after underwriting discounts and expenses. In addition, on August 5, 2014, NRG Yield Operating LLC issued $500 million of Senior Notes, which bear interest at a rate of 5.375% and mature in August 2024.

The acquisition was recorded as a business combination under ASC 805, with identifiable assets acquired and liabilities assumed provisionally recorded at their estimated fair values on the acquisition date. The initial accounting for the business combination is not complete because the evaluation necessary to assess the fair values of certain net assets acquired is still in process. The provisional amounts are subject to revision until the evaluations are completed to the extent that additional information is obtained about the facts and circumstances that existed as of the acquisition date. The allocation of the purchase price may be modified up to one year from the date of the acquisition as more information is obtained about the fair value of assets acquired and liabilities assumed. The following table summarizes the provisional amounts recognized for assets acquired and liabilities assumed as of December 31, 2014, as well as adjustments made through June 30, 2015.

The purchase price of $923 million was provisionally allocated as follows:

	Acquisition Date Fair Value at December 31, 2014	Measurement period adjustments	Revised Acquisition Date
(In millions)			
Assets			
Cash	$ 22	$ —	$ 22
Current and non-current assets	49	(2)	47
Property, plant and equipment	1,304	6	1,310
Intangible assets	1,177	(6)	1,171
Total assets acquired	2,552	(2)	2,550
Liabilities			
Debt	1,591	—	1,591
Current and non-current liabilities	38	(2)	36
Total liabilities assumed	1,629	(2)	1,627
Net assets acquired	$ 923	$ —	$ 923

Fair value measurements

The fair values of the property, plant and equipment and intangible assets were measured primarily based on significant inputs that are not observable in the market and thus represent a Level 3 measurement as defined in ASC 820. Significant inputs were as follows:

- *Property, plant and equipment* — The fair values were determined primarily based on an income method using discounted cash flows and validated using a cost approach based on the replacement cost of the assets less economic obsolescence. The income approach was applied by determining the enterprise value for each acquired entity and subtracting the fair value of the intangible assets and working capital to determine the implied value of the tangible fixed assets. This methodology was primarily relied upon as the forecasted cash flows incorporate the specific attributes of each asset including age, useful life, equipment condition and technology. The income approach also allows for an accurate reflection of current and expected market dynamics such as supply and demand and regulatory environment as of the acquisition date.

- *Intangible Assets - PPAs* — The fair values of the PPAs acquired were determined utilizing a variation of the income approach where the incremental future cash flows resulting from the acquired PPAs compared to the cash flows based on current market prices were discounted to present value at a weighted average cost of capital reflective of a market participant. The values were corroborated with available market data. The PPA values will be amortized over the term of the PPAs, which approximate 22 years.

- *Intangible Assets - Leasehold rights* — The fair values of the leasehold rights acquired, which represent the contractual right to receive royalty payments equal to a percentage of PPA revenue from certain projects, were determined utilizing the income approach. The values were corroborated with available market data. The leasehold rights values will be amortized over a period of 21 years, which is equal to the average term of the contracts.

June 2014 Drop Down Assets — On June 30, 2014, the Company acquired from NRG: (i) El Segundo, a 550 MW fast-start, gas-fired facility located in Los Angeles County, California; (ii) TA High Desert, a 20 MW solar facility located in Los Angeles County, California; and (iii) Kansas South, a 20 MW solar facility located in Kings County, California. The Company paid total cash consideration of $357 million, which represents a base purchase price of $349 million and $8 million of working capital adjustments. In addition, the acquisition included the assumption of $612 million of project-level debt. The assets and liabilities transferred to the Company relate to interests under common control by NRG and were recorded at historical cost in accordance with *ASC 805-50*. The difference between the cash proceeds and the historical value of the net assets was recorded as a distribution to NRG and reduced the balance of its noncontrolling interest. Since the transaction constituted a transfer of entities under common control, the guidance requires retrospective combination of the entities for all periods presented as if the combination has been in effect since the inception of common control. Accordingly, the Company prepared its consolidated financial statements to reflect the transfer as if it had taken place from the beginning of the financial statements period.

Note 4 — Property, Plant and Equipment

The Company's major classes of property, plant, and equipment were as follows:

	June 30, 2015	December 31, 2014	Depreciable Lives
	(In millions)		
Facilities and equipment	$ 4,832	$ 4,709	2 - 40 Years
Land and improvements	87	87	
Construction in progress	8	8	
Total property, plant and equipment	4,927	4,804	
Accumulated depreciation	(449)	(338)	
Net property, plant and equipment	$ 4,478	$ 4,466	

Note 5 — Variable Interest Entities, or VIEs

Entity that is Consolidated

Alta TE Holdco — On June 30, 2015, the Company sold an economic interest in Alta TE Holdco to a financial institution in order to monetize certain cash and tax attributes, primarily production tax credits. The financial institution, or Investor, receives 99% of allocations of taxable income and other items until the flip point, which occurs when the Investor obtains a specified return on its initial investment, at which time the allocations to the Investor change to 5%. The Company receives 100% of cash available for distribution in the first year and subsequently receives 94.34% until the flip point, at which time the allocations to the Company of cash available for distribution change to 97.12%, except if the flip point has not occurred by a specified date, which would result in 100% of cash available for distribution allocated to the Investor until the flip point occurs. Alta TE Holdco is a VIE and the Company is the primary beneficiary, through its position as managing member, and consolidates Alta TE Holdco. The net proceeds of $119 million are reflected as noncontrolling interest in the Company's balance sheet.

The summarized financial information for Alta TE Holdco consisted of the following:

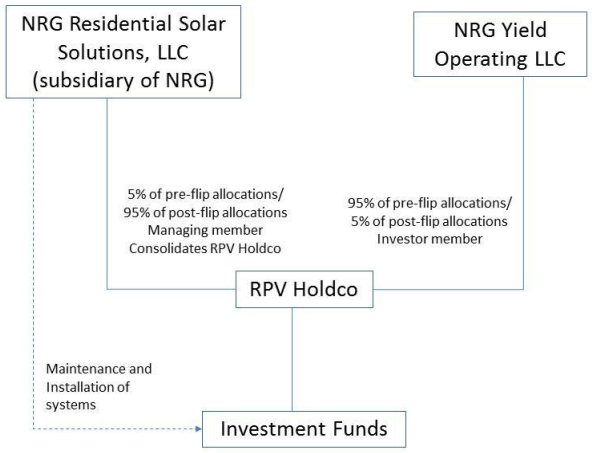
(In millions)	June 30, 2015
Other current and non-current assets	$ 11
Property, plant and equipment	493
Intangible assets	287
Total assets	791
Current and non-current liabilities	8
Total liabilities	8
Noncontrolling interest	130
Net assets less noncontrolling interests	$ 653

Entities that are not Consolidated

The Company has interests in entities that are considered VIEs under ASC 810, *Consolidation*, but is not considered the primary beneficiary. The Company accounts for its interests in these entities under the equity method of accounting.

NRG DGPV Holdco 1 LLC — On May 8, 2015, NRG Yield DGPV Holding LLC, a subsidiary of the Company, and NRG Renew LLC, a subsidiary of NRG, entered into a partnership by forming NRG DGPV Holdco 1 LLC, or DGPV Holdco, that will own or purchase solar power generation projects and other ancillary related assets via intermediate funds. On June 12, 2015, DGPV Holdco invested in a tax equity portfolio of distributed solar projects acquired from NRG Renew LLC. The portfolio agreed to pay NRG Renew LLC approximately $32 million for the acquired projects, of which approximately $7 million was paid in June 2015. The Company's initial investment in this portfolio was $4 million in cash and a $15 million payable into the portfolio, which it expects to pay during the third quarter of 2015. The Company's maximum exposure to loss is limited to its equity investment, which was $19 million as of June 30, 2015.

NRG RPV Holdco 1 LLC — On April 9, 2015, NRG Yield RPV Holding LLC, a subsidiary of the Company, and NRG Residential Solar Solutions LLC, a subsidiary of NRG, entered into a partnership, by forming NRG RPV Holdco 1 LLC, or RPV Holdco, that will invest in and hold operating portfolios of residential solar assets developed by NRG Home Solar, a subsidiary of NRG, including: (i) an existing, unlevered portfolio of over 2,200 leases across nine states representing approximately 17 MW with a weighted average remaining lease term of approximately 17 years; and (ii) in-development, tax equity financed portfolios of approximately 13,000 leases representing approximately 90 MW, with an average lease term for the existing and new leases of approximately 17 to 20 years. The following illustrates the structure of RPV Holdco:



The Company invested $26 million in RPV Holdco in April 2015 related to the existing, unlevered portfolio of leases. The Company also invested $14 million of its $150 million commitment in the tax equity financed portfolios through June 30, 2015. Its maximum exposure will be limited to its equity investment. RPV Holdco is considered a VIE under ASC 810, however the Company is not the primary beneficiary, and will account for its investment under the equity method. The Company's maximum exposure to loss is limited to its equity investment, which was $40 million as of June 30, 2015.

GenConn Energy LLC — The Company has a 49.95% interest in GCE Holding LLC, the owner of GenConn, which owns and operates two 190 MW peaking generation facilities in Connecticut at the Devon and Middletown sites. Each of these facilities was constructed pursuant to a 30-year cost of service type contract with the Connecticut Light & Power Company. GenConn is considered a VIE under ASC 810, however the Company is not the primary beneficiary, and accounts for its investment under the equity method.

The project was funded through equity contributions from the owners and non-recourse, project-level debt. As of June 30, 2015, the Company's investment in GenConn was $113 million and its maximum exposure to loss is limited to its equity investment. Additionally, GenConn has a $237 million project note with an interest rate of 4.73% and a maturity date of July 2041, and a 5-year, $35 million working capital facility that matures in 2018, which can be used to issue letters of credit at an interest rate of 1.875% per annum. As of June 30, 2015, $224 million was outstanding under the note and nothing was drawn on the working capital facility. The note is secured by all of the GenConn assets.

The following table presents summarized financial information for GCE Holding LLC:

(In millions)	Three months ended June 30, 2015	Three months ended June 30, 2014	Six months ended June 30, 2015	Six months ended June 30, 2014
Income Statement Data:				
Operating revenues	$ 18	$ 18	$ 40	$ 44
Operating income	11	10	20	20
Net income	$ 8	$ 7	$ 14	$ 14

	June 30, 2015	December 31, 2014
Balance Sheet Data:	(In millions)	
Current assets	$ 37	$ 33
Non-current assets	424	438
Current liabilities	16	20
Non-current liabilities	$ 219	$ 223

Note 6 — Fair Value of Financial Instruments

For cash and cash equivalents, restricted cash, accounts receivable, accounts payable, accounts payable — affiliate, accrued expenses and other liabilities, the carrying amounts approximate fair value because of the short-term maturity of those instruments and are classified as Level 1 within the fair value hierarchy.

The estimated carrying amounts and fair values of the Company's recorded financial instruments not carried at fair market value are as follows:

(In millions)	As of June 30, 2015 Carrying Amount	As of June 30, 2015 Fair Value	As of December 31, 2014 Carrying Amount	As of December 31, 2014 Fair Value
Assets:				
Notes receivable, including current portion	$ 20	$ 20	$ 21	$ 21
Liabilities:				
Long-term debt, including current portion	$ 4,743	$ 4,813	$ 4,787	$ 4,873

The fair value of notes receivable and long-term debt are based on expected future cash flows discounted at market interest rates, or current interest rates for similar instruments and are classified as Level 3 within the fair value hierarchy.

Fair Value Accounting under ASC 820

ASC 820 establishes a fair value hierarchy that prioritizes the inputs to valuation techniques used to measure fair value into three levels as follows:

- Level 1—quoted prices (unadjusted) in active markets for identical assets or liabilities that the Company has the ability to access as of the measurement date.
- Level 2—inputs other than quoted prices included within Level 1 that are directly observable for the asset or liability or indirectly observable through corroboration with observable market data.
- Level 3—unobservable inputs for the asset or liability only used when there is little, if any, market activity for the asset or liability at the measurement date.

In accordance with ASC 820, the Company determines the level in the fair value hierarchy within which each fair value measurement in its entirety falls, based on the lowest level input that is significant to the fair value measurement.

Recurring Fair Value Measurements

The Company records its derivative assets and liabilities at fair market value on its consolidated balance sheet. The following table presents assets and liabilities measured and recorded at fair value on the Company's consolidated balance sheets on a recurring basis and their level within the fair value hierarchy:

(In millions)	As of June 30, 2015 Fair Value [(a)] Level 2	As of December 31, 2014 Fair Value [(a)] Level 2
Derivative assets:		
Commodity contracts	$ 4	$ —
Interest rate contracts	4	2
Total assets	8	2
Derivative liabilities:		
Commodity contracts	3	3
Interest rate contracts	84	114
Total liabilities	$ 87	$ 117

[(a)] There were no assets or liabilities classified as Level 1 or Level 3 as of June 30, 2015, or December 31, 2014.

Derivative Fair Value Measurements

A majority of the Company's contracts are non-exchange-traded and valued using prices provided by external sources. For the Company's energy markets, management receives quotes from multiple sources. To the extent that multiple quotes are received, the prices reflect the average of the bid-ask mid-point prices obtained from all sources believed to provide the most liquid market for the commodity. The remainder of the assets and liabilities represent contracts for which external sources or observable market quotes are not available. These contracts are valued using various valuation techniques including but not limited to internal models that apply fundamental analysis of the market and corroboration with similar markets. As of June 30, 2015, there were no contracts valued with prices provided by models and other valuation techniques.

The fair value of each contract is discounted using a risk free interest rate. In addition, a credit reserve is applied to reflect credit risk, which is calculated based on credit default swaps. To the extent that the net exposure is an asset, the Company uses the counterparty's default swap rate. If the exposure is a liability, the Company uses its default swap rate. The credit reserve is added to the discounted fair value to reflect the exit price that a market participant would be willing to receive to assume the liabilities or that a market participant would be willing to pay for the assets. As of June 30, 2015, the credit reserve resulted in a $1 million increase in fair value which is composed of a $1 million gain in OCI. It is possible that future market prices could vary from those used in recording assets and liabilities and such variations could be material.

Concentration of Credit Risk

In addition to the credit risk discussion as disclosed in Note 2, *Summary of Significant Accounting Policies*, to the Company's audited consolidated financial statements included in the Company's 2014 Form 10-K, the following item is a discussion of the concentration of credit risk for the Company's financial instruments. Credit risk relates to the risk of loss resulting from non-performance or non-payment by counterparties pursuant to the terms of their contractual obligations. The Company monitors and manages credit risk through credit policies that include: (i) an established credit approval process; (ii) a daily monitoring of counterparties' credit limits; (iii) the use of credit mitigation measures such as margin, collateral, prepayment arrangements, or volumetric limits; (iv) the use of payment netting agreements; and (v) the use of master netting agreements that allow for the netting of positive and negative exposures of various contracts associated with a single counterparty. Risks surrounding counterparty performance and credit could ultimately impact the amount and timing of expected cash flows. The Company seeks to mitigate counterparty risk by having a diversified portfolio of counterparties.

Counterparty credit exposure includes credit risk exposure under certain long-term agreements, including solar and other PPAs. As external sources or observable market quotes are not available to estimate such exposure, the Company estimates the exposure related to these contracts based on various techniques including but not limited to internal models based on a fundamental analysis of the market and extrapolation of observable market data with similar characteristics. Based on these valuation techniques, as of June 30, 2015, credit risk exposure to these counterparties attributable to the Company's ownership interests was approximately $2.4 billion for the next five years. The majority of these power contracts are with utilities with strong credit quality and public utility commission or other regulatory support, as further described in Note 11, *Segment Reporting,* to the Company's audited consolidated financial statements included in the Company's 2014 Form 10-K. However, such regulated utility counterparties can be impacted by changes in government regulations, which the Company is unable to predict.

Note 7 — Accounting for Derivative Instruments and Hedging Activities

This footnote should be read in conjunction with the complete description under Note 7, *Accounting for Derivative Instruments and Hedging Activities*, to the Company's audited consolidated financial statements included in the Company's 2014 Form 10-K.

Energy-Related Commodities

As of June 30, 2015, the Company had forward contracts with an NRG subsidiary, hedging the sale of power from the Alta X and Alta XI wind facilities extending through the end of 2015 and forward contracts for the purchase of fuel commodities relating to the forecasted usage of the Company's district energy centers extending through 2017. At June 30, 2015, these contracts were not designated as cash flow or fair value hedges.

Interest Rate Swaps

As of June 30, 2015, the Company had interest rate derivative instruments on non-recourse debt extending through 2031, most of which are designated as cash flow hedges.

Volumetric Underlying Derivative Transactions

The following table summarizes the net notional volume buy/(sell) of the Company's open derivative transactions broken out by commodity as of June 30, 2015, and December 31, 2014.

		Total Volume	
		June 30, 2015	December 31, 2014
Commodity	Units	(In millions)	
Natural Gas	MMBtu	3	2
Interest	Dollars	$ 1,841	$ 2,817

The decrease in the interest rate position is primarily the result of settling the Alta X and Alta XI interest rate swaps in connection with the repayment of the outstanding project-level debt, as further described in Note 8, *Long-term Debt*.

Fair Value of Derivative Instruments

The following table summarizes the fair value within the derivative instrument valuation on the balance sheet:

	Fair Value			
	Derivative Assets		Derivative Liabilities	
	June 30, 2015	December 31, 2014	June 30, 2015	December 31, 2014
	(In millions)			
Derivatives Designated as Cash Flow Hedges:				
Interest rate contracts current	$ —	$ —	$ 37	$ 40
Interest rate contracts long-term	4	2	42	49
Total Derivatives Designated as Cash Flow Hedges	4	2	79	89
Derivatives Not Designated as Cash Flow Hedges:				
Interest rate contracts current	—	—	3	5
Interest rate contracts long-term	—	—	2	20
Commodity contracts current	4	—	3	3
Total Derivatives Not Designated as Cash Flow Hedges	4	—	8	28
Total Derivatives	$ 8	$ 2	$ 87	$ 117

The Company has elected to present derivative assets and liabilities on the balance sheet on a trade-by-trade basis and does not offset amounts at the counterparty master agreement level. As of June 30, 2015, there was no outstanding collateral paid or received. The following table summarizes the offsetting of derivatives by counterparty master agreement level:

	Gross Amounts Not Offset in the Statement of Financial Position		
As of June 30, 2015	**Gross Amounts of Recognized Assets/ Liabilities**	**Derivative Instruments**	**Net Amount**
		(In millions)	
Commodity contracts:			
Derivative assets	$ 4	$ (1)	$ 3
Derivative liabilities	(3)	1	(2)
Total commodity contracts	1	—	1
Interest rate contracts:			
Derivative assets	4	(3)	1
Derivative liabilities	(84)	3	(81)
Total interest rate contracts	(80)	—	(80)
Total derivative instruments	$ (79)	$ —	$ (79)

	Gross Amounts Not Offset in the Statement of Financial Position		
As of December 31, 2014	**Gross Amounts of Recognized Assets/ Liabilities**	**Derivative Instruments**	**Net Amount**
		(In millions)	
Commodity contracts:			
Derivative assets	$ —	$ —	$ —
Derivative liabilities	(3)	—	(3)
Total commodity contracts	(3)	—	(3)
Interest rate contracts:			
Derivative assets	2	(2)	—
Derivative liabilities	(114)	2	(112)
Total interest rate contracts	(112)	—	(112)
Total derivative instruments	$ (115)	$ —	$ (115)

Accumulated Other Comprehensive Loss

The following table summarizes the effects on the Company's accumulated OCL, balance attributable to interest rate swaps designated as cash flow hedge derivatives, net of tax:

	Three months ended June 30,		Six months ended June 30,	
	2015	**2014**	**2015**	**2014**
		(In millions)		
Accumulated OCL beginning balance	$ (69)	$ (12)	$ (52)	$ —
Reclassified from accumulated OCL to income due to realization of previously deferred amounts	5	4	7	7
Mark-to-market of cash flow hedge accounting contracts	16	(26)	(3)	(41)
Accumulated OCL ending balance, net of income tax benefit of $10, and $1, respectively	$ (48)	$ (34)	$ (48)	$ (34)
Accumulated OCL attributable to NRG	(32)	(25)	(32)	(25)
Accumulated OCL attributable to NRG Yield, Inc.	$ (16)	$ (9)	$ (16)	$ (9)
Losses expected to be realized from OCL during the next 12 months, net of income tax benefit of $3	$ (14)		$ (14)	

Amounts reclassified from accumulated OCL into income and amounts recognized in income from the ineffective portion of cash flow hedges are recorded to interest expense. There was no ineffectiveness for the three or six months ended June 30, 2015, and 2014.

Impact of Derivative Instruments on the Statements of Operations

The Company has interest rate derivative instruments that are not designated as cash flow hedges. The effect of interest rate hedges is recorded to interest expense. For the three months ended June 30, 2015, and 2014, the impact to the consolidated

statements of operations was a gain of $31 million and a loss of $3 million, respectively. For the six months ended June 30, 2015, and 2014, the impact to the consolidated statements of operations was a gain of $19 million and a loss of $6 million, respectively.

A portion of the Company's derivative commodity contracts relate to its Thermal Business for the purchase of fuel commodities based on the forecasted usage of the thermal district energy centers. Realized gains and losses on these contracts are reflected in the fuel costs that are permitted to be billed to customers through the related customer contracts or tariffs and accordingly, no gains or losses are reflected in the consolidated statements of operations for these contracts.

Commodity contracts also hedge the forecasted sale of power for the Alta X and Alta XI wind facilities until the start of the PPAs on January 1, 2016. The effect of these commodity hedges is recorded to operating revenues. For the three months ended June 30, 2015, and 2014, the impact to the consolidated statements of operations was an unrealized loss of $4 million and $0 million, respectively. For the six months ended June 30, 2015, and 2014, the impact to the consolidated statements of operations was an unrealized gain of $3 million and $0 million, respectively.

See Note 6, *Fair Value of Financial Instruments*, for discussion regarding concentration of credit risk.

Note 8 — Long-term Debt

This footnote should be read in conjunction with the complete description under Note 9, *Long-term Debt,* to the Company's 2014 Form 10-K. Long-term debt consisted of the following:

	June 30, 2015	December 31, 2014	June 30, 2015, interest rate % [a]
	(In millions, except rates)		
Senior Notes, due 2024	$ 500	$ 500	5.375
Convertible notes, due 2019 [b]	328	326	3.50
NRG Yield LLC and NRG Yield Operating LLC Revolving Credit Facility, due 2019	267	—	L+2.50
Convertible notes, due 2020 [c]	264	—	3.25
Project-level debt:			
Alta Wind I, lease financing arrangement, due 2034	255	261	7.015
Alta Wind II, lease financing arrangement, due 2034	200	205	5.696
Alta Wind III, lease financing arrangement, due 2034	208	212	6.067
Alta Wind IV, lease financing arrangement, due 2034	138	138	5.938
Alta Wind V, lease financing arrangement, due 2035	215	220	6.071
Alta Wind X, due 2021	—	300	L+2.00
Alta Wind XI, due 2021	—	191	L+2.00
Alta Realty Investments, due 2031	33	34	7.00
Alta Wind Asset Management, due 2031	19	20	L+2.375
NRG West Holdings LLC, due 2023 (El Segundo Energy Center)	489	506	L+1.625 - L+2.25
NRG Marsh Landing LLC, due 2017 and 2023	454	464	L+1.75 - L+1.875
Walnut Creek Energy, due 2023	381	391	L+1.625
Tapestry Wind LLC, due 2021	185	192	L+1.625
NRG Solar Alpine LLC, due 2014 and 2022	161	163	L+1.75
NRG Energy Center Minneapolis LLC, due 2017 and 2025	112	121	5.95 -7.25
Laredo Ridge LLC, due 2026	106	108	L+1.875
NRG Solar Borrego LLC, due 2025 and 2038	74	75	L+ 2.50/5.65
South Trent Wind LLC, due 2020	63	65	L+2.75
NRG Solar Avra Valley LLC, due 2031	62	63	L+1.75
TA High Desert LLC, due 2020 and 2032	54	55	L+2.50/5.15
WCEP Holdings LLC, due 2023	46	46	L+3.00
NRG Roadrunner LLC, due 2031	41	42	L+2.01
NRG Solar Kansas South LLC, due 2031	34	35	L+2.00
NRG Solar Blythe LLC, due 2028	22	22	L+2.75
PFMG and related subsidiaries financing agreement, due 2030	31	31	6.00
NRG Energy Center Princeton LLC, due 2017	1	1	5.95
Subtotal project-level debt:	3,384	3,961	
Total debt	4,743	4,787	
Less current maturities	407	214	
Total long-term debt	$ 4,336	$ 4,573	

(a) As of June 30, 2015, L+ equals 3 month LIBOR plus x%, except for the NRG Marsh Landing term loan, Walnut Creek term loan, and the Revolving Credit Facility where L+ equals 1 month LIBOR plus x% and Kansas South where L+ equals 6 month LIBOR plus x%.

(b) Net of discount of $17 million and $19 million as of June 30, 2015, and December 31, 2014, respectively.

(c) Net of discount of $23 million as of June 30, 2015.

The financing arrangements listed above contain certain covenants, including financial covenants that the Company is required to be in compliance with during the term of the respective arrangement. As of June 30, 2015, the Company was in compliance with all of the required covenants.

The discussion below lists changes to or additions of long-term debt for the six months ended June 30, 2015.

Convertible Senior Notes due 2019

In connection with the Recapitalization, the Company adjusted the conversion rate of its 2019 Convertible Notes. Effective on May 15, 2015, the conversion rate was adjusted to 42.9644 shares of Class A common stock per $1,000 principal amount of 2019 Convertible Notes in accordance with the terms of the related indenture.

NRG Yield LLC and NRG Yield Operating LLC Revolving Credit Facility

On June 26, 2015, the Company amended the revolving credit facility to, among other things, increase the availability from $450 million to $495 million. As of June 30, 2015, $267 million of borrowing and $32 million of letters of credit were outstanding. In July 2015, the Company repaid $190 million utilizing proceeds from the issuance of the 2020 Convertible Notes and the Class C common stock, both completed on June 29, 2015.

Convertible Senior Notes due 2020

On June 29, 2015, the Company closed on its offering of $287.5 million aggregate principal amount of 3.25% Convertible Senior Notes due 2020, or the 2020 Convertible Notes. The 2020 Convertible Notes are convertible, under certain circumstances, into the Company's Class C common stock, cash or a combination thereof at an initial conversion price of $27.50 per Class C common share, which is equivalent to an initial conversion rate of approximately 36.3636 shares of Class C common stock per $1,000 principal amount of notes. Interest on the 2020 Convertible Notes is payable semi-annually in arrears on June 1 and December 1 of each year, commencing on December 1, 2015. The 2020 Convertible Notes mature on June 1, 2020, unless earlier repurchased or converted in accordance with their terms. Prior to the close of business on the business day immediately preceding December 1, 2019, the 2020 Convertible Notes will be convertible only upon the occurrence of certain events and during certain periods, and thereafter, at any time until the close of business on the second scheduled trading day immediately preceding the maturity date.

The 2020 Convertible Notes are accounted for in accordance with ASC 470-20. Under ASC 470-20, issuers of convertible debt instruments that may be settled in cash upon conversion, including partial cash settlement, are required to separately account for the liability (debt) and equity (conversion option) components. The application of ACS 470-20 resulted in the recognition of $23 million as the value for the equity component with the offset to debt discount. The debt discount will be amortized to interest expense using the effective interest method over the term of the Notes.

Alta Wind X and Alta Wind XI Due 2021

On June 30, 2015, the Company entered into a tax equity financing arrangement through which Yield Operating received $119 million in net proceeds, as described in Note 5, *Variable Interest Entities, or VIEs*. These proceeds, as well as proceeds obtained from the June 29, 2015, common stock issuance, as described in Note 10, *Changes in Capital Structure*, and 2020 Convertible Notes issuance, as described above, were utilized to repay all of the outstanding project indebtedness associated with the Alta Wind X and Alta Wind XI wind facilities. The Company also settled interest rate swaps associated with the project level debt for the Alta Wind X and Alta Wind XI wind facilities at a value of $17 million.

Laredo Ridge

On July 27, 2010, Laredo Ridge entered into a credit agreement with a group of lenders for a $75 million construction loan that was convertible to a term loan upon completion of the project, a $53 million cash grant loan and a $3 million working capital loan facility. The project met the conditions to convert to a term loan on March 18, 2011. The cash grant loan was repaid in July 2011 with proceeds of the cash grant. The credit agreement also included a letter of credit facility on behalf of Laredo Ridge of up to $9 million. Laredo Ridge paid a fee equal to the applicable margin on issued letters of credit.

On December 17, 2014, Laredo Ridge amended the credit agreement to increase its term loan borrowings by an additional $41 million to reduce the working capital facility by $1 million, to increase the letter of credit facility by $1 million and to reduce the related interest rate to LIBOR plus 1.875% through December 31, 2018, LIBOR plus 2.125% from January 1, 2019 through December 31, 2023 and LIBOR plus 2.375% from January 1, 2024 through the maturity date. The fee on the working capital facility was reduced to 0.5%. In addition, the maturity date was extended to March 31, 2028. The proceeds were utilized to make a distribution of $33 million to NRG Wind LLC, an NRG subsidiary, with the remaining $8 million utilized to fund the costs of the amendment. As of June 30, 2015, $106 million was outstanding under the term loan, nothing was outstanding under the working capital facility, and $10 million of letters of credit in support of the project were issued.

In connection with the amendment to the credit agreement, Laredo Ridge entered into a series of fixed for floating interest rate swaps that would fix the interest rate for a minimum of 75% of the outstanding notional amount. Laredo Ridge pays its counterparty the equivalent of a 2.31% fixed interest payment on a predetermined notional value, and quarterly, Laredo Ridge will receive the

equivalent of a floating interest payment based on the three-month LIBOR calculated on the same notional value through December 31, 2028. All interest rate swap payments by Laredo Ridge and its counterparties are made quarterly and LIBOR is determined in advance of each interest period.

Tapestry Wind LLC

On December 21, 2011, Tapestry Wind LLC entered into a credit agreement with a group of lenders for a $214 million term loan and an $8 million working capital loan facility. The term loan matures in December 2021. It is secured by Tapestry Wind LLC's interest in the Buffalo Bear, Taloga, and Pinnacle projects. The term loan amortizes based upon a predetermined schedule. The working capital facility is available to fund the operating needs of Tapestry Wind LLC. The commitment fee on this facility is 0.75%. The credit agreement also includes a letter of credit facility on behalf of Tapestry Wind LLC of up to $20 million. Tapestry Wind LLC pays a fee equal to the applicable margin on issued letters of credit.

Under the terms of the agreement, Tapestry Wind LLC entered into a series of fixed for floating interest rate swaps that would fix the interest rate for a minimum of 90% of the outstanding notional amount. Tapestry Wind LLC will pay its counterparty the equivalent of a 2.21% fixed interest payment on a predetermined notional value, and quarterly, Tapestry Wind LLC will receive the equivalent of a floating interest payment based on a three-month LIBOR calculated on the same notional value through December 21, 2021. All interest rate swap payments by Tapestry Wind LLC and its counterparties are made quarterly and the LIBOR is determined in advance of each interest period. Swaps became effective December 30, 2011, and amortize in proportion to the term loan. At the same time Tapestry Wind LLC entered into a series of forward starting swaps to hedge the refinancing risk. The swaps are effective December 21, 2021. Tapestry Wind LLC will pay its counterparty the equivalent of a 3.57% fixed interest payment on a predetermined notional value, and quarterly, Tapestry Wind LLC will receive the equivalent of a floating interest payment based on a three-month LIBOR calculated on the same notional value through December 21, 2029.

On November 12, 2014, Tapestry Wind LLC amended the credit agreement to reduce the related interest rate to LIBOR plus 1.625% through December 20, 2018 and LIBOR plus 1.75% from December 21, 2018 through the maturity date. As of June 30, 2015, $185 million was outstanding under the term loan, nothing was outstanding under the working capital facility and $20 million of letters of credit in support of the project were issued.

Walnut Creek

On July 27, 2011, Walnut Creek entered into a credit agreement with a group of lenders for a $442 million construction loan that was convertible to a term loan upon completion of the project, and a $5 million working capital loan facility. The project met the conditions to convert to a term loan on June 21, 2013 and matures in May 2023. The term loan amortizes based upon a predetermined schedule. The working capital facility is available to fund the operating needs of Walnut Creek. The commitment fee on this facility is 0.625%. The Walnut Creek agreement also includes a letter of credit facility on behalf of Walnut Creek of up to $117 million. Walnut Creek pays a fee equal to the applicable margin on issued letters of credit.

Under the terms of the agreement, Walnut Creek entered into a series of fixed for floating interest rate swaps that would fix the interest rate for a minimum of 90% of the outstanding notional amount. Walnut Creek will pay its counterparty the equivalent of a 3.54% fixed interest payment on a predetermined notional value, and quarterly, Walnut Creek will receive the equivalent of a floating interest payment based on a three-month LIBOR calculated on the same notional value through May 31, 2023. All interest rate swap payments by Walnut Creek and its counterparties are made quarterly and the LIBOR is determined in advance of each interest period. Swaps became effective June 28, 2013, and amortize in proportion to the term loan.

On October 21, 2014, Walnut Creek amended the credit agreement to increase its term loan borrowings by an additional $10 million, and to reduce the related interest rate to LIBOR plus 1.625% through September 30, 2018, LIBOR plus 1.75% from October 1, 2018 through September 30, 2022, and LIBOR plus 1.875% from October 1, 2022, through the maturity date. The fee on the working capital facility was reduced to 0.5%. The proceeds were utilized to make a distribution of $6 million to WCEP Holdings LLC with the remaining $4 million utilized to fund the costs of the amendment. In addition Walnut Creek entered into an additional interest rate swap to maintain the minimum of 90% of the outstanding notional amount being swapped to a fixed interest rate. Walnut Creek pays its counterparty the equivalent of a 4.0025% fixed interest payment on a predetermined notional value, and quarterly, Walnut Creek receives the equivalent of a floating interest payment based on a three-month LIBOR calculated on the same notional value through July 31, 2020. All interest rate swap payments by Walnut Creek and its counterparties are made quarterly and the LIBOR is determined in advance of each interest period. Swaps became effective June 28, 2013 and amortize in proportion to the term loan. As of June 30, 2015, $381 million was outstanding under the term loan, nothing was outstanding under the working capital facility, and $61 million of letters of credit were issued.

WCEP Holdings LLC

On July 27, 2011, WCEP Holdings LLC entered into a credit agreement with a group of lenders for a $53 million construction loan that was convertible to a term loan upon completion of the Walnut Creek project. The Walnut Creek project met the conditions for the WCEP Holdings LLC loan to convert to a term loan on June 21, 2013. The term loan has an interest rate of LIBOR plus an applicable margin of 4%. The term loan matures in May 2023. The term loan amortizes based upon a predetermined schedule.

Under the terms of the credit agreement, WCEP Holdings LLC entered into two fixed for floating interest rate swaps that would fix the interest rate for a minimum of 90% of the outstanding notional amount. WCEP Holdings LLC will pay its counterparty the equivalent of a 4% fixed interest payment on a predetermined notional value, and quarterly, WCEP Holdings LLC will receive the equivalent of a floating interest payment based on a three-month LIBOR calculated on the same notional value through May 31, 2023. All interest rate swap payments by WCEP Holdings LLC and its counterparties are made quarterly and the LIBOR is determined in advance of each interest period. Swaps became effective June 28, 2013, and amortize in proportion to the term loan.

On October 21, 2014, WCEP Holdings LLC amended the credit agreement to reduce the related interest rate to LIBOR plus 3%. The proceeds of the distribution from Walnut Creek were utilized to make an optional repayment of $6 million on the term loan. In addition, WCEP Holdings LLC partially terminated the interest rate agreements so that at least 90% and no more than 100% of the aggregate principal amount of the loans then outstanding will be subject to interest rate agreements. As of June 30, 2015, $46 million was outstanding under the term loan.

Avenal Solar Holdings LLC

On March 18, 2015, Avenal Solar Holdings LLC, one of the Company's equity method investments, amended its credit agreement to increase its borrowings by $43 million and to reduce the related interest rate from 6 month LIBOR plus an applicable margin of 2.25% to 6 month LIBOR plus 1.75% from March 18, 2015 through March 17, 2022 and 6 month LIBOR plus 2.00% from March 18, 2022 through March 17, 2027 and 6 month LIBOR plus 2.25% from March 18, 2027 through the maturity date. As a result of the credit agreement amendment, the Company received net proceeds of $20 million after fees from its 49.95% ownership in Avenal.

NRG West Holdings LLC

On May 29, 2015, NRG West Holdings LLC amended its financing agreement to increase borrowings under the Tranche A facility by $5 million and to reduce the related interest rate to LIBOR plus an applicable margin of 1.625% from May 29, 2015 to August 31, 2017, LIBOR plus an applicable margin of 1.75% from September 1, 2017, to August 31, 2020, and LIBOR plus 1.875% from September 1, 2020 through the maturity date; to reduce the Tranche B loan interest rate to LIBOR plus an applicable margin of 2.250% from May 29, 2015, to August 31, 2017, LIBOR plus 2.375% from September 1, 2017, to August 31, 2020, and LIBOR plus an applicable margin of 2.50% from September 1, 2020 through the maturity date and to reduce the working capital facility by $9 million. The proceeds of the increased borrowing were used to pay costs associated with the refinancing. Further, the amendment resulted in a $7 million loss on debt extinguishment.

Note 9 — Earnings Per Share

Basic and diluted earnings per common share are computed by dividing net income by the weighted average number of common shares outstanding. Shares issued during the year are weighted for the portion of the year that they were outstanding. The number of shares and per share amounts for the prior periods presented below have been retrospectively restated to reflect the Recapitalization as further described in Note 10, *Changes in Capital Structure.*

The reconciliation of the Company's basic and diluted earnings per share is shown in the following tables:

	Three months ended June 30,			
	2015		2014	
(In millions, except per share data) [a]	Common Class A	Common Class C	Common Class A	Common Class C
Basic and diluted earnings per share attributable to NRG Yield, Inc. common stockholders				
Net income attributable to NRG Yield, Inc.	$ 5	$ 5	$ 3	$ 3
Weighted average number of common shares outstanding	35	35	23	23
Earnings per weighted average common share — basic and diluted	$ 0.15	$ 0.15	$ 0.13	$ 0.13

	Six months ended June 30,			
	2015		2014	
(In millions, except per share data) [a]	Common Class A	Common Class C	Common Class A	Common Class C
Basic and diluted earnings per share attributable to NRG Yield, Inc. common stockholders				
Net income attributable to NRG Yield, Inc.	$ 3	$ 3	$ 5	$ 5
Weighted average number of common shares outstanding	35	35	23	23
Earnings per weighted average common share — basic and diluted	$ 0.07	$ 0.07	$ 0.21	$ 0.21

[a] Net income attributable to NRG Yield, Inc. Class A common stock and Class C common stock, as well as basic and diluted earnings per share might not recalculate due to rounding.

With respect to the Class A common stock, there were a total of fifteen million and seven million of anti-dilutive outstanding equity instruments for the three months ended June 30, 2015, and 2014, respectively, and fifteen million and six million of anti-dilutive outstanding equity instruments for the six months ended June 30, 2015, and 2014, respectively, related to the 2019 Convertible Notes. With respect to the Class C common stock, there was an immaterial amount of anti-dilutive outstanding equity instruments for the three and six months ended June 30, 2015, related to the 2020 Convertible Notes.

Note 10 — Changes in Capital Structure

Recapitalization

On May 5, 2015, the Company's stockholders approved amendments to the Company's certificate of incorporation that adjusted the Company's capital structure by creating two new classes of capital stock, Class C common stock and Class D common stock, and distributed shares of Class C and Class D common stock to holders of the Company's outstanding Class A and Class B common stock, respectively, through a stock split. The Recapitalization became effective on May 14, 2015.

The Class C common stock and Class D common stock have the same rights and privileges and rank equally, share ratably and are identical in all respects to the shares of Class A common stock and Class B common stock, respectively, as to all matters, except that each share of Class C common stock and Class D common stock is entitled to 1/100th of a vote on all stockholder matters. The par value per share of the Company's Class A common stock and Class B common stock remains unchanged at $0.01 per share after the effect of the stock split described above. Accordingly, the stock split was accounted for as a stock dividend. The Company recorded a transfer between retained earnings and common stock equal to the par value of each share of Class C common stock and Class D common stock that was issued. The Company also retrospectively adjusted all prior period share and per share amounts in the consolidated financial statements for the effect of the stock dividend, so that all periods are comparable.

Class C Common Stock Issuance

On June 29, 2015, the Company closed on its offering of 28,198,000 shares of Class C common stock at a price of $22 per share, which included 3,678,000 shares of Class C common stock purchased by the underwriters through the exercise of an over-allotment option. Net proceeds to the Company from the sale of the Class C common stock were $600 million, net of underwriting discounts and commissions of $20 million. The Company utilized the proceeds of the offering to acquire 28,198,000 additional Class C units of NRG Yield LLC and, as a result, it currently owns 53.3% of the economic interests of NRG Yield LLC, with NRG retaining 46.7% of the economic interests of NRG Yield LLC.

Dividends to Class A and Class C common stockholders

The following table lists the dividends paid on the Company's Class A common stock and Class C common stock during the six months ended June 30, 2015:

	Second Quarter 2015	First Quarter 2015
Dividends per Class A share	$ 0.20	$ 0.39
Dividends per Class C share	0.20	N/A

Dividends on the Class A common stock and Class C common stock are subject to available capital, market conditions, and compliance with associated laws, regulations and other contractual obligations.

On August 4, 2015, the Company announced the declaration of quarterly dividends on its Class A common stock and Class C common stock of $0.21 per share payable on September 15, 2015, to stockholders of record as of September 1, 2015.

The Company also has authorized 10,000,000 shares of preferred stock, par value $0.01 per share. None of the shares of preferred stock have been issued.

Note 11 — Segment Reporting

The Company's segment structure reflects how management currently operates and allocates resources. The Company's businesses are primarily segregated based on conventional power generation, renewable businesses which consist of solar and wind, and the thermal and chilled water business. The Corporate segment reflects the Company's corporate costs. The Company's chief operating decision maker evaluates the performance of its segments based on operational measures including adjusted earnings before interest, taxes, depreciation and amortization, or Adjusted EBITDA, and cash available for distribution, or CAFD, as well as net income (loss).

	Three months ended June 30, 2015				
(In millions)	**Conventional Generation**	**Renewables**	**Thermal**	**Corporate**	**Total**
Operating revenues	$ 85	$ 90	$ 42	$ —	$ 217
Cost of operations	15	21	31	—	67
Depreciation and amortization	21	34	4	—	59
General and administrative — affiliate	—	—	—	3	3
Acquisition-related transaction and integration costs	—	—	—	1	1
Operating income (loss)	49	35	7	(4)	87
Equity in earnings of unconsolidated affiliates	4	5	—	—	9
Loss on debt extinguishment	(7)	—	—	—	(7)
Interest expense	(13)	(16)	(2)	(13)	(44)
Income (loss) before income taxes	33	24	5	(17)	45
Income tax expense	—	—	—	4	4
Net Income (Loss)	$ 33	$ 24	$ 5	$ (21)	$ 41
Total Assets	$ 2,153	$ 4,223	$ 434	$ 398	$ 7,208

	Three months ended June 30, 2014				
(In millions)	**Conventional Generation**	**Renewables**	**Thermal**	**Corporate**	**Total**
Operating revenues	$ 87	$ 43	$ 43	$ —	$ 173
Cost of operations	16	7	30	—	53
Depreciation and amortization	34	15	5	—	54
General and administrative — affiliate	—	—	—	2	2
Operating income (loss)	37	21	8	(2)	64
Equity in earnings of unconsolidated affiliates	4	10	—	—	14
Interest expense	(15)	(11)	(2)	(6)	(34)
Income (loss) before income taxes	26	20	6	(8)	44
Income tax expense	—	—	—	2	2
Net Income (Loss)	$ 26	$ 20	$ 6	$ (10)	$ 42

	Six months ended June 30, 2015				
(In millions)	Conventional Generation	Renewables	Thermal	Corporate	Total
Operating revenues	$ 161	$ 147	$ 89	$ —	$ 397
Cost of operations	36	41	65	—	142
Depreciation and amortization	42	62	9	—	113
General and administrative — affiliate	—	—	—	6	6
Acquisition-related transaction and integration costs	—	—	—	1	1
Operating income (loss)	83	44	15	(7)	135
Equity in earnings of unconsolidated affiliates	7	3	—	—	10
Other income, net	1	—	—	—	1
Loss on debt extinguishment	(7)	—	—	—	(7)
Interest expense	(25)	(59)	(4)	(26)	(114)
Income (loss) before income taxes	59	(12)	11	(33)	25
Net Income (Loss)	$ 59	$ (12)	$ 11	$ (33)	$ 25

	Six months ended June 30, 2014				
(In millions)	Conventional Generation	Renewables	Thermal	Corporate	Total
Operating revenues	$ 143	$ 62	$ 108	$ —	$ 313
Cost of operations	26	11	76	—	113
Depreciation and amortization	47	22	9	—	78
General and administrative — affiliate	—	—	—	4	4
Operating income (loss)	70	29	23	(4)	118
Equity in earnings of unconsolidated affiliates	7	8	—	—	15
Other income, net	—	1	—	—	1
Interest expense	(26)	(23)	(4)	(8)	(61)
Income (loss) before income taxes	51	15	19	(12)	73
Income tax expense	—	—	—	5	5
Net Income (Loss)	$ 51	$ 15	$ 19	$ (17)	$ 68

Note 12 — Income Taxes

Effective Tax Rate

The income tax provision consisted of the following:

	Three months ended June 30,		Six months ended June 30,	
	2015	2014	2015	2014
	(In millions, except percentages)			
Income before income taxes	$ 45	$ 44	$ 25	$ 73
Income tax expense	4	2	—	5
Effective income tax rate	8.9%	4.5%	—%	6.8%

For the three and six months ended June 30, 2015, the overall effective tax rate was different than the statutory rate of 35% primarily due to taxable earnings allocated to NRG resulting from its interest in NRG Yield LLC and production tax credits generated from certain wind facilities.

For the three and six months ended June 30, 2014, the overall effective tax rate was different than the statutory rate of 35% primarily due to taxable earnings allocated to NRG resulting from its interest in NRG Yield LLC.

The Company records NRG's ownership as a noncontrolling interest in the financial statements. For tax purposes, NRG Yield LLC is treated as a partnership; therefore, the Company and NRG each record their respective share of taxable income or loss.

The Company's deferred tax balances reflect the difference in book and tax basis of the Company's assets primarily due to an increase in the tax basis of property, plant and equipment. The change in tax basis resulted in non-cash additions of $32 million during the six months ended June 30, 2015, and $65 million during the year ended December 31, 2014, to the Company's additional paid-in capital.

Note 13 — Related Party Transactions

Management Services Agreement by and between NRG and the Company

NRG provides the Company with various operation, management, and administrative services, which include human resources, accounting, tax, legal, information systems, treasury, and risk management, as set forth in the Management Services Agreement. As of June 30, 2015, the base management fee was approximately $7 million per year, subject to an inflation-based adjustment annually at an inflation factor based on the year-over-year U.S. consumer price index. The fee is also subject to adjustments following the consummation of future acquisitions and as a result of a change in the scope of services provided under the Management Services Agreement. During the six months ended June 30, 2015, the fee was increased by approximately $1 million per year in connection with the acquisition of the January 2015 Drop Down Assets. Costs incurred under this agreement were $6 million and $4 million for the six months ended June 30, 2015, and 2014, respectively, which included certain direct expenses incurred by NRG on behalf of the Company in addition to the base management fee. There was a balance of $3 million due to NRG in accounts payable — affiliate as of June 30, 2015.

Operation and Maintenance Services (O&M) Agreements by and between NRG and Thermal Entities

On October 1, 2014, NRG entered into Plant O&M Services Agreements with certain wholly-owned subsidiaries of the Company. NRG provides necessary and appropriate services to operate and maintain the subsidiaries' plant operations, businesses and thermal facilities. NRG is to be reimbursed for the provided services, as well as for all reasonable and related expenses and expenditures, and payments to third parties for services and materials rendered to or on behalf of the parties to the agreements. NRG is not entitled to any management fee or mark-up under the agreements. Prior to October 1, 2014, NRG provided the same services to the Thermal Business on an informal basis. Total fees incurred under the agreements were $15 million and $14 million for the six months ended June 30, 2015, and 2014, respectively. There was a balance of $28 million and $22 million due to NRG in accounts payable — affiliate as of June 30, 2015, and December 31, 2014, respectively.

Administrative Services Agreement by and between Marsh Landing and GenOn Energy Services, LLC

Marsh Landing is a party to an administrative services agreement with GenOn Energy Services, LLC, a wholly owned subsidiary of NRG, which provides invoice processing and payment on behalf of Marsh Landing. Marsh Landing reimburses GenOn Energy Services, LLC for the amounts paid by it. The Company reimbursed costs under this agreement of approximately $9 million for the six months ended June 30, 2015, and 2014. There was a balance of $0 million and $4 million due to GenOn Energy Services, LLC in accounts payable — affiliate as of June 30, 2015, and December 31, 2014, respectively.

O&M Services Agreements by and between NRG and GenConn

GenConn incurs fees under two O&M agreements with wholly-owned subsidiaries of NRG. The fees incurred under the agreements were $2 million and $3 million for the six months ended June 30, 2015, and 2014, respectively.

ITEM 2 — Management's Discussion and Analysis of Financial Condition and the Results of Operations

The following discussion analyzes the Company's historical financial condition and results of operations, which were recast to include the effect of the June 2014 Drop Down Assets and January 2015 Drop Down Assets on June 30, 2014, and January 2, 2015, respectively. As further discussed in Note 1, *Nature of Business*, to the Consolidated Financial Statements, the purchase of these assets was accounted for in accordance with *ASC 850-50, Business Combinations - Related Issues*, whereas the assets and liabilities transferred to the Company relate to interests under common control by NRG and, accordingly, were recorded at historical cost. The difference between the cash proceeds and historical value of the net assets was recorded as a distribution to NRG and reduced the balance of its noncontrolling interest. The guidance requires retrospective combination of the entities for all periods presented as if the combination has been in effect since the inception of common control.

As you read this discussion and analysis, refer to the Company's Consolidated Statements of Operations to this Form 10-Q, which present the results of operations for the six months ended June 30, 2015, and 2014. Also refer to the Company's 2014 Form 10-K, which includes detailed discussions of various items impacting the Company's business, results of operations and financial condition.

The discussion and analysis below has been organized as follows:

- Executive Summary, including a description of the business and significant events that are important to understanding the results of operations and financial condition;
- Results of operations, including an explanation of significant differences between the periods in the specific line items of the consolidated statements of operations;
- Financial condition addressing liquidity position, sources and uses of cash, capital resources and requirements, commitments, and off-balance sheet arrangements;
- Known trends that may affect the Company’s results of operations and financial condition in the future; and
- Critical accounting policies which are most important to both the portrayal of the Company's financial condition and results of operations, and which require management's most difficult, subjective or complex judgment.

Executive Summary

Introduction and Overview

The Company is a dividend growth-oriented company formed as a Delaware corporation on December 20, 2012, to serve as the primary vehicle through which NRG owns, operates and acquires contracted renewable and conventional generation and thermal infrastructure assets. The Company believes it is well positioned to be a premier company for investors seeking stable and growing dividend income from a diversified portfolio of lower-risk high-quality assets.

The Company owns a diversified portfolio of contracted renewable and conventional generation and thermal infrastructure assets in the U.S. The Company's contracted generation portfolio collectively represents 3,825 net MW. Each of these assets sells substantially all of its output pursuant to long-term offtake agreements with creditworthy counterparties. The average remaining contract duration of these offtake agreements was approximately 17 years as of June 30, 2015, based on cash available for distribution. The Company also owns thermal infrastructure assets with an aggregate steam and chilled water capacity of 1,310 net MWt and electric generation capacity of 124 net MW. These thermal infrastructure assets provide steam, hot water and/or chilled water, and in some instances electricity, to commercial businesses, universities, hospitals and governmental units in multiple locations, principally through long-term contracts or pursuant to rates regulated by state utility commissions.

Significant Events During 2015

The following significant events have occurred to date during 2015:

- NRG offered the Company the opportunity to purchase 75% of NRG Wind TE Holdco LLC, which owns a portfolio of 12 wind facilities totaling 814 net MW.

- On June 30, 2015, the Company sold an economic interest in the Alta X and Alta XI wind facilities through a tax equity financing arrangement and received $119 million in net proceeds. These proceeds, as well as proceeds obtained from the Company's recently completed equity and debt offerings discussed below, were utilized to repay all of the outstanding project indebtedness associated with the Alta X and Alta XI wind facilities.

- On June 29, 2015, the Company issued 28,198,000 shares of Class C common stock for net proceeds, after underwriting discounts and expenses, of $600 million. The Company utilized the proceeds of the offering to acquire 28,198,000 additional Class C units of NRG Yield LLC and, as a result, it currently owns 53.3% of the economic interests of NRG Yield LLC, with NRG retaining 46.7% of the economic interests of NRG Yield LLC. Additionally, on June 29, 2015, the Company completed an offering of $287.5 million aggregate principal amount of 3.25% Convertible Notes due 2020.

- On June 29, 2015, the Company acquired 25% of the membership interest in Desert Sunlight Investment Holdings, LLC, which owns two solar photovoltaic facilities totaling 550 MW, located in Desert Center, California, from EFS Desert Sun, LLC, a subsidiary of GE Energy Financial Services, for a purchase price of $285 million, utilizing a portion of the proceeds from the Class C common stock issuance. The Company's pro-rata share of non-recourse project level debt was $287 million as of June 30, 2015.

- Effective May 14, 2015, the Company amended its certificate of incorporation to create two new classes of capital stock, Class C common stock and Class D common stock, and distributed shares of the Class C common stock and Class D common stock to holders of the Company's outstanding Class A common stock and Class B common stock, respectively, through a stock split. The Recapitalization enhances the Company's ability to focus on growth opportunities without the constraints of NRG's capital allocation to the Company, while maintaining the Company's relationship with NRG. The Recapitalization preserves NRG's management and operational expertise, asset development and acquisition track record, financing experience and provides flexibility for the Company to raise capital to fund its growth.

  The Class C common stock and Class D common stock have the same rights and privileges and rank equally, share ratably and are identical in all respects to the shares of Class A common stock and Class B common stock, respectively, as to all matters, except that each share of Class C common stock and Class D common stock is entitled to 1/100th of a vote on all stockholder matters.

  In connection with the amendments described above, the ROFO Agreement was amended to make additional assets available to the Company should NRG choose to sell them, including (i) two natural gas facilities totaling 795 MW of net capacity that are expected to reach COD in 2017 and 2020, (ii) an equity interest in a wind portfolio

that includes wind facilities totaling approximately 934 MW of net capacity, and (iii) up to $250 million of equity interests in one or more residential or distributed solar generation portfolios developed by affiliates of NRG.

- On May 7, 2015, the Company acquired a 90.1% interest in Spring Canyon II, a 34 MW wind facility, and Spring Canyon III, a 29 MW wind facility, each located in Logan County, Colorado, from Invenergy Wind Global LLC. The purchase price was funded with cash on hand. Power generated by Spring Canyon II and Spring Canyon III is sold to Platte River Power Authority under long-term PPAs with approximately 24 years of remaining contract life.

- In May 2015, the Company and NRG formed a partnership that will invest in and hold operating portfolios of distributed solar assets developed by NRG Renew, a subsidiary of NRG. The partnership will allow NRG to periodically monetize its distributed solar investments and the Company to invest in a growing segment of the solar market. Under the terms of the partnership agreement, the Company will receive 95% of the economics until achieving a targeted return, expected to be achieved commensurate with the end of the customer contract period, after which NRG will receive 95% of the economics. The Company has initially committed to invest up to $100 million of cash contributions into the partnership over time. The partnership is expected to be fully invested over the next 18 months.

- On April 30, 2015, the Company completed the acquisition of the University of Bridgeport Fuel Cell project in Bridgeport, Connecticut from FuelCell Energy, Inc. The project added an additional 1.4 MW of thermal capacity with a 12 year contract, with the option for a 7-year extension.

- On April 9, 2015, NRG and the Company entered into a partnership that will invest in and hold operating portfolios of residential solar assets developed by NRG Home Solar, a subsidiary of NRG, including: (i) an existing, unlevered portfolio of over 2,200 leases across nine states representing approximately 17 MW with a weighted average remaining lease term of approximately 17 years, in which the Company invested $26 million in April 2015; and (ii) in-development, tax equity financed portfolios of approximately 13,000 leases representing approximately 90 MW, with an average lease term for the existing and new leases of approximately 17 to 20 years, in which the Company invested $14 million of its $150 million commitment through June 30, 2015.

- On January 2, 2015, NRG Yield Operating LLC acquired the following projects from NRG: (i) Laredo Ridge, an 80 MW wind facility located in Nebraska; (ii) the Tapestry projects, which include Buffalo Bear, a 19 MW wind facility in Oklahoma; Taloga, a 130 MW wind facility in Oklahoma; and Pinnacle, a 55 MW wind facility in West Virginia; and (iii) Walnut Creek, a 485 MW natural gas facility located in California, for total cash consideration of $489 million including adjustments of $9 million for working capital, plus assumed project level debt of $737 million. The Company funded the acquisition with cash on hand and approximately $210 million borrowed under the Company's revolving credit facility.

El Segundo Forced Outage

In January 2015, El Segundo experienced a steam turbine water intrusion resulting in a forced outage on Units 5 and 6. The units returned to service in April 2015. The Company completed a root cause analysis and has implemented steps to prevent a recurrence of the event. The company continues to review the financial impact of repair costs and lost capacity revenue to determine amounts available for recovery through insurance or warranty claims.

Wind Resource Availability

In the first and second quarters of 2015, the Company's results were impacted by lower than normal wind resource availability. While the Company's wind facilities were available, adverse weather had a negative impact on wind resources. The Company cannot predict the impact of wind resource availability on future performance or results.

Regulatory Matters

The Company's regulatory matters are described in the Company's 2014 Form 10-K in Item 1, *Business — Regulatory Matters.*

As owners of power plants and participants in wholesale and thermal energy markets, certain of the Company's subsidiaries are subject to regulation by various federal and state government agencies. These include FERC and the PUCT, as well as other public utility commissions in certain states where the Company's assets are located. Each of the Company's U.S. generating facilities qualifies as an EWG or QF. In addition, the Company is subject to the market rules, procedures and protocols of the various ISO and RTO markets in which it participates. Likewise, the Company must also comply with the mandatory reliability requirements imposed by NERC and the regional reliability entities in the regions where the Company operates.

The Company's operations within the ERCOT footprint are not subject to rate regulation by FERC, as they are deemed to operate solely within the ERCOT market and not in interstate commerce. These operations are subject to regulation by PUCT.

Environmental Matters

The Company's environmental matters are described in the Company's 2014 Form 10-K in Item 1, *Business — Environmental Matters* and Item 1A, *Risk Factors.*

The Company is subject to a wide range of environmental laws in the development, construction, ownership and operation of projects. These laws generally require that governmental permits and approvals be obtained before construction and during operation of facilities. The Company is also subject to laws and regulations surrounding the protection of wildlife, including migratory birds, eagles and threatened and endangered species. Environmental laws have become increasingly stringent and the Company expects this trend to continue.

Basis of Presentation

The acquisitions of the June 2014 Drop Down Assets from NRG on June 30, 2014, and the January 2015 Drop Down Assets on January 2, 2015, were accounted for as a transfer of entities under common control. The guidance requires retrospective combination of the entities for all periods presented as if the combination has been in effect since the inception of common control. Accordingly, the Company prepared its consolidated financial statements to reflect the transfer as if it had taken place on January 1, 2014, or from the date the entities were under common control, which was April 1, 2014, for the January 2015 Drop Down Assets. Members' equity represents NRG's equity in the subsidiaries, and accordingly, in connection with their acquisition by the Company, the balance was reclassified to noncontrolling interest. The Company reduces net income attributable to its Class A and Class C common stockholders by the pre-acquisition net income for the June 2014 Drop Down Assets and January 2015 Drop Down Assets, collectively, the Drop Down Assets, as it is not available to the stockholders.

Consolidated Results of Operations

The following table provides selected financial information:

(In millions, except otherwise noted)	Three months ended June 30, 2015	2014	Change %	Six months ended June 30, 2015	2014	Change %
Operating Revenues						
Operating revenues	$ 235	$ 174	35	$ 420	$ 314	34
Contract amortization	(14)	(1)	N/M	(26)	(1)	N/M
Mark-to-market economic hedging activities	(4)	—	(100)	3	—	100
Total operating revenues	217	173	25	397	313	27
Operating Costs and Expenses						
Cost of fuels	17	18	(6)	38	53	(28)
Other costs of operations	50	35	43	104	60	73
Depreciation and amortization	59	54	9	113	78	45
General and administrative — affiliate	3	2	50	6	4	50
Acquisition-related transaction and integration costs	1	—	100	1	—	100
Total operating costs and expenses	130	109	19	262	195	34
Operating Income	87	64	36	135	118	14
Other Income (Expense)						
Equity in earnings of unconsolidated affiliates	9	14	(36)	10	15	(33)
Other income, net	—	—	—	1	1	—
Loss on debt extinguishment	(7)	—	100	(7)	—	100
Interest expense	(44)	(34)	29	(114)	(61)	87
Total other expense, net	(42)	(20)	110	(110)	(45)	144
Income Before Income Taxes	45	44	2	25	73	(66)
Income tax expense	4	2	100	—	5	(100)
Net Income	41	42	(2)	25	68	(63)
Less: Pre-acquisition net income of Drop Down Assets	—	17	(100)	—	25	(100)
Net Income Excluding Pre-acquisition Net Income of Drop Down Assets	41	25	64	25	43	(42)
Less: Net income attributable to noncontrolling interests	31	19	63	20	33	(39)
Net Income Attributable to NRG Yield, Inc.	$ 10	$ 6	67	$ 5	$ 10	(50)

N/M - Not meaningful

Business metrics:	Three months ended June 30, 2015	2014	Six months ended June 30, 2015	2014
Renewable MWh sold (in thousands) [(a)]	1,181	563	1,904	774
Thermal MWt sold (in thousands)	434	442	1,051	1,109
Thermal MWh sold (in thousands)	83	52	127	124

[(a)] Volumes sold do not include the MWh generated by the Company's equity method investments.

Management's Discussion of the Results of Operations for the Three Months ended June 30, 2015, and 2014

Gross Margin

(In millions)	Conventional	Renewables	Thermal	Total
Three months ended June 30, 2015				
Operating revenues	$ 86	$ 107	$ 42	$ 235
Cost of fuels	—	—	(17)	(17)
Gross margin	$ 86	$ 107	$ 25	$ 218
Three months ended June 30, 2014				
Operating revenues	$ 87	$ 43	$ 44	$ 174
Cost of fuels	(2)	—	(16)	(18)
Gross margin	$ 85	$ 43	$ 28	$ 156

Gross margin increased by $62 million during the three months ended June 30, 2015, compared to the same period in 2014, primarily due to the acquisition of the Alta Wind Portfolio in August 2014.

Contract amortization

Contract amortization increased by $13 million due primarily to the amortization of the PPAs acquired in the acquisitions of the Alta Wind Portfolio in August 2014.

Mark-to-market for economic hedging activities

Mark-to-market results represent the unrealized losses on forward contracts with an NRG subsidiary hedging the sale of power from the Alta X and Alta XI wind facilities extending through the end of 2015.

Other Operating Costs

(In millions)	Conventional	Renewables	Thermal	Total
Three months ended June 30, 2015	$ 16	$ 20	$ 14	$ 50
Three months ended June 30, 2014	14	7	14	35

Other operating costs increased by $15 million during the three months ended June 30, 2015, compared to the same period in 2014, due to:

(In millions)	
Increase due to operations and maintenance expense and property tax expense, primarily for the Alta Wind Portfolio acquired in August 2014	$ 13
Increase in costs primarily associated with operations and maintenance expense due to the forced outage at El Segundo in the first half of the year, returning to service in April 2015	2
	$ 15

Depreciation and Amortization

Depreciation and amortization increased by $5 million during the three months ended June 30, 2015, compared to the same period in 2014, due primarily to the acquisition of the Alta Wind Portfolio in August 2014, partially offset by the impact of the final adjustments to acquisition accounting for the January 2015 Drop Down Assets.

Equity in Earnings of Unconsolidated Affiliates

Equity in earnings of unconsolidated affiliates decreased by $5 million during the three months ended June 30, 2015, compared to the same period in 2014, due primarily to reduced equity in earnings from CVSR.

Interest Expense

Interest expense increased by $10 million during the three months ended June 30, 2015, compared to the same period in 2014, due primarily to:

(In millions)	
Increase due to acquisition of the Alta Wind Portfolio in August 2014	$ 12
Increase due to the Senior Notes due 2024 issued in August 2014 and borrowings under the Company's revolving credit facility	7
Decrease from repricing of project-level financing arrangements and principal repayments	(2)
Decrease from changes in the fair value of interest rate swaps	(7)
	$ 10

Income Tax Expense

For the three months ended June 30, 2015, the Company recorded income tax expense of $4 million on pretax income of $45 million. For the same period in 2014, the Company recorded income tax expense of $2 million on pretax income of $44 million. For the three months ended June 30, 2015, the Company's overall effective tax rate was different than the statutory rate of 35% primarily due to taxable earnings allocated to NRG resulting from its interest in NRG Yield LLC and production tax credits generated from certain wind facilities. For the same period in 2014, the Company's overall effective tax rate was different than the statutory rate of 35% primarily due to taxable earnings allocated to NRG resulting from its interest in NRG Yield LLC.

Income Attributable to Noncontrolling Interest

For the three months ended June 30, 2015, the Company had income of $24 million attributable to NRG's interest in the Company and $7 million of income attributable to other non-controlling interests. For the three months ended June 30, 2014, the Company had income of $19 million attributable to NRG's interest in the Company.

Management's Discussion of the Results of Operations for the Six Months ended June 30, 2015, and 2014

Gross Margin

(In millions)	Conventional	Renewables	Thermal	Total
Six months ended June 30, 2015				
Operating revenues	$ 163	$ 167	$ 90	$ 420
Cost of fuels	(1)	—	(37)	(38)
Gross margin	$ 162	$ 167	$ 53	$ 382
Six months ended June 30, 2014				
Operating revenues	$ 143	$ 62	$ 109	$ 314
Cost of fuels	(3)	—	(50)	(53)
Gross margin	$ 140	$ 62	$ 59	$ 261

Gross margin increased by $121 million during the six months ended June 30, 2015, compared to the same period in 2014 due to:

(In millions)	
Increase in Renewables gross margin due to the acquisition of the Alta Wind Portfolio in August 2014, and the Tapestry and Laredo Ridge projects, which were acquired by NRG in April 2014 and sold to the Company on January 2, 2015	$ 105
Increase in Conventional gross margin due to Walnut Creek, which was acquired by NRG in April 2014 and sold to the Company on January 2, 2015, partially offset by reduced revenues at El Segundo due to the forced outage in the first half of 2015, returning to service in April 2015	22
Decrease in Thermal gross margin due to milder weather conditions in the first half of 2015 compared to 2014	(6)
	$ 121

Contract amortization

Contract amortization increased by $25 million due to the amortization of the PPAs acquired in the acquisitions of the Alta Wind Portfolio in August 2014, and the January 2015 Drop Down Assets, which were acquired by NRG in April 2014 and sold to the Company on January 2, 2015.

Mark-to-market for economic hedging activities

Mark-to-market results represent the unrealized gains on forward contracts with an NRG subsidiary hedging the sale of power from the Alta X and Alta XI wind facilities extending through the end of 2015.

Other Operating Costs

(In millions)	Conventional	Renewables	Thermal	Total
Six months ended June 30, 2015	$ 35	$ 41	$ 28	$ 104
Six months ended June 30, 2014	23	11	26	60

Other operating costs increased by $44 million during the six months ended June 30, 2015, compared to the same period in 2014, due to:

Increase primarily due to operations and maintenance expense for the Alta Wind Portfolio acquired in August 2014 and the January 2015 Drop Down Assets, which were acquired by NRG in April 2014 and sold to the Company on January 2, 2015	$	36
Increase in operations and maintenance expense related to El Segundo's forced outage in the first half of 2015, returning to service in April 2015		6
Other		2
	$	44

Depreciation and Amortization

Depreciation and amortization increased by $35 million during the six months ended June 30, 2015, compared to the same period in 2014, due primarily to the acquisition of the Alta Wind Portfolio in August 2014 and the January 2015 Drop Down Assets, which were acquired by NRG in April 2014 and sold to the Company on January 2, 2015, partially offset by the impact of the final adjustments to acquisition accounting for Walnut Creek, Tapestry and Laredo Ridge.

Equity in Earnings of Unconsolidated Affiliates

Equity in earnings of unconsolidated affiliates decreased by $5 million during the six months ended June 30, 2015, compared to the same period in 2014, due primarily to reduced equity in earnings from CVSR.

Interest Expense

Interest expense increased by $53 million during the six months ended June 30, 2015, compared to the same period in 2014, due to:

(In millions)

Increase due to the acquisition of the Alta Wind Portfolio in August 2014 and the acquisition of the January 2015Assets, which were acquired by NRG in April 2014 and sold to the Company on January 2, 2015	$	47
Increase from the issuance of the 2019 Convertible Notes issued in first quarter 2014 and the Senior Notes due 2024 issued in August 2014		15
Increase from borrowings under the Company's revolving credit facility		3
Decrease from repricing of project-level financing arrangements and principal repayments		(5)
Decrease from changes in the fair value of interest rate swaps		(7)
	$	53

Income Tax Expense

For the six months ended June 30, 2015, the Company recorded no income tax expense on pretax income of $25 million. For the same period in 2014, the Company recorded income tax expense of $5 million on pretax income of $73 million. For the six months ended June 30, 2015, the overall effective tax rate was different than the statutory rate of 35% primarily due to taxable earnings allocated to NRG resulting from its interest in NRG Yield LLC and production tax credits generated from certain wind facilities. For the same period in 2014, the Company's overall effective tax rate was different than the statutory rate of 35% primarily due to taxable earnings allocated to NRG resulting from its interest in NRG Yield LLC.

Income Attributable to Noncontrolling Interests

For the six months ended June 30, 2015, the Company had income of $13 million attributable to NRG's interest in the Company and $7 million of income attributable to other non-controlling interests. For the six months ended June 30, 2014, the Company had income of $33 million attributable to NRG's interest in the Company.

Liquidity and Capital Resources

The Company's principal liquidity requirements are to meet its financial commitments, finance current operations, fund capital expenditures, including acquisitions from time to time, to service debt and to pay dividends. Historically, the Company's predecessor operations were financed as part of NRG's integrated operations and largely relied on internally generated cash flows as well as corporate and/or project-level borrowings to satisfy its capital expenditure requirements. As a normal part of the Company's business, depending on market conditions, the Company will from time to time consider opportunities to repay, redeem, repurchase or refinance its indebtedness. Changes in the Company's operating plans, lower than anticipated sales, increased expenses, acquisitions or other events may cause the Company to seek additional debt or equity financing in future periods. There can be no guarantee that financing will be available on acceptable terms or at all. Debt financing, if available, could impose additional cash payment obligations and additional covenants and operating restrictions.

Liquidity Position

As of June 30, 2015, and December 31, 2014, the Company's liquidity was approximately $515 million and $863 million, respectively, comprised of cash, restricted cash, and availability under the Company's revolving credit facility. The decrease primarily relates to the acquisition of the January 2015 Drop Down Assets. The Company's various financing arrangements are described in Note 8, *Long-term Debt.*

Management believes that the Company's liquidity position, cash flows from operations and availability under its revolving credit facility will be adequate to meet the Company's financial commitments, debt service obligations, finance growth, operating and maintenance capital expenditures, and to fund dividends to holders of the Company's Class A common stock and Class C common stock, both in the near and longer term. Management continues to regularly monitor the Company's ability to finance the needs of its operating, financing and investing activity within the dictates of prudent balance sheet management.

Credit Ratings

Credit rating agencies rate a firm's public debt securities. These ratings are utilized by the debt markets in evaluating a firm's credit risk. Ratings influence the price paid to issue new debt securities by indicating to the market the Company's ability to pay principal, interest and preferred dividends. Rating agencies evaluate a firm's industry, cash flow, leverage, liquidity, and hedge profile, among other factors, in their credit analysis of a firm's credit risk.

The following table summarizes the credit ratings for the Company and the Senior Notes as of June 30, 2015:

	S&P	Moody's
NRG Yield, Inc.	BB+	Ba1
5.375% Senior Notes, due 2024	BB+	Ba1

Sources of Liquidity

The Company's principal sources of liquidity include cash on hand, cash generated from operations, borrowings under new and existing financing arrangements and the issuance of additional equity securities as appropriate given market conditions. As described in Note 8, *Long-term Debt*, the Company's financing arrangements consist of the revolving credit facility, the 2019 Convertible Notes, the 2020 Convertible Notes, the Senior Notes and project-level financings for its various assets.

Recapitalization

As discussed in *Significant Events During 2015* in this Item 2 above, amendments to the Company's certificate of incorporation were approved by the Company's stockholders at the Annual Meeting of Stockholders held on May 5, 2015 and the Recapitalization became effective on May 14, 2015.

The Class C common stock and Class D common stock have the same rights and privileges and rank equally, share ratably and are identical in all respects to the shares of Class A common stock and Class B common stock, respectively, as to all matters, except that each share of Class C common stock and Class D common stock is entitled to 1/100th of a vote on all stockholder matters. As described above, on June 29, 2015, NRG Yield, Inc. completed the issuance of 28,198,000 shares of Class C common stock for net proceeds of $600 million, net of underwriting discounts and commissions of $20 million.

Uses of Liquidity

The Company's requirements for liquidity and capital resources, other than for operating its facilities, are categorized as: (i) debt service obligations, as described more fully in Note 8, *Long-term Debt*; (ii) capital expenditures; (iii) acquisitions and investments; and (iv) cash dividends to investors.

Capital Expenditures

The Company's capital spending program is mainly focused on maintenance capital expenditures, or costs to maintain the assets currently operating, such as costs to replace or refurbish assets during routine maintenance. The Company develops annual capital spending plans based on projected requirements for maintenance capital. For the six months ended June 30, 2015, and 2014, the Company used approximately $8 million and $29 million, respectively, to fund capital expenditures. The capital expenditures in the first half of 2015 primarily related to maintenance expense. During the six months ended June 30, 2015, the Company did not incur significant growth capital expenditures related to the construction of new assets and/or the completion of the construction of new assets if already in process.

In January 2015, El Segundo experienced a steam turbine water intrusion resulting in a forced outage on Units 5 and 6. The units returned to service in April 2015. The Company completed a root cause analysis and has implemented steps to prevent a recurrence of the event. The company continues to review the financial impact of repair costs and lost capacity revenue to determine amounts available for recovery through insurance or warranty claims.

Acquisitions and Investments

The Company intends to acquire generation assets developed and constructed by NRG in the future, as well as generation and thermal infrastructure assets from third parties where the Company believes its knowledge of the market, operating expertise and access to capital provides a competitive advantage, and to utilize such acquisitions as a means to grow its cash available for distribution. As described above in *Significant Events in 2015*, the following acquisitions and investments occurred in 2015:

- On June 29, 2015, the Company acquired 25% of the membership interest in Desert Sunlight Investment Holdings, LLC, which owns two solar photovoltaic facilities that total 550 MW located in Desert Center, California, from EFS Desert Sun, LLC, a subsidiary of GE Energy Financial Services for a purchase price of $285 million.

- On May 7, 2015, the Company acquired a 90.1% interest in Spring Canyon II, a 34 MW wind facility, and Spring Canyon III, a 29 MW wind facility, each located in Logan County, Colorado, from Invenergy Wind Global LLC. The purchase price was funded with cash on hand.

- On April 30, 2015, the Company completed the acquisition of the University of Bridgeport Fuel Cell project in Bridgeport, CT from FuelCell Energy, Inc. The project added an additional 1.4 MW of thermal capacity with a 12 year contract, with the option for a 7-year extension.

- On April 9, 2015, NRG and the Company entered into a partnership that will invest in and hold operating portfolios of residential solar assets developed by NRG Home Solar, a subsidiary of NRG, including: (i) an existing, unlevered portfolio of over 2,200 leases across nine states representing approximately 17 MW with a weighted average remaining lease term of approximately 17 years, in which the Company invested $26 million in April 2015; and (ii) in-development, tax equity financed portfolios of approximately 13,000 leases representing approximately 90 MW, with an average lease term for the existing and new leases of approximately 17 to 20 years, in which the company invested $14 million of its $150 million commitment through June 30, 2015. Its maximum exposure will be limited to its equity investment.

- On January 2, 2015, the Company acquired the January 2015 Drop Down Assets for total cash consideration of $489 million including adjustments of $9 million for working capital, plus assumed project level debt of $737 million.

Cash Dividends to Investors

The Company intends to use the amount of cash that it receives from its distributions from NRG Yield LLC to pay quarterly dividends to the holders of its Class A common stock and Class C common stock. NRG Yield LLC intends to distribute to its unit holders in the form of a quarterly distribution all of the cash available for distribution that is generated each quarter less reserves for the prudent conduct of the business, including among others, maintenance capital expenditures to maintain the operating capacity of the assets. Cash available for distribution is defined as earnings before income taxes, depreciation and amortization, excluding contract amortization, cash interest paid, income taxes paid, maintenance capital expenditures, investments in unconsolidated affiliates, growth capital expenditures, net of capital and debt funding, and principal amortization of indebtedness, and including cash distributions from unconsolidated affiliates. Dividends on the Class A common stock and Class C common stock are subject to available capital, market conditions, and compliance with associated laws, regulations and other contractual obligations. The Company expects that, based on current circumstances, comparable cash dividends will continue to be paid in the foreseeable future.

As a result of the Recapitalization, the Company adjusted its dividend policy to reflect the additional number of shares of Class C common stock outstanding. The following table lists the dividends paid on the Company's Class A common stock and Class C common stock during the six months ended June 30, 2015:

	Second Quarter 2015	First Quarter 2015
Dividends per Class A share	$ 0.20	$ 0.39
Dividends per Class C share	$ 0.20	N/A

On August 4, 2015, the Company announced the declaration of quarterly dividends on its Class A common stock and Class C common stock of $0.21 per share payable on September 15, 2015 to stockholders of record as of September 1, 2015.

Cash Flow Discussion

The following table reflects the changes in cash flows for the six months ended June 30, 2015, compared to 2014:

Six months ended June 30,	2015	2014	Change
		(In millions)	
Net cash provided by operating activities	$ 88	$ 75	$ 13
Net cash used in investing activities	(837)	(178)	(659)
Net cash provided by financing activities	624	152	472

Net Cash Provided By Operating Activities

Changes to net cash provided by operating activities were driven by:	(In millions)
Higher net distributions from unconsolidated affiliates	$ 26
Decrease in operating income adjusted for non-cash items and changes in working capital	(13)
	$ 13

Net Cash Used In Investing Activities

Changes to net cash used in investing activities were driven by:	(In millions)
Payments to acquire businesses, net of cash acquired	$ (37)
Increase in payments made to acquire January 2015 Drop Down Assets on January 2, 2015, compared to the payments made on June 30, 2014, for the June 2014 Drop Down Assets	(153)
Decrease in capital expenditures due to several projects being placed in service in early 2014	21
Changes in restricted cash	(42)
Proceeds from renewable grants in 2014	(137)
Increase in investments in unconsolidated affiliates in 2015, compared to 2014, primarily due to the investment in Desert Sunlight made on June 29, 2015	(298)
Other	(13)
	$ (659)

Net Cash Provided by Financing Activities

Changes in net cash provided by financing activities were driven by:	(In millions)
Contributions from non-controlling interests in 2015	$ 119
Payment of dividends and returns of capital to NRG, partially offset by contributions from NRG in the first six months of 2014	23
Increase in dividends and distributions paid	(17)
Proceeds from Class C equity offering on June 29, 2015, net of underwriting discounts and commissions	600
Increase in payments for long-term debt, partially offset by an increase in proceeds from long-term debt	(255)
Decrease in debt issuance costs paid	2
	$ 472

NOLs, Deferred Tax Assets and Uncertain Tax Position Implications, under ASC 740

As of June 30, 2015, the Company has a cumulative federal NOL carry forward balance of $219 million for financial statement purposes, which will begin expiring in 2033. As a result of the Company's tax position, and based on current forecasts, the Company does not anticipate significant income tax payments for federal, state and local jurisdictions in 2015.

The Company is subject to examination by taxing authorities for income tax returns filed in the U.S. federal jurisdiction and various state jurisdictions. The Company is not subject to U.S. federal or state income tax examinations for years prior to 2013.

As of June 30, 2015, the Company has net deferred tax assets of $154 million, which the Company believes is realizable primarily through the generation of future income before income taxes. In order to be able to consider future earnings in the assessment of the realizability of deferred tax assets, generally accepted accounting principles indicate the Company should not have cumulative losses in the recent past. Should the Company determine it cannot utilize estimates of future earnings in its assessment, it could be required to establish a valuation allowance for up to the full amount of its deferred tax asset.

The Company has no uncertain tax benefits.

Off-Balance Sheet Arrangements

Obligations under Certain Guarantee Contracts

The Company may enter into guarantee arrangements in the normal course of business to facilitate commercial transactions with third parties.

Retained or Contingent Interests

The Company does not have any material retained or contingent interests in assets transferred to an unconsolidated entity.

Obligations Arising Out of a Variable Interest in an Unconsolidated Entity

Variable interest in equity investments — As of June 30, 2015, the Company has several investments with an ownership interest percentage of 50% or less in energy and energy-related entities that are accounted for under the equity method. One of these investments, GenConn Energy LLC, is a variable interest entity for which the Company is not the primary beneficiary.

The Company's pro-rata share of non-recourse debt held by unconsolidated affiliates was approximately $866 million as of June 30, 2015. This indebtedness may restrict the ability of these subsidiaries to issue dividends or distributions to the Company. See also Note 5, *Variable Interest Entities, or VIEs*.

Contractual Obligations and Commercial Commitments

The Company has a variety of contractual obligations and other commercial commitments that represent prospective cash requirements in addition to our capital expenditure programs, as disclosed in the Company's 2014 Form 10-K. See also Note 8, *Long-term Debt,* for additional discussion of contractual obligations incurred during the six months ended June 30, 2015.

Fair Value of Derivative Instruments

The Company may enter into fuel purchase contracts and other energy-related financial instruments to mitigate variability in earnings due to fluctuations in spot market prices and to hedge fuel requirements at certain generation facilities. In addition, in order to mitigate interest rate risk associated with the issuance of variable rate and fixed rate debt, the Company enters into interest rate swap agreements.

The tables below disclose the activities that include non-exchange traded contracts accounted for at fair value in accordance with ASC 820. Specifically, these tables disaggregate realized and unrealized changes in fair value; disaggregate estimated fair values at June 30, 2015, based on their level within the fair value hierarchy defined in ASC 820; and indicate the maturities of contracts at June 30, 2015. For a full discussion of the Company's valuation methodology of its contracts, see *Derivative Fair Value Measurements* in Note 6, *Fair Value of Financial Instruments*.

Derivative Activity Gains/(Losses)	(In millions)
Fair value of contracts as of December 31, 2014	$ (115)
Contracts realized or otherwise settled during the period	38
Changes in fair value	(2)
Fair Value of Contracts as of June 30, 2015	$ (79)

	Fair Value of Contracts as of June 30, 2015				
	Maturity				
Fair value hierarchy Gains/(Losses)	1 Year or Less	Greater Than 1 Year to 3 Years	Greater Than 3 Years to 5 Years	Greater Than 5 Years	Total Fair Value
			(In millions)		
Level 2	$ (39)	$ (39)	$ (7)	$ 6	$ (79)

The Company has elected to disclose derivative assets and liabilities on a trade-by-trade basis and does not offset amounts at the counterparty master agreement level. As discussed below in *Quantitative and Qualitative Disclosures about Market Risk - Commodity Price Risk,* NRG, on behalf of the Company, measures the sensitivity of the portfolio to potential changes in market prices using VaR, a statistical model which attempts to predict risk of loss based on market price and volatility. NRG's risk management policy places a limit on one-day holding period VaR, which limits the net open position.

Critical Accounting Policies and Estimates

The Company's discussion and analysis of the financial condition and results of operations are based upon the consolidated financial statements, which have been prepared in accordance with U.S. GAAP. The preparation of these financial statements and related disclosures in compliance with U.S. GAAP requires the application of appropriate technical accounting rules and guidance as well as the use of estimates and judgments that affect the reported amounts of assets, liabilities, revenues and expenses, and related disclosures of contingent assets and liabilities. The application of these policies necessarily involves judgments regarding future events, including the likelihood of success of particular projects, legal and regulatory challenges, and the fair value of certain assets and liabilities. These judgments, in and of themselves, could materially affect the financial statements and disclosures based on varying assumptions, which may be appropriate to use. In addition, the financial and operating environment may also have a significant effect, not only on the operation of the business, but on the results reported through the application of accounting measures used in preparing the financial statements and related disclosures, even if the nature of the accounting policies has not changed.

On an ongoing basis, the Company evaluates these estimates, utilizing historic experience, consultation with experts and other methods the Company considers reasonable. In any event, actual results may differ substantially from the Company's estimates. Any effects on the Company's business, financial position or results of operations resulting from revisions to these estimates are recorded in the period in which the information that gives rise to the revision becomes known.

The Company's significant accounting policies are summarized in Note 2, *Summary of Significant Accounting Policies*. The Company identifies its most critical accounting policies as those that are the most pervasive and important to the portrayal of the Company's financial position and results of operations, and that require the most difficult, subjective and/or complex judgments by management regarding estimates about matters that are inherently uncertain. The Company's critical accounting policies include income taxes and valuation allowance for deferred tax assets, impairment of long lived assets and other intangible assets and acquisition accounting.

Recent Accounting Developments

See Note 2, *Summary of Significant Accounting Policies*, for a discussion of recent accounting developments.

ITEM 3 — Quantitative and Qualitative Disclosures About Market Risk

The Company is exposed to several market risks in its normal business activities. Market risk is the potential loss that may result from market changes associated with the Company's power generation or with an existing or forecasted financial or commodity transaction. The types of market risks the Company is exposed to are commodity price risk, interest rate risk, liquidity risk, and credit risk.

Commodity Price Risk

Commodity price risks result from exposures to changes in spot prices, forward prices, volatilities, and correlations between various commodities, such as electricity, natural gas and emissions credits. The Company manages the commodity price risk of its merchant generation operations by entering into derivative or non-derivative instruments to hedge the variability in future cash flows from forecasted power sales or purchases of fuel. The portion of forecasted transactions hedged may vary based upon management's assessment of market, weather, operation and other factors.

Based on a sensitivity analysis using simplified assumptions, the impact of a $0.50 per MMBtu increase or decrease in natural gas prices across the term of the derivative contracts would cause no change to the net value of derivatives as of June 30, 2015.

Interest Rate Risk

The Company is exposed to fluctuations in interest rates through its issuance of variable rate debt. Exposures to interest rate fluctuations may be mitigated by entering into derivative instruments known as interest rate swaps, caps, collars and put or call options. These contracts reduce exposure to interest rate volatility and result in primarily fixed rate debt obligations when taking into account the combination of the variable rate debt and the interest rate derivative instrument. NRG's risk management policies allow the Company to reduce interest rate exposure from variable rate debt obligations.

Most of the Company's project subsidiaries enter into interest rate swaps, intended to hedge the risks associated with interest rates on non-recourse project level debt. See Note 9, *Long-Term Debt,* to the Company's audited consolidated financial statements included in the Company's 2014 Form 10-K, and Note 8, *Long-term Debt*, to this Form 10-Q for more information about interest rate swaps of the Company's project subsidiaries.

If all of the above swaps had been discontinued on June 30, 2015, the Company would have owed the counterparties $83 million. Based on the investment grade rating of the counterparties, the Company believes its exposure to credit risk due to nonperformance by counterparties to its hedge contracts to be insignificant.

The Company has long-term debt instruments that subject it to the risk of loss associated with movements in market interest rates. As of June 30, 2015, a 1% change in interest rates would result in an approximately $3 million change in interest expense on a rolling twelve month basis.

As of June 30, 2015, the fair value of the Company's debt was $4,813 million and the carrying value was $4,743 million. The Company estimates that a 1% decrease in market interest rates would have increased the fair value of its long-term debt by $269 million.

Liquidity Risk

Liquidity risk arises from the general funding needs of the Company's activities and in the management of the Company's assets and liabilities.

Counterparty Credit Risk

Credit risk relates to the risk of loss resulting from non-performance or non-payment by counterparties pursuant to the terms of their contractual obligations. The Company monitors and manages credit risk through credit policies that include: (i) an established credit approval process; and (ii) the use of credit mitigation measures such as prepayment arrangements or volumetric limits. Risks surrounding counterparty performance and credit could ultimately impact the amount and timing of expected cash flows. The Company seeks to mitigate counterparty risk by having a diversified portfolio of counterparties.

ITEM 4 — Controls and Procedures

Conclusion Regarding the Effectiveness of Disclosure Controls and Procedures

Under the supervision and with the participation of the Company's management, including its principal executive officer, principal financial officer and principal accounting officer, the Company conducted an evaluation of the effectiveness of the design and operation of its disclosure controls and procedures, as such term is defined in Rules 13a-15(e) or 15d-15(e) of the Exchange Act. Based on this evaluation, the Company's principal executive officer, principal financial officer and principal accounting officer concluded that the disclosure controls and procedures were effective as of the end of the period covered by this Quarterly Report on Form 10-Q.

Changes in Internal Control over Financial Reporting

There were no changes in the Company’s internal control over financial reporting (as such term is defined in Rule 13a-15 (f) under the Exchange Act) that occurred in the second quarter of 2015 that materially affected, or are reasonably likely to materially affect, the Company’s internal control over financial reporting.

PART II - OTHER INFORMATION

ITEM 1 — LEGAL PROCEEDINGS

None.

ITEM 1A — RISK FACTORS

Information regarding risk factors appears in Part I, Item 1A, *Risk Factors* in the Company's 2014 Form 10-K. There have been no material changes in the Company's risk factors since those reported in its 2014 Form 10-K.

ITEM 2 — UNREGISTERED SALES OF EQUITY SECURITIES AND USE OF PROCEEDS

None.

ITEM 3 — DEFAULTS UPON SENIOR SECURITIES

None.

ITEM 4 — MINE SAFETY DISCLOSURES

Not applicable.

ITEM 5 — OTHER INFORMATION

None.

ITEM 6 — EXHIBITS

Number	Description	Method of Filing
2.1*^	Purchase and Sale Agreement, dated as of June 17, 2015, between EFS Desert Sun, LLC and NRG Yield Operating LLC.	Filed herewith.
3.1	Second Amended and Restated Certificate of Incorporation of NRG Yield, Inc., dated as of May 14, 2015.	Incorporated by reference to Exhibit 3.1 to the Company's Current Report on Form 8-K filed on May 15, 2015.
3.2	Certificate of Correction to Second Amended and Restated Certificate of Incorporation of NRG Yield, Inc., dated as of June 9, 2015.	Incorporated by reference to Exhibit 3.1 to the Company's Current Report on Form 8-K filed on June 9, 2015.
4.1	Fourth Supplemental Indenture, dated as of May 8, 2015, among NRG Yield Operating LLC, the guarantors named therein and Law Debenture Trust Company of New York.	Incorporated herein by reference to Exhibit 4.1 to the Company's Current Report on Form 8-K filed on May 8, 2015.
4.2	Third Amended and Restated Limited Liability Company Agreement of NRG Yield LLC, dated as of May 14, 2015.	Incorporated herein by reference to Exhibit 10.4 to the Company's Current Report on Form 8-K filed on May 15, 2015.
4.3	Indenture, dated June 29, 2015, among NRG Yield, Inc., the Guarantors and the Trustee.	Incorporated herein by reference to Exhibit 4.1 to the Company's Current Report on Form 8-K filed on June 29, 2015.
4.4	Form of 3.25% Convertible Senior Note due 2020.	Incorporated herein by reference to Exhibit 4.2 to the Company's Current Report on Form 8-K filed on June 29, 2015.
10.1*	Amended and Restated Limited Liability Company Agreement of NRG RPV Holdco 1 LLC, dated as of April 9, 2015.	Filed herewith.
10.2*	Amended and Restated Limited Liability Company Agreement of NRG DGPV Holdco 1 LLC, dated as of May 8, 2015.	Filed herewith.
10.3	Amended and Restated Exchange Agreement, dated as of May 14, 2015, by and among NRG Energy, Inc., NRG Yield, Inc., and NRG Yield LLC.	Incorporated herein by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K filed on May 15, 2015.
10.4	Amended and Restated Registration Rights Agreement, dated as of May 14, 2015, by and between NRG Energy, Inc. and NRG Yield, Inc.	Incorporated herein by reference to Exhibit 10.2 to the Company's Current Report on Form 8-K filed on May 15, 2015.
10.5	NRG Yield, Inc. Amended and Restated 2013 Equity Incentive Plan, dated as of May 14, 2015.	Incorporated herein by reference to Exhibit 10.5 to the Company's Current Report on Form 8-K filed on May 15, 2015.
10.6	Amendment No. 3 to Credit Agreement, dated as of January 27, 2014, by and between NRG West Holdings LLC and Credit Agricole Corporate and Investment Bank.	Filed herewith.
10.7	Amendment No. 4 to the Credit Agreement and Amendment No. 1 to the Collateral Agreement, dated as of May 16, 2014, by and between NRG West Holdings LLC, El Segundo Energy Center LLC and Credit Agricole Corporate and Investment Bank.	Filed herewith.
10.8	Amendment No. 5 to Credit Agreement, dated as of May 29, 2015, by and between NRG West Holdings LLC and ING Capital LLC.	Filed herewith.
10.9	First Amendment to Amended & Restated Credit Agreement, dated June 26, 2015, by and among NRG Yield Operating LLC, NRG Yield LLC, Royal Bank of Canada and the Lenders party thereto.	Filed herewith.
31.1	Rule 13a-14(a)/15d-14(a) certification of David Crane.	Filed herewith.
31.2	Rule 13a-14(a)/15d-14(a) certification of Kirkland B. Andrews.	Filed herewith.
31.3	Rule 13a-14(a)/15d-14(a) certification of David Callen.	Filed herewith.
32	Section 1350 Certification.	Filed herewith.
101 INS	XBRL Instance Document.	Filed herewith.
101 SCH	XBRL Taxonomy Extension Schema.	Filed herewith.
101 CAL	XBRL Taxonomy Extension Calculation Linkbase.	Filed herewith.
101 DEF	XBRL Taxonomy Extension Definition Linkbase.	Filed herewith.
101 LAB	XBRL Taxonomy Extension Label Linkbase.	Filed herewith.
101 PRE	XBRL Taxonomy Extension Presentation Linkbase.	Filed herewith.

***** *Confidential Treatment has been requested for certain provisions omitted from this Exhibit pursuant to Rule 24b-2 promulgated under the Securities Exchange Act of 1934. The omitted information has been filed separately with the Securities and Exchange Commission.*
^ Schedules omitted pursuant to Item 601(b)(2) of Regulation S-K. The Company will furnish copies of such schedules to the U.S. Securities and Exchange Commission upon request.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

NRG YIELD, INC.
(Registrant)

/s/ DAVID CRANE

David Crane

Chief Executive Officer
(Principal Executive Officer)

/s/ KIRKLAND B. ANDREWS

Kirkland B. Andrews

Chief Financial Officer
(Principal Financial Officer)

/s/ DAVID CALLEN

David Callen

Chief Accounting Officer
(Principal Accounting Officer)

Date: August 4, 2015

EXHIBIT 2.1
Execution Version

PURCHASE AND SALE AGREEMENT

dated as of

June 17, 2015

between

EFS Desert Sun, LLC,

as Seller

and

NRG Yield Operating LLC,

as Buyer

Portions of this Exhibit, indicated by the mark "[***]," were omitted and have been filed separately with the Secretary of the Commission pursuant to the Registrant's application requesting confidential treatment pursuant to Rule 24b-2 of the Securities Exchange Act of 1934.

TABLE OF CONTENTS

EXHIBITS

SCHEDULES

Seller Disclosure Schedules

Schedule 4.2.3(a)	Material Contract Defaults
Schedule 4.2.3(b)	Insurance Notifications
Schedule 4.2.6	Litigation
Schedule 4.2.7	Tax Returns
Schedule 4.2.12	Material Adverse Effect Events
Schedule 4.2.14	Material Contracts and Governmental Approvals

Buyer Disclosure Schedule

Schedule 1.3	Knowledge Persons (Buyer)
Schedule 5.1.16.8	Company LLCA Representations

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT, dated as of June 17, 2015 (the "**Effective Date**"), is entered into by and between EFS Desert Sun, LLC, a Delaware limited liability company ("**Seller**"), and NRG Yield Operating LLC, a Delaware limited liability company ("**Buyer**") (Seller and Buyer being sometimes hereinafter referred to individually as a "**Party**" and collectively as the "**Parties**"), with reference to the following:

RECITALS

A. Seller owns fifty percent (50%) of the issued and outstanding Class B membership interests (the "**Class B Interests**") in Desert Sunlight Investment Holdings, LLC, a Delaware limited liability company (the "**Company**"), which constitutes twenty-five percent (25%) of the membership interests in the Company.

B. Seller desires to sell one hundred percent (100%) of the Class B Interests owned by Seller to Buyer and to delegate (i) any and all rights, duties, obligations, responsibilities, claims, demands and other commitments in connection with Seller's Class B Interests (such Class B Interests, the "**Assigned Interests**") and, (ii) to the extent relating to the Assigned Interests, the agreements set forth in Schedule 1 (the "**Assigned Agreements**"), as applicable, unto Buyer, and Buyer wishes to purchase the Assigned Interests from Seller and Seller is willing to accept and assume such rights, duties and obligations, responsibilities, claims, demands and other commitments in connection with the Assigned Agreements.

C. The Company owns one hundred percent (100%) of the issued and outstanding membership interests of Desert Sunlight Holdings, LLC, which owns one hundred percent (100%) of the issued and outstanding membership interests of Desert Sunlight 250, LLC ("**Sunlight 250**") and Desert Sunlight 300, LLC ("**Sunlight 300**", and together with Sunlight 250, the "**Sunlight Project Companies**" and each, a "**Sunlight Project Company**"; and, together with the Company and Desert Sunlight Holdings, LLC ("**DS Holdings**"), each a "**Sunlight Company**" and collectively, the "**Sunlight Companies**"), each of which respectively owns, operates and maintains the Desert Sunlight 250 Project and the Desert Sunlight 300 Project (each a "**Project**" and collectively, the "**Projects**"), respectively.

D. The Sunlight Project Companies filed multiple Cash Grant applications with the United States Department of Treasury ("**Treasury**") claiming a Cash Grant with respect to the Projects. As of the Effective Date, Treasury has paid the Sunlight Project Companies a Cash Grant in an amount less than the amount requested on the Cash Grant applications, resulting in a shortfall equal to approximately two hundred fourteen million Dollars ($214,000,000) (the "**Grant Shortfall**"). The members of the Company, who are members prior to giving effect to the sale of the Assigned Interests, intend to exercise remedies available to the Sunlight Companies to recover payment of the Grant Shortfall, including pursuing ongoing negotiations with Treasury and, if necessary, commencing a cause of action in any appropriate judicial or administrative venue (collectively, the "**Cash Grant Proceeding**").

E. From and after the sale of the Assigned Interests, Seller desires to retain the rights to any future distributions of Cash Grant proceeds and all of its notice rights, participation rights, consent rights and dispute resolution rights with respect to any Cash Grant Proceeding, in each case, in connection with the Assigned Interests (the "**Excluded Cash Grant Interests**").

NOW, THEREFORE, in consideration of the mutual covenants and agreements in this Agreement and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

ARTICLE 1
DEFINITIONS AND INTERPRETATION

1.1 Defined Terms. Capitalized terms used in this Agreement (including in the Recitals hereto) without other definition shall have the following meanings, unless the context clearly requires otherwise:

"**Accepted Update**" has the meaning given in Section 3.5.3.

"**Action**" means any litigation, cause of action, arbitration, suit, written complaint, investigation, inquiry or other proceeding (whether civil, criminal, administrative, or investigative) commenced, brought, conducted, or heard by or before, or otherwise involving, any Governmental Person or arbitrator.

"**Affiliate**" means, with respect to a Person, any other Person that, directly or indirectly through one or more intermediaries, Controls, is Controlled by or is under common Control with such first Person.

"**Agreement**" means this Purchase and Sale Agreement, dated as of the Effective Date, between the Parties, including all Exhibits and Schedules, as amended, restated or otherwise modified from time to time.

"**Amended and Restated Seller Cash Grant Guarantees**" means the guarantees to be delivered by GECC, substantially in the forms attached as Exhibits D and E hereto, and otherwise subject to approval in accordance with Schedule 4.1.4.

"**Anti-Terrorism Order**" means Executive Order No. 13,224, 66 Fed. Reg. 49,079 (Sept. 25, 2001), issued by the President of the United States of America (Executive Order Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism).

"**Assigned Agreements**" has the meaning given in the Recitals.

"**Assignment Agreement**" means an assignment and assumption agreement substantially in the form attached as Exhibit A hereto.

"**Assigned Interests**" has the meaning given in the Recitals.

"**Bankruptcy Event**" means, with respect to any Person, the occurrence of one or more of the following events: (a) such Person (i) admits in writing its inability to pay its debts as they become due, (ii) files, or consents by answer or otherwise to the filing against it of, a petition for relief or reorganization or arrangement or any other petition in bankruptcy, for liquidation or to take advantage of any bankruptcy, insolvency, reorganization, moratorium or other similar law of any jurisdiction, (iii) makes an assignment for the benefit of its creditors, (iv) consents to the appointment of a custodian, receiver, trustee or other officer with similar powers with respect to it or with respect to any substantial part of its property, (v) is adjudicated as insolvent or to be liquidated, or (vi) takes action for the purpose of any of the foregoing; or (b) a court or Governmental Person of competent jurisdiction enters an Order appointing, without consent by such Person, a custodian, receiver, trustee or other officer with similar powers with respect to it or with respect to any substantial part of its property, or constituting an Order for relief or approving a petition for relief or reorganization or any other petition in bankruptcy or for liquidation or to take advantage of any bankruptcy or insolvency law of any jurisdiction, or ordering the dissolution, winding-up or liquidation of such Person, or any such petition shall be filed against such Person, and such petition or Order entered against such Person shall not have been dismissed, withdrawn or vacated within sixty (60) days.

"**Books and Records**" means all files, documents, instruments, papers, books and records in Seller's possession that are material to the ownership, business or condition of the Sunlight Companies or the Projects, including those non-income Tax Returns (but including Seller's Schedule K-1s to Form 1065), related material work papers, and all related material letters from accountants that have been provided to Seller, and computer records and electronic copies of such information (but excluding electronic mail and other computer-based communications).

"**Business Day**" means any day other than a Saturday, Sunday or other day on which commercial banks in New York, New York are required or authorized by Law to close.

"**Buyer**" has the meaning given in the preamble to this Agreement.

"**Buyer 1603 Cash Grant Recapture Indemnity Agreements**" means the indemnity agreements to be delivered by Buyer, substantially in the forms attached as Exhibits B and C hereto, and otherwise subject to approval in accordance with Schedule 4.1.4.

"**Buyer Cash Grant Event**" shall mean any of the following events: (a) Buyer becoming or transferring its Class B Interests to a Cash Grant Disqualified Person or (b) all or any portion of a 1603 Grant received by any Sunlight Company in respect of any Project being "recaptured" or disallowed by the Treasury, which recapture or disallowance would not have occurred but for Buyer's consent or withheld consent under the Company LLCA Amendment to authorize directly or indirectly the Company, the Managing Member or any Sunlight Company to take a certain action or to refrain from taking a certain action (assuming for such purposes that an action for which Buyer's consent was required and was withheld would have been completed if Buyer had given such consent).

"**Buyer Closing Certificates**" has the meaning given in Section 3.4.8.

"**Buyer Closing Documents**" has the meaning given in Section 3.4.10.

"**Buyer Disclosure Schedules**" means the schedules to Buyer's representations and warranties provided pursuant to Article 5.

"**Buyer Fundamental Representations**" has the meaning given in Section 7.1.2.1.

"**Buyer LLCA Certification**" has the meaning given in Section 3.4.9.

"**Buyer Tax Representations**" means those representations made in Section 5.1.13.

"**Buyer's Knowledge**" means the actual and current knowledge (as opposed to any constructive or imputed knowledge) of the persons set forth for Buyer on Schedule 1.1, after exercise of due inquiry.

"**Cash Grant**" means a Treasury cash grant in lieu of the available renewable energy tax credits pursuant to section 48 of the Code under the terms of Section 1603 of the Recovery Act and the Cash Grant Guidance.

"**Cash Grant Disqualified Person**" shall mean at any time during the Recapture Period (as defined in the Company LLCA), (a) a federal, state or local government (or political subdivision, agency or instrumentality thereof), (b) an organization described in Section 501(c) of the Code and exempt from tax under Section 501(a) of the Code, (c) an entity described in paragraph (4) of Section 54(j) of the Code, (d) a real estate investment trust, as defined in Section 856(a) of the Code or a person described in Section 50 (d)(1) of the Code, (e) a regulated investment company, as defined in Section 851(a) of the Code, (f) any Person who is not a United States person as defined in Section 7701(a)(30) of the Code (other than a foreign partnership or foreign pass-through entity) unless such person is subject to U.S. federal income tax on more than fifty percent (50%) of the gross income derived by such person from the Company, or (g) a partnership or other "pass-through entity" (within the meaning of paragraph (g)(4) of Section 1603 of division B of the Recovery Act, including a single member disregarded entity and a foreign partnership or foreign pass-through entity) any direct or indirect partner (or other holder of an equity or profits interest) of which is an organization described in (a) through (f) above unless such person owns an indirect interest in such partnership or pass-through entity through a "taxable C corporation" (other than a real estate investment trust or regulated investment company), as that term is used in the Cash Grant Guidance.

"**Cash Grant Guidance**" means the program guidance publication entitled "Payments for Specific Energy Property in Lieu of Tax Credits under the American Recovery and Reinvestment Act of 2009" dated July 2009 (as revised March 2010 and further revised April 2011), and any other guidance (including frequently asked questions and answers), instructions or terms and conditions published or issued by the Treasury in respect of a Cash Grant or any application therefor and the terms and conditions that the Company must agree to in order to receive a Cash Grant.

"**Cash Grant Recapture Indemnity Agreements**" means (a) the Buyer 1603 Cash Grant Recapture Indemnity Agreements, (b) that certain Cash Grant Recapture Indemnity Agreement, dated as of the September 29, 2011, entered into by the NextEra Member, in favor of Sunlight 250, DS Holdings, the Company, Collateral Agent (as defined in the Master Agreements) and the Secured Parties (as defined in the Master Agreements) and that certain Cash Grant Recapture Indemnity Agreement, dated as of the September 29, 2011, entered into by the NextEra Member, in favor of Sunlight 300, DS Holdings, the Company, Collateral Agent (as defined in the Master Agreements) and the Secured Parties (as defined in the Master Agreements); (c) that certain Cash Grant Recapture Indemnity Agreement, dated as of the September 27, 2012, entered into by the Sumitomo Member, in favor of Sunlight 250, DS Holdings, the Company, the Collateral Agent (as defined in the Master Agreements) and the Secured Parties (as defined in the Master Agreements) and that certain Cash Grant Recapture Indemnity Agreement, dated as of the September 27, 2012, entered into by the Sumitomo Member, in favor of Sunlight 300, DS Holdings, the Company, the Collateral Agent (as defined in the Master Agreements) and the Secured Parties (as defined in the Master Agreements); and (d) that certain Cash Grant Recapture Indemnity Agreement, dated as of the September 29, 2011, entered into by Seller, in favor of Sunlight 250, DS Holdings, the Company, Collateral Agent (as defined in the Master Agreements) and the Secured Parties (as defined in the Master Agreements) and that certain Cash Grant Recapture Indemnity Agreement, dated as of the September 29, 2011, entered into by Seller, in favor of Sunlight 300, DS Holdings, the Company, Collateral Agent (as defined in the Master Agreements) and the Secured Parties (as defined in the Master Agreements).

"**Cash Grant Letter Agreement**" means the letter agreement, substantially in the form of Exhibit G hereto, to be entered into as of the Closing Date by and among the Company, the NextEra Member, Buyer, Seller and the Sumitomo Member.

"**Cash Grant Proceeding**" has the meaning given in the Recitals.

"**Claim Notice**" has the meaning given in Section 7.2.1.

"**Class B Interests**" has the meaning given in the Recitals.

"**Closing**" has the meaning given in Section 3.1.

"**Closing Actions**" has the meaning given in Section 3.2.

"**Closing Date**" has the meaning given in Section 3.1.

"**Closing Documents**" means the Buyer Closing Documents and the Seller Closing Documents.

"**Code**" means the Internal Revenue Code of 1986, as amended.

"**Commercially Reasonable Efforts**" means the exercise of diligent efforts designed to achieve the stated goal to the extent that such efforts are commercially reasonable, considering all of the facts, circumstances and costs of undertaking such efforts.

"**Company**" has the meaning given in the Recitals.

"**Company LLCA**" means the Amended and Restated Limited Liability Company Agreement for the Company dated as of September 27, 2012 by and among Seller, NextEra Member and Sumitomo Member.

"**Company LLCA Amendment**" means the Second Amended and Restated Limited Liability Agreement for the Company, substantially in the form of Exhibit H hereto, to be entered into as of the Closing Date by and among Sumitomo Member, Buyer and NextEra Member.

"**Contract**" means any agreement, contract, lease, sublease, mortgage, indenture, promissory note, evidence of Indebtedness, purchase order, letter of credit, license or sublicense.

"**Control**" or "**control**" means the power, directly or indirectly, to direct or cause the direction of the management or business or policies of such Person (whether through the ownership of voting securities or partnership or other ownership interests, by contract, or otherwise, other than through ownership of voting securities in a publicly-held Person); and "Controlling", "Controlled", and similar constructions shall have corresponding meanings.

"**Corrupt Practices Laws**" means (i) the Foreign Corrupt Practices Act and (ii) any equivalent U.S. or foreign applicable Legal Requirement.

"**Deductible Amount**" has the meaning given in Section 7.1.2.2.

"**Desert Sunlight 250 Project**" has the meaning given in the Company LLCA.

"**Desert Sunlight 300 Project**" has the meaning given in the Company LLCA.

"**Distributable Cash**" has the meaning given in the Company LLCA Amendment.

"**Dollars**" and "**$**" mean the lawful currency of the United States of America.

"**DS Holdings**" has the meaning given in the Recitals.

"**Encumbrances**" means (a) those restrictions on transfer arising under this Agreement, or the Organizational Documents of the Company, (b) those restrictions on transfer imposed by applicable securities Laws and (c) any Liens arising under or created by the Swap Agreements, the Company LLCA or the Investment Agreement.

"**Enforceability Exceptions**" has the meaning given in Section 4.1.3.

"**Environmental Approval**" means any Governmental Approval under any Environmental Law.

"**Environmental Claim**" means any and all actions, suits, demands, demand letters, claims, liens, notices of non-compliance or violation, notices of liability or potential liability, investigations, proceedings, consent orders or consent agreements relating in any way to any Environmental Law or the Release of any Hazardous Material.

"**Environmental Law**" means, collectively, all federal, state or local Legal Requirements that relate to (a) the prevention, abatement or elimination of pollution, or the protection of the environment, natural resources, or human health (to the extent relating to exposure to Hazardous Materials), or natural resource damages; (b) the use, generation, handling, treatment, storage,

disposal, Release, transportation or regulation of or exposure to Hazardous Materials, including the Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. §§ 9601 et seq., the Endangered Species Act, 16 U.S.C. §§ 1531 et seq., the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 et seq., the Clean Air Act, 42 U.S.C. §§ 7401 et seq., the Clean Water Act, 33 U.S.C. §§ 1251 et seq., the Toxic Substances Control Act, 15 U.S.C. §§ 2601 et seq., Hazardous Materials Transportation Act, 49 U.S.C. §§1801 et seq., the Emergency Planning and Community Right to Know Act, 42 U.S.C. §§ 11001 et seq., and their state or local counterparts or equivalents, each as amended from time to time; or (c) impacts related to resources of historical, cultural or tribal significance.

"**Effective Date**" has the meaning given in the preamble to this Agreement.

"**EPC Contracts**" has the meaning given in the Company LLCA Amendment.

"**EWG**" means an exempt wholesale generator under PUHCA.

"**Excluded Cash Grant Interests**" has the meaning given in the Recitals.

"**Expiration Date**" has the meaning given in Section 8.1(b).

"**FERC**" means the Federal Energy Regulatory Commission.

"**Financing Documents**" means the agreements and documents listed on Part 1 of Schedule II of the Company LLCA Amendment, and any and all amendments thereto.

"**FPA**" means the Federal Power Act of 1935, as amended.

"**Fundamental Representations**" has the meaning given in Section 7.1.2.1.

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

"**GECC**" means General Electric Capital Corporation, a Delaware corporation.

"**General Indemnity**" has the meaning given in Section 7.1.1.

"**Governmental Approval**" means any authorization, approval, consent, license, ruling, Permit, tariff, certification, exemption, Order, recognition, grant, confirmation, clearance, filing or registration by or with any Governmental Person.

"**Governmental Judgment**" means, with respect to any Person, any Order or any action of a similar nature, of or by a Governmental Person having jurisdiction over such Person or any of its properties.

"**Governmental Person**" means any national, state, or local government (whether domestic or foreign), any political subdivision thereof or any other governmental, quasi-

governmental, judicial, administrative, tribal, public or statutory instrumentality, authority, body, agency, bureau or entity (including FERC, the U.S. Securities and Exchange Commission, the Federal Deposit Insurance Corporation, the Comptroller of the Currency or the Board of Governors of the Federal Reserve System, any central bank or any comparable authority).

"**Grant Shortfall**" has the meaning given in the Recitals.

"**Hazardous Materials**" means any hazardous or toxic substances, contaminants, constituents, chemicals, materials, pollutants or wastes defined, listed, classified or regulated as such in or under any Environmental Laws, including (a) any petroleum or petroleum products (including gasoline, crude oil or any fraction thereof), flammable explosives, radioactive materials, asbestos in any form that is or could become friable, urea formaldehyde foam insulation, polychlorinated biphenyls and radon gas, and (b) any chemicals, materials or substances defined as or included in the definition of "hazardous substances," "hazardous wastes," "extremely hazardous wastes," "restricted hazardous wastes," "toxic substances," "toxic pollutants," "contaminants" or "pollutants," or words of similar import, under any applicable Environmental Law.

"**Indebtedness**" has the meaning given in the Master Agreements.

"**Indemnified Group**" has the meaning given in Section 7.1.1.

"**Indemnified Party**" has the meaning given in Section 7.1.1.

"**Indemnitor**" has the meaning given in Section 7.1.1.

"**Investment Agreement**" means the Investment Agreement, dated as of September 29, 2011, as amended by the First Amendment to the Investment Agreement, dated as of April 25, 2012, among NextEra Energy Resources, LLC, General Electric Capital Corporation, NextEra Member, and Seller, as further amended by the Second Amendment to Investment Agreement and Joinder, dated as of September 27, 2012, among NextEra Energy Resources, LLC, General Electric Capital Corporation, Sumitomo Corporation of America, NextEra Member, Seller, and Sumitomo Member.

"**Investment Agreement Amendment**" means the Third Amendment and Joinder to the Investment Agreement, substantially in the form of Exhibit I hereto.

"**Investment Company Act**" means the Investment Company Act of 1940, as amended.

"**IRS**" means the U.S. Internal Revenue Service.

"**Knowledge**" means Buyer's Knowledge or Seller's Knowledge, as applicable.

"**Law**" means, with respect to any Person, any statute, law, rule, regulation, ordinance, Governmental Judgment, code, treaty, judgment, directive, or similar form of decision of any Governmental Person in each case applicable to and binding upon such Person or any of its properties or to which such Person or any of its property is subject.

"**Leased Real Property**" means any lease, option, ownership, easement, subeasement, sub-subeasement, license, access, right of way, encroachment agreement, cotenancy agreement, shared or common facilities agreement, leasehold or other rights or interests in real property required for the operation and maintenance of the Projects including all renewals, extensions, amendments, modifications or supplements to any of the foregoing or substitutions for any of the foregoing, to which any Sunlight Project Company is a party or has rights on the Closing Date.

"**Legal Requirements**" means, as to any Person, any requirement under a Permit, and any Law, in each case applicable to or binding upon such Person or any of its properties or to which such Person or any of its properties is subject.

"**Liability**" means any liability or obligation whatsoever (including, for the avoidance of doubt, Taxes), whether known or unknown, asserted or unasserted, absolute or contingent, accrued or unaccrued, liquidated or unliquidated, incurred or due or to become due.

"**Lien**" has the meaning given in the Master Agreements.

"**Loss**" means the amount of any out of pocket loss, cost, expense, damage or Liability, including interest, Taxes, fines, penalties, reasonable legal and accounting fees and expenses (including reasonable costs incurred in connection with any mitigation efforts taken in accordance with Section 7.3.1.1, but excluding any costs and expenses of internal counsel and accountants) and court costs, including any of the foregoing arising from any Action, but excluding consequential, indirect, special or punitive damages of Indemnified Parties, and reduced by any amounts (a) actually recovered by the Indemnified Party under any insurance policy with respect to such Losses and (b) of any prior or subsequent recovery by the Indemnified Party from any Person with respect to such Losses (net of out of pocket costs and expenses (including reasonable legal fees and expenses)). For the avoidance of doubt, the loss of or reduction in federal income tax benefits associated with Buyer's interest in the Company shall not constitute consequential or indirect damages.

"**Managing Member**" has the meaning given in the Company LLCA.

"**Managing Member Request Letter**" means Seller's letter, substantially in the form of Exhibit L.

"**Master Agreements**" has the meaning given in the Company LLCA.

"**Material Adverse Effect**" means any condition, circumstance, transaction, event or change that (individually or in the aggregate with all other such conditions, circumstances, transactions, events or changes) causes a material adverse change in the business, assets, Liabilities or financial condition of the Projects and the Sunlight Companies taken as a whole, excluding: (a) any event or condition resulting from or relating to changes or developments in the economy, financial markets or commodity markets in general; (b) changes in international, national, regional, state or local wholesale or retail markets for power transmission or fuel supply or transportation or related products, including those due to actions by competitors; (c) any changes in Laws (including Environmental Laws), or any Order or act of a Governmental Person affecting providers or users of generation, transmission or distribution of electricity generally, that imposes restrictions, regulations or other requirements thereon; (d) changes in general

regulatory or political conditions, including any acts of war or terrorist activities; (e) changes in national, regional, state or local electric interconnection, transmission or distribution procedures or systems; (f) increases in the costs of commodities or supplies, including those relating to solar energy facility components; (g) effects of weather, meteorological or geological events, to the extent that any such changes, effects, events, circumstances, occurrences, facts, conditions do not cause material physical damage or destruction, or render unusable, any material facility, property or assets of any Sunlight Company or Project; (h) strikes, work stoppages or other labor disputes of a general nature and that are not specific to any Project, any Sunlight Company, Seller or their Affiliates; (i) any effect, occurrence, development, or condition that is cured (including by the payment of money) before the earlier of the Closing Date or the termination of this Agreement; (j) any change, financial or otherwise, to the business, affairs or operations of Buyer or any of its Affiliates; or (k) any event or condition attributable to the announcement or pendency of the transactions contemplated by this Agreement, or resulting from or relating to compliance with the express terms of this Agreement. Any determination as to whether any circumstance, change or effect has a Material Adverse Effect shall be made only after taking into account all effective insurance coverage, third-party indemnifications and the quantum of any insurance or indemnity proceeds reasonably likely to be received with respect to such circumstance, change or effect.

"**Material Contract**" means any of the following Contracts to which any Sunlight Company is a party, or by the terms of which any Sunlight Company or its assets are subject: (a) all material Contracts for the purchase, exchange or sale of electric energy, capacity, ancillary services or related attributes, or renewable energy credits or other environmental attributes; (b) all material Contracts for the transmission of electric power; (c) all material Contracts providing for electrical interconnection or the engineering, procurement or construction of interconnection facilities or system upgrades; (d) any material Contract for the operation and maintenance of the Projects; (e) notes, debentures, bonds, mortgages, equipment trusts, letters of credit, loans or other Contracts for or evidencing material Indebtedness of any Sunlight Company; (f) any material Contract relating to the Leased Real Property; (g) all material Contracts providing any Sunlight Company with an option to acquire, or obligating any Sunlight Company to sell or transfer, any material real property or other material assets; (h) all material Contracts to which

any Sunlight Company is a party or by which it or its assets may be bound pursuant to which any Sunlight Company is obligated to pay or entitled to receive more than two million five hundred thousand Dollars ($2,500,000) in any year or ten million Dollars ($10,000,000), in each case in respect of each Project, over the life of the Contract, and (i) any Contract that provides for any non-monetary obligation on the part of any Sunlight Company or the other parties thereto, the non-performance of which obligations would have a Material Adverse Effect.

"**MBR Authority**" means an order from FERC (i) authorizing a Sunlight Company to sell energy, capacity and ancillary services at market-based rates; (ii) accepting a Sunlight Company's market-based rate tariff(s) for filing without restriction or modification that would result in a Material Adverse Effect; and (iii) granting a Sunlight Company all waivers of regulations and blanket authorizations customarily granted by FERC to an entity that will sell wholesale power and ancillary services at market based rates, including blanket authorization for the issuance of securities and assumption of liabilities under Section 204 of the FPA and FERC's Part 34 regulations thereunder.

"**MIPSA**" means the Membership Interest Purchase and Sale Agreement dated as of September 29, 2011 among Seller, NextEra Member and First Solar Development, Inc., as updated by the Desert Sunlight MIPSA Purchase Price Adjustment Letter, dated as of April 27, 2012 from First Solar Development, Inc. and accepted and agreed by Seller and NextEra Member, as partially assigned by Seller to Sumitomo Member, pursuant to the Assignment and Assumption Agreement, dated as of September 27, 2012, by and among Seller and Sumitomo Member.

"**NextEra Member**" means NextEra Desert Sunlight Holdings, LLC, a Delaware limited liability company.

"**Non-Updating Party**" has the meaning given in Section 3.5.2.

"**Order**" means any writ, judgment, order, decree, or ruling of a Governmental Person.

"**Organizational Documents**" means, with respect to any Person, all organizational documents, including all certificates of incorporation, bylaws, certificates of formation, limited liability company agreements, member agreements or similar Contracts relating to the ownership or governance of such Person.

"**Other EPC Payments**" has the meaning given that term in Exhibit A to the Assignment Agreement.

"**Party**" or "**Parties**" has the meaning given in the preamble to this Agreement.

"**Permit**" means any and all licenses, permits, approvals, registrations, authorizations, exemptions, and other rights, privileges and approvals that are issued by a Governmental Person under any Law, which are necessary for the ownership, use and operation of the Projects.

"**Permitted Lien**" has the meaning given in the Master Agreements.

"**Person**" means any individual, sole proprietorship, corporation, partnership, joint venture, joint stock company, limited liability partnership, limited liability company, trust, unincorporated association, institution, Governmental Person or any other entity.

"**Pre-Closing Period**" means the period commencing with the Effective Date and ending upon the consummation of the Closing.

"**Prime Rate**" means the rate of interest per annum published in the Wall Street Journal as the "prime rate" for such day and if the Wall Street Journal does not publish such rate on such day, then such rate as most recently published prior to such day.

"**Principal Persons**" has the meaning given in the Master Agreements.

"**Prohibited Person**" has the meaning given in the Master Agreements.

"**Project**" or "**Projects**" has the meaning given in the Recitals.

"**Project Agreements**" means the agreements and documents listed on Part 1 of Schedule II of the Company LLCA Amendment, and any and all amendments thereto.

"**PUHCA**" means the Public Utility Holding Company Act of 2005, as amended.

"**Purchase Price**" has the meaning given in Section 2.2.

"**Recoveries**" has the meaning given in Section 7.3.1.2.

"Recovery Act" shall mean the American Recovery and Reinvestment Act of 2009.

"**Release**" means, with respect to Hazardous Materials, disposing, discharging, injecting, spilling, leaking, leaching, dumping, pumping, pouring, emitting, escaping, emptying into or upon any land or water or air, or otherwise entering into the environment.

"**Representatives**" means, with respect to any Person, such Person's agents, members, managers, shareholders, partners, officers, directors, employees, attorneys, accountants, lenders, professional and other advisors and consultants.

"**Retained Obligations**" has the meaning given to that term in the Assignment Agreement.

"**Retained Rights and Obligations**" has the meaning given to that term in the Assignment Agreement.

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

"**Seller**" has the meaning given in the preamble to this Agreement.

"**Seller Closing Certificates**" has the meaning given in Section 3.3.8.

"**Seller Closing Documents**" has the meaning given in Section 3.3.10.

"**Seller Disclosure Schedules**" means the schedules to Seller's representations and warranties provided pursuant to Article 4.

"**Seller Fundamental Representations**" has the meaning given in Section 7.1.2.1.

"**Seller's Knowledge**" means the actual and current knowledge (as opposed to any constructive or imputed knowledge) of the persons set forth for Seller on Schedule 1.1, after exercise of due inquiry.

"**Seller LLCA Certification**" has the meaning given in Section 3.3.9.

"**Seller Parent**" means EFS Renewables Holdings LLC, a Delaware limited liability company.

"**Seller Parent Guarantee**" means the guarantee given by Seller Parent to Buyer at the Closing Date to guarantee the obligations of Seller to Buyer under this Agreement, substantially in the form of Exhibit J hereto.

"**Seller Parent Transfer Indemnity**" means one or more indemnities that may be required to be delivered by Seller Parent on the Closing Date pursuant to Sections 7.1.6 and 7.1.7 of the Company LLCA, as applicable, in form and substance acceptable to each Party in its sole discretion.

"**Seller Tax Representations**" means those representations made in Section 4.2.7.

"**Sumitomo Member**" means Summit Solar Desert Sunlight, LLC, a Delaware limited liability company.

"**Sunlight 250**" has the meaning given in the Recitals.

"**Sunlight 300**" has the meaning given in the Recitals.

"**Sunlight Company**" or "**Sunlight Companies**" has the meaning given in the Recitals.

"**Sunlight Project Company**" or "**Sunlight Project Companies**" has the meaning given in the Recitals.

"**Swap Agreements**" means the documents listed in Schedule 1.2 attached hereto.

"**Tax**" or "**Taxes**" means any and all taxes, including all charges, fees, customs, duties, levies or other assessments in the nature of taxes, imposed by any federal, state, local or foreign Governmental Person, including income, gross receipts, net proceeds, excise, property, personal property (tangible and intangible), production, sales, gain, use, license, custom duty, unemployment, inheritance, corporation, capital stock, net worth, transfer, franchise, payroll, withholding, social security (or similar), estimated, minimum estimated, profit, windfall profit,

gift, severance, value added, disability, premium, occupation, service, leasing, employment, stamp, goods and services, ad valorem, fuel, excess profits, alternative or add-on minimum, turnover, utility, utility users and any other taxes, charges, fees, customs, duties, levies and other assessments in the nature of taxes.

"**Taxing Authority**" means the IRS and any other Governmental Person responsible for administration of Taxes under the Laws of any jurisdiction.

"**Tax Representations**" means the Buyer Tax Representations and the Seller Tax Representations.

"**Tax Returns**" means all tax returns, statements, forms and reports (including, elections, declarations, disclosures, schedules, estimates and informational tax returns) for taxes by, or with respect to, the Sunlight Companies.

"**Terminating Notice Period**" has the meaning given in Section 3.5.2.

"**Transaction Documents**" means, collectively, this Agreement, the Assignment Agreement, the Closing Documents and all other agreements between the Parties or their Affiliates entered into pursuant to the terms hereof in order to carry out the Closing Actions and the other transactions contemplated hereby.

"**Transfer Taxes**" has the meaning given in Section 6.4.2.

"**Treasury**" has the meaning given in the Recitals.

"**Updating Information**" has the meaning given in Section 3.5.1.

"**Updating Party**" has the meaning given in Section 3.5.2.

"**Working Capital Amount**" has the meaning given in Section 2.2.

1.2 Interpretation. Except where otherwise expressly provided or unless the context otherwise necessarily requires, in this Agreement (including in the Recitals hereto):

(a) Reference to a given Article, Section, Subsection, clause, Exhibit or Schedule is a reference to an Article, Section, Subsection, clause, Exhibit or Schedule of this Agreement, unless otherwise specified.

(b) The terms "hereof," "herein," "hereto," "hereunder" and "herewith" refer to this Agreement as a whole.

(c) Reference to a given agreement, instrument, document or Law is a reference to that agreement, instrument, document or Law as modified, amended, supplemented and restated through the date as of which such reference is made, and, as to any Law, any successor Law.

(d) Reference to a Person includes its predecessors, successors and permitted assigns.

(e) The singular includes the plural and the masculine includes the feminine, and vice versa.

(f) "Includes" or "including" means "including, for example and without limitation."

(g) References to "days" means calendar days.

(h) The word "or" shall not be exclusive.

(i) Disclosure of any item on any Schedule to this Agreement shall constitute disclosure of such item on each other Schedule to this Agreement to which its relevance to such other Schedule to this Agreement is reasonably apparent on its face.

(j) References to the execution of Transaction Documents to be in substantially the form attached as an Exhibit to this Agreement shall be subject to the acknowledgement and agreement of the Parties that certain of such forms of Exhibits have been submitted for review and approval by (i) the U.S. Department of Energy, the Agents (as defined in the Master Agreement) and the Lenders party to the Master Agreement as required by the Master Agreement, (ii) First Solar Development, Inc. as required by the MIPSA, and (iii) the NextEra Member and the Sumitomo Member as required by the Company LLCA, and that certain modifications, amendments and/or new conditions may be required by such reviewing parties. To the extent that any of the foregoing parties described in the preceding sentence requires any modifications or amendments to the forms of Exhibits attached to this Agreement as a condition of such parties to approve the proposed transactions under this Agreement, each of the Parties hereby reserves the right in its sole discretion to reject any such modifications, amendments and/or new conditions required by or imposed upon the Parties in connection with such foregoing parties' review and approval of the Exhibits attached to this Agreement.

ARTICLE 2
SUMMARY OF TRANSACTIONS

2.1 Sale and Purchase of Assigned Interests. In accordance with the terms and conditions hereof, and subject to the satisfaction or waiver of the conditions precedent to each Party's obligations as provided herein, as applicable, at Closing, Seller shall sell, transfer and assign to Buyer the Assigned Interests, and Buyer shall purchase, acquire, accept assignment of and pay for the Assigned Interests.

2.2 Purchase Price. The aggregate consideration to be paid to Seller for the Assigned Interests shall be two hundred eighty five million Dollars ($285,000,000) (the

"**Purchase Price**"), plus an amount equal to Seller's share of the estimated working capital balance of the Company set forth on Schedule 2.2 to be paid by Buyer to Seller at the time of future quarterly distributions of Distributable Cash by the Managing Member to Members of the Company (the "**Working Capital Amount**").

2.3 Purchase Price Payment. At the Closing, provided that each of the conditions precedent set forth in Article 3 is met or waived before 2:00 p.m. (Eastern time), Buyer shall pay by wire transfer of immediately available funds to accounts or payees designated by Seller an amount equal to the Purchase Price and if each of the conditions precedent in Article 3 are met or waived after 2:00 p.m. (Eastern time), Buyer shall pay by wire transfer of immediately available funds to accounts or payees designated by Seller an amount equal to the Purchase Price on the immediately following Business Day. Following Closing, Buyer and Seller shall confirm with the Managing Member the actual account balances in the identified accounts as of June 30, 2015. Buyer shall further pay by wire transfer of immediately available funds to accounts or payees designated by Seller an amount, as determined in accordance with and adjusted pursuant to Schedule 2.2, equal to the portion of the Working Capital Amount, if any, contemplated to be paid in Schedule 2.2 of future quarterly distributions of Distributable Cash by the Managing Member as and when indicated in Schedule 2.2. Buyer and Seller agree to reflect actual cash paid or received in those accounts identified as subject to true up when making wire transfers of the Working Capital Amount.

ARTICLE 3

CLOSING AND CLOSING CONDITIONS

3.1 Time and Place of the Closing. Subject to the terms and conditions hereof, the closing of the transactions contemplated by Sections 2.1 through 2.3 (the "**Closing**") shall take place at the offices of Chadbourne & Parke LLP at 1301 Avenue of the Americas, New York, NY 10019-6022, upon the satisfaction or waiver of the closing conditions set forth in this Article 3 (other than conditions that can only be satisfied at the Closing), or at such other place and on such other date as the Parties mutually agree (the "**Closing Date**"). The Closing shall be effective for all purposes as of 12:01 a.m. Eastern Standard Time or Eastern Daylight Time, as applicable, on the Closing Date.

3.2 Actions at the Closing. At the Closing, Seller and Buyer (as applicable) shall take or cause to be taken the following actions (the "**Closing Actions**"), each of which shall be a condition precedent to the obligation of Seller and Buyer (as applicable) to take the other actions set forth in this Section 3.2:

3.2.1 Transfer of Assigned Interests. Buyer shall execute and deliver the Assignment Agreement to Seller, and Seller shall (a) execute and deliver the Assignment Agreement to Buyer and (b) cause Buyer to be admitted as a member of the Company with any and all rights and obligations associated with such Assigned Interests effective as of the Closing. The Parties shall deliver a copy of the fully executed Assignment Agreement to the Managing Member.

3.2.2 Closing Documents. Buyer and Seller shall have delivered to the other Party the executed copies of each of the Buyer Closing Documents and the Seller Closing Documents, respectively.

3.2.3 Additional Actions. The Parties shall execute and deliver, or cause to be executed and delivered, all other documents, and take such other actions, in each case as shall be reasonably necessary or appropriate (taking into account the relevant facts and circumstances) to consummate the transactions contemplated hereby, all in accordance with the provisions of this Agreement.

3.3 Conditions Precedent to Obligations of Buyer. The obligation of Buyer to consummate the transactions contemplated hereby shall be subject to the satisfaction, as of the Closing, of the following conditions precedent, any of which may be waived by Buyer in its sole discretion:

3.3.1 Performance of Closing Actions. Seller shall have tendered performance of its respective Closing Actions.

3.3.2 No Violations. The consummation of the transactions contemplated at the Closing shall not violate any applicable Law, except for violations that would not reasonably be expected to have a material adverse effect on the business, assets, results of operation or financial condition of Buyer.

3.3.3 Governmental Approvals. All Governmental Approvals specifically identified on Schedule 4.1.4 shall have been obtained, made or filed, as the case may be.

3.3.4 Consents, Filings, Waivers and Notices. All approvals, consents, filings, waivers and notices in addition to the Governmental Approvals specifically identified on Schedule 4.1.4 shall have been timely made or obtained, as applicable, and be in full force and effect, and in each case shall be in form and substance satisfactory to Buyer.

3.3.5 No Proceeding or Litigation. No Action shall have been instituted or threatened before any Governmental Person of competent jurisdiction by any Person (other than Buyer or any of its Affiliates) that questions or challenges the validity of, or seeks to enjoin, the consummation of the transactions contemplated by the Transaction Documents.

3.3.6 Representations and Warranties. The representations and warranties set forth in Article 4 shall be true and correct in all material respects as of the Closing Date, provided, that (a) the Seller Fundamental Representations shall be true and correct in all respects as of the Closing Date, (b) the representations and warranties set forth in Article 4 (other than the Seller Fundamental Representations) that are qualified with respect to materiality or Material Adverse Effect shall be true and correct as of the Closing Date, and (c) any representations and warranties which are as of a specific date shall be true and correct in all material respects (or true and correct, as the case may be) as of such date.

3.3.7 Covenants. The covenants and obligations of Seller hereunder to be complied with on or prior to the Closing shall have been complied with in all material respects.

3.3.8 Officer's Certificates of Seller. Buyer shall have received (a) a certificate from Seller, dated the Closing Date and signed by a duly authorized Representative of Seller, pursuant to which such Representative certifies that the conditions described in Sections 3.3.6 and 3.3.7 have been satisfied and (b) a certificate from Seller, dated as of the Closing Date and signed by a duly authorized Representative of Seller, certifying as to (i) Seller's authority to execute and enter into this Agreement, (ii) incumbent managers or officers of Seller, and (iii) as to the good standing and Organizational Documents of Seller, in each case in form and substance reasonably satisfactory to Buyer (collectively, the "**Seller Closing Certificates**").

3.3.9 Seller LLCA Certification. Seller shall have delivered to the other members of the Company a certification or legal opinion required by Section 7.1.3.11 of the Company LLCA (the "**Seller LLCA Certification**").

3.3.10 Seller Closing Documents. Seller shall have, or shall cause Seller Parent or GECC to have, executed the following documents, as applicable:

3.3.10.1 Company LLCA Amendment;

3.3.10.2 Non-Foreign Certificate, substantially in the form of Exhibit K hereto, that satisfies the requirements of Section 1445(b)(2) of the Code;

3.3.10.3 Investment Agreement Amendment;

3.3.10.4 Seller Parent Transfer Indemnity;

3.3.10.5 Amended and Restated Seller Cash Grant Guarantees;

3.3.10.6 Cash Grant Letter Agreement; and

3.3.10.7 Seller Parent Guarantee (together with the Seller Closing Certificates and the Seller LLCA Certification, the "**Seller Closing Documents**").

3.3.11 Managing Member Request Letter. (a) Seller shall have delivered to Buyer a copy of the Managing Member Request Letter delivered to Managing Member and (b) the Managing Member shall have responded to the Managing Member Request Letter.

3.3.12 Updating Information. No Updating Information set forth on any Seller Disclosure Schedule has been provided by Buyer or Seller pursuant to Section 3.5.1, which could reasonably be expected to cause a Material Adverse Effect.

3.3.13 [Intentionally Omitted]

3.3.14 No Adverse Amendments To Exhibits. None of the Exhibits attached to this Agreement required to be executed by Buyer shall require amendments, modifications or new conditions that have not been agreed to by Buyer in its sole discretion.

3.4 Conditions Precedent to Obligations of Seller. The obligation of Seller to consummate the transactions contemplated hereby shall be subject to the satisfaction, as of the Closing, of the following conditions precedent, any of which may be waived by Seller in its sole discretion:

3.4.1 Performance of Closing Actions. Buyer shall have tendered performance of its applicable Closing Actions.

3.4.2 No Violations. The consummation of the transactions contemplated at the Closing shall not violate any applicable Law, except for violations that would not reasonably be expected to have a material adverse effect on the business, assets, results of operation, or financial condition of Seller.

3.4.3 Governmental Approvals. All Governmental Approvals specifically identified on Schedule 4.1.4 shall have been obtained, made or filed, as the case may be.

3.4.4 Consents, Filings, Waivers and Notices. All approvals, consents, filings, waivers and notices in addition to the Governmental Approvals specifically identified on Schedule 4.1.4 shall have been timely made or obtained, as applicable and be in full force and effect, and in each case shall be in form and substance satisfactory to Seller.

3.4.5 No Proceeding or Litigation. No Action shall have been instituted or threatened before any Governmental Person of competent jurisdiction by any Person (other than Seller or any of its Affiliates) that questions or challenges the validity of, or seeks to enjoin, the consummation of the transactions contemplated by the Transaction Documents.

3.4.6 Representations and Warranties. The representations and warranties set forth in Section 5.1 shall be true and correct in all material respects as of the Closing Date, except that (a) the Buyer Fundamental Representations shall be true and correct in all respects as of the Closing Date, (b) the representations and warranties set forth in Section 5.1 (other than the Buyer Fundamental Representations) that are qualified with respect to materiality or Material Adverse Effect shall be true and correct as of the Closing Date, and (c) any representations and warranties which are as of a specific date shall be true and correct in all material respects (or true and correct, as the case may be) as of such date.

3.4.7 Covenants. The covenants and obligations of Buyer hereunder to be complied with on or prior to the Closing shall have been complied with in all material respects.

3.4.8 Officer's Certificate of Buyer. Seller shall have received (a) a certificate of Buyer, dated the Closing Date and signed by a duly authorized Representative of Buyer, pursuant to which such Representative certifies that the conditions described in Sections 3.4.6 and 3.4.7 have been satisfied, and (b) a certificate from Buyer, dated as of the Closing Date and signed by an authorized Representative of Buyer, certifying as to (i) Buyer's authority to execute and enter into this Agreement, (ii) incumbent managers or officers of Buyer, and (iii) good standing and Organizational Documents of Buyer, in each case in form and substance reasonably satisfactory to Seller (the "**Buyer Closing Certificates**").

3.4.9 Buyer LLCA Certification. Buyer shall have delivered to the Managing Member an officer's certificate from a duly authorized officer of Seller in compliance with Section 7.1.3.18 of the Company LLCA (the "**Buyer LLCA Certification**").

3.4.10 Buyer Closing Documents. Buyer shall have executed the following documents, as applicable:

3.4.10.1 Company LLCA Amendment;

3.4.10.2 Investment Agreement Amendment;

3.4.10.3 Buyer 1603 Cash Grant Recapture Indemnity Agreements;

3.4.10.4 Cash Grant Letter Agreement; and

3.4.10.5 all documentation requested by the lenders under the Financing Documents pursuant to the USA PATRIOT Act of 2001, and all rules and regulations adopted thereunder (together with the Buyer Closing Certificates and the Buyer LLCA Certification, the "**Buyer Closing Documents**").

3.4.11 Termination of Certain Project Agreements. Seller shall have received evidence reasonably satisfactory to Seller that each of the agreements listed on Schedule 3.4.11 has been terminated.

3.4.12 Internal Approvals. Seller Parent has received all necessary internal approvals, including resolutions or other evidence of authority of its members, to enter into each of the Transaction Documents to which it is or will be a party, to consummate each of the transactions and undertakings contemplated thereby, and to perform all of the terms and conditions thereof to be performed by it.

3.4.13 Updating Information. No Updating Information set forth on any Buyer Disclosure Schedule has been provided by Buyer or Seller pursuant to Section 3.5.1, which could reasonably be expected to cause a Material Adverse Effect.

3.4.14 Project Completion Date. The "Project Completion Date" (as such term is defined in the Master Agreements) shall have occurred.

3.4.15 Repayment of A-3 Loans. The "A-3 Loans" (as such term is defined in the Master Agreements) shall have been repaid in full and there shall be no such "A-3 Loans" outstanding as of the Closing Date.

3.4.16 No Adverse Amendments To Exhibits. None of the Exhibits attached to this Agreement required to be executed by Seller or any of its Affiliates shall require amendments, modifications or new conditions that have not been agreed to by Seller and its Affiliates in their sole discretion.

3.5 Update of Disclosure Schedules; Election Not to Close

3.5.1 Updating Information and Notice of Breaches. Each Party has the continuing right and obligation (a) to supplement, modify or amend, during the Pre-Closing Period, the information set forth on the Buyer Disclosure Schedules and Seller Disclosure Schedules applicable in each case to representations made by such Party with respect to any matter as to which such information was incomplete on the Effective Date or hereafter arising or discovered which, if existing or known at the Effective Date (including, without limitation, the due inquiry being made by Seller with respect to its representations and warranties set forth in Section 4.2), would have been required to have been set forth on such Schedules and (b) if necessary or appropriate to correct any inaccuracy in a representation made by such Party, to add a schedule to, or supplement, modify or amend the Buyer Disclosure Schedules or Seller Disclosure Schedules, as applicable (such information and additional schedules collectively being called the "**Updating Information**"). If, during the Pre-Closing Period, a Party obtains Knowledge of a breach of any representation or warranty of another Party, the former shall promptly furnish written notice thereof to the other Party.

3.5.2 Election Not to Close. Buyer or Seller (in such capacity, the "**Updating Party**") may, upon updating any schedule under Section 3.5.1, at its election, invoke the procedures set forth under this Section 3.5.2 in order to allow an early determination as to whether the Updating Information may permit the other Party (in such capacity, the "**Non-Updating Party**") not to consummate the transaction contemplated herein in reliance upon the conditions to the Non-Updating Party's obligation to consummate the transaction as set forth in this Article 3. The Non-Updating Party shall have the right to review the Updating Information for a period of five (5) Business Days after receipt thereof (the "**Terminating Notice Period**"). At any time within the Terminating Notice Period, the Non-Updating Party shall have the right to terminate this Agreement if, in the Non-Updating Party's sole discretion, the Updating Information discloses that a condition to the Non-Updating Party's obligation to consummate the transactions set out in Article 3 hereof is not capable of satisfaction within a reasonable time period. The Non-Updating Party shall exercise its termination right pursuant to the foregoing sentence by delivering notice to the Updating Party specifying in reasonable detail the Updating Information forming the basis for the decision to terminate, the condition which is not capable of satisfaction and the reason therefor. Such termination right shall be the Non-Updating Party's sole remedy in respect of the incorrectness or a breach of a representation and warranty as disclosed by such Updating Information if the procedures

set forth in this Section 3.5.2 have been invoked by the Updating Party in connection therewith. For the avoidance of doubt, Buyer shall not be permitted to terminate this Agreement and Seller shall not otherwise be deemed to breach this Agreement as a result of any Updating Information that relates to any actions that are expressly required by this Agreement or consented to by Buyer pursuant to Section 6.2.1.

3.5.3 Effect of Updating Information. If a Party delivers Updating Information and either (a) such Party invokes the procedures set forth in Section 3.5.2 and a termination notice is not received within the Terminating Notice Period, or (b) the Closing occurs notwithstanding the Updating Information, the information constituting such Updating Information shall be deemed an "**Accepted Update**." With respect to any Accepted Update, (i) any incorrectness or breach shall be deemed cured, (ii) the relevant Buyer Disclosure Schedules or Seller Disclosure Schedules, as applicable, shall be deemed to be so supplemented, modified or amended by such Updating Information as of the Effective Date and as of the Closing Date, for all purposes of this Agreement, and (iii) any applicable representations and warranties to which such disclosure schedule refers shall be deemed qualified as of the Effective Date and as of the Closing Date by such Updating Information.

3.5.4 Update of Schedule 5.1.16.8. In the event that as a condition to the receipt of the consent of the NextEra Member and the Sumitomo Member to the transfer of the Assigned Interests by Seller to Buyer contemplated in this Agreement, such Persons require Buyer to make certifications in the Buyer LLCA Certification that are more extensive than those set forth in Schedule 5.1.16.8, Buyer shall have the right to accept or reject such certifications in its sole discretion; provided, that if Buyer accepts such certifications, the Parties agree that Schedule 5.1.16.8 shall be updated to contain all certifications set forth in the Buyer LLCA Certification to be delivered by Buyer.

3.6 Amendments of this Agreement

The Parties hereby agree that if the U.S. Department of Energy determines that it will require a structure whereby the purchaser of the Assigned Interest will execute 1603 Cash Grant Recapture Indemnity Agreements in the form required by the Master Agreement and to have a creditworthy Affiliate of such purchaser execute one or more guaranties with respect to such purchaser's 1603 Cash Grant Recapture Indemnity Agreements, then the Parties agree that this Agreement and the Exhibits attached hereto, as applicable, shall be amended and restated and expanded, as applicable, to reflect such revised structure whereby Buyer will form a special purpose entity to assume the obligations of Buyer under this Agreement and Buyer will act as the guarantor of such special purpose entity's obligations under this Agreement and the 1603 Cash Grant Recapture Indemnity Agreements required under the Master Agreement.

ARTICLE 4

REPRESENTATIONS AND WARRANTIES OF SELLER

4.1 General Representations and Warranties Regarding Seller. Seller represents and warrants to Buyer, as of the Effective Date and as of the Closing Date, as follows:

4.1.1 Organization. Seller is a limited liability company, duly formed, validly existing and in good standing under the Laws of the State of Delaware. Seller is qualified to do business in all jurisdictions where the failure to qualify would materially and adversely affect its ability to execute or deliver, or perform its obligations under, the Transaction Documents to which it is or will be a party.

4.1.2 Authority and Power. Seller has the requisite power and authority to enter into each of the Transaction Documents to which it is or will be a party, to consummate each of the transactions and undertakings contemplated thereby, and to perform all of the terms and conditions thereof to be performed by Seller. The execution, delivery and performance of each of the Transaction Documents to which Seller is or will be a party and the consummation of each of the transactions and undertakings contemplated thereby have been duly authorized through all requisite actions by Seller.

4.1.3 Valid and Binding Obligations. Assuming the due authorization, execution and delivery of the Transaction Documents by each party thereto other than Seller, each of the Transaction Documents to which Seller is or will be a party has been, or will be when executed and delivered, duly and validly executed and delivered by Seller, and is, or will be when executed and delivered, enforceable against Seller in accordance with the terms thereof, except as such enforceability may be limited or denied by (a) applicable bankruptcy, insolvency, reorganization, moratorium or similar Laws affecting creditors' rights and the enforcement of debtors' obligations generally, and (b) general principles of equity, regardless of whether enforcement is pursuant to a proceeding in equity or at law (the "**Enforceability Exceptions**").

4.1.4 Approvals, Consents, Filings, Waivers and Notices. Assuming that all approvals, consents, filings, waivers and notices set forth on Schedule 4.1.4 hereto have been timely made or obtained, as applicable, and are effective and valid, Seller is not, and Seller will not be, required to give any notice, make any filing, or obtain any consent or approval (including Governmental Approvals and consents or approvals of any third party) to execute, deliver or perform any of the Transaction Documents to which it is or will be a party or to consummate the transactions contemplated thereby, except where the failure to give any notice, make any filing, or obtain any consent or approval would not, individually or collectively, reasonably be expected to materially and adversely affect the ability of Seller to perform any of its obligations under the Transaction Documents to which it is or will be a party, or to consummate the transactions contemplated thereby.

4.1.5 No Violations. Assuming that all approvals, consents, filings, waivers and notices set forth on Schedule 4.1.4 hereto have been timely made or obtained, as applicable, and are effective and valid, the execution, delivery and performance by Seller of each of the Transaction Documents to which it is or will be a party does not and will not, and the consummation of the transactions contemplated thereby will not, (a) violate the Organizational Documents of Seller; (b) violate or constitute a default (or any event that, with or without due notice or lapse of time, or both, would constitute a default) under, any material contract or agreement to which Seller, or to Seller's Knowledge, a Sunlight Company is a party or is otherwise subject to, that, in any case, would materially and adversely affect the ability of Seller to perform any of its obligations under the Transaction Documents to which it is or will be a party; or (c) violate in any material respect any applicable Law or Order.

4.1.6 No Litigation. There are no Actions pending to which Seller is a party (and, to Seller's Knowledge, there are no Actions threatened in writing against Seller) at law or in equity before any Governmental Person or arbitral body against or affecting Seller that could reasonably be expected to have a material adverse effect on the ability of Seller to perform its obligations under the Transaction Documents or to consummate the transactions contemplated thereby.

4.1.7 Assigned Interests.

4.1.7.1 Title to Assigned Interests. Seller is the record and beneficial owner of, and holds good and valid title to, the Assigned Interests free and clear of all Liens, other than the Encumbrances. The Assigned Interests constitute fifty percent (50%) of the Class B Interests in Company. At the Closing, Seller will transfer the Assigned Interests to Buyer free and clear of all Liens, other than the Encumbrances. The Assigned Interests have been duly authorized, validly issued, are fully paid for, and the Assigned Interests are not and have not been issued in violation of any purchase option, call option, warrant, right of first refusal, subscription right, preemptive right, conversion right or any similar rights of any Person. Except as contemplated in this Agreement and as provided in Section 8.1.3 of the Company LLCA, Section 19.13 of the 250 EPC Contract (as defined in the MIPSA) and Section 19.13 of the 300 EPC Contract (as defined in the MIPSA), to the Seller's Knowledge, there are no outstanding obligations, agreements, arrangements, understandings or commitments of the Company to issue, deliver, sell, repurchase, redeem, convert, exchange or otherwise acquire any membership interest in, other equity security issued or issuable by or other rights or

options in or to, the Company. To Seller's Knowledge, except as set forth in the Swap Agreements, the Company LLCA and the Investment Agreement, the Company has not issued, and there are no outstanding obligations, agreements, arrangements, understandings or commitments to issue, any bonds or other debt securities of the Company.

4.1.7.2 No Other Arrangements. Seller has disclosed and, if written, provided Buyer with copies of (a) any voting or other similar agreements that Seller or any of its Affiliates has entered into with one or more of the other members of the

Company or Affiliates of such other members, which would be effective as of the Closing Date after giving effect to the transfers of the Assigned Interests to Buyer under this Agreement, in each case relating to any of the Sunlight Companies, and (b) any agreements that Seller, or to Seller's Knowledge, any of its Affiliates, has entered into with one or more of the other members of the Company (which by the terms of such agreements would be binding upon Buyer on and after the Closing Date after giving effect to the transfers of the Assigned Interests to Buyer contemplated under this Agreement) or any of their Affiliates that were negotiated or entered into in connection with, and directly relate to the investment amount, pricing, expected return or any other material economic term of the investment in the Company by Seller or any of the other members of the Company (as of the Closing Date after giving effect to the transfers of the Assigned Interest to Buyer under this Agreement), other than any equipment supply or equipment service agreements with Seller's Affiliates that may relate to the Projects.

4.1.8 Bankruptcy. No Bankruptcy Event has occurred and is continuing with respect to Seller.

4.1.9 Brokers. Except for a fee payable to Merrill Lynch, Pierce, Fenner & Smith Incorporated, which Seller shall be solely responsible to pay, no Person acting on behalf of Seller or under the authority of Seller shall be entitled to any broker's, finder's or similar fee or commission in connection with the transactions contemplated by this Agreement for which Buyer is or could become liable or obligated.

4.1.10 Offerings. Neither Seller nor anyone it has authorized to act on its behalf has offered or sold the Assigned Interests so as to bring the sale of the Assigned Interests to Buyer within the registration provisions of the Securities Act.

4.1.11 Investment Company Act. Seller is not an "investment company" or a company controlled by an "investment company" within the meaning of the Investment Company Act.

4.1.12 Capital Contributions. All Capital Contributions, including all Additional Capital Contributions (each, as defined in the Company LLCA), required to be made by Seller under the Company LLCA have been made, and no further Additional Capital Contributions are required pursuant to the terms of the Company LLCA in effect as of the Closing Date.

4.2 Representations and Warranties Regarding Each Sunlight Company and the Projects. Seller represents and warrants to Buyer with respect to each Sunlight Company and the Projects, as of the Closing Date, as follows:

4.2.1 Organization. To Seller's Knowledge, the Company is a limited liability company, duly formed, validly existing and in good standing under the laws of the State of Delaware. To Seller's Knowledge, each other Sunlight Company is a limited liability company, duly organized, validly existing and in good standing under the laws of the Delaware. To Seller's Knowledge, each Sunlight Company is qualified to do business in

all jurisdictions in which the nature of the business conducted by it makes such qualification necessary and where failure to qualify would reasonably be expected to have a Material Adverse Effect. To Seller's Knowledge, true and correct copies of the Organizational Documents of each Sunlight Company have been delivered to Buyer. To Seller's Knowledge, none of the Sunlight Companies is in violation of any of the provisions of its Organizational Documents.

4.2.2 No Violations. Assuming (a) the accuracy of the representations and warranties of Buyer set forth herein and (b) all approvals, consents, filings, waivers and notices set forth on Schedule 4.1.4 hereto have been timely made or obtained, as applicable, and are effective and valid, the execution, delivery and performance by Seller and each Sunlight Company of each of the Transaction Documents to which it is or will be a party does not and will not, and the consummation of the transactions contemplated thereby will not, (i) to Seller's Knowledge, violate any Organizational Document of any Sunlight Company; (ii) to Seller's Knowledge, violate or constitute a default (or any event that, with or without due notice or lapse of time, or both, would constitute a default) under, or cause or permit the acceleration of the maturity of, or give rise to any right of termination, cancellation, imposition of fees or penalties under, any Material Contract to which any Sunlight Company is a party, in each case that would have a Material Adverse Effect; (iii) to Seller's Knowledge, violate any Law or Order applicable to the Sunlight Companies, the violation of which would have a Material Adverse Effect; or (iv) to Seller's Knowledge, materially and adversely affect any Governmental Approval obtained by any Sunlight Company that is necessary for the ownership, operation and/or maintenance of its respective Project in accordance with the Material Contracts.

4.2.3 Contracts. To Seller's Knowledge, each Material Contract is in full force and effect and is valid, binding and enforceable against each party thereto in accordance with its terms, except as such enforceability may be limited or denied by the Enforceability Exceptions. To Seller's Knowledge, except as set forth in Schedule 4.2.3(a), none of the Sunlight Companies is in default (and, to Seller's Knowledge, no other party thereto is in default) of any material obligation of any Sunlight Company set forth in any Material Contract to which any Sunlight Company is a party and, to Seller's Knowledge, there are no specific existing facts or circumstances which with notice, the passage of time or both would constitute a default by any Sunlight Company under any Material Contract that would have a Material Adverse Effect. To Seller's Knowledge, the consummation of the transactions contemplated by the Transaction Documents would not give any party to any Material Contract the right to terminate or alter the terms of such Contract or a right to claim damages thereunder. None of Seller or, to Seller's Knowledge, any Sunlight Company has received (a) from the applicable counterparty, any written notice of termination of any Material Contract or (b) except as set forth in Schedule 4.2.3(b), from any insurer, (i) any written notice of a denial of coverage under any insurance policies maintained by the Sunlight Companies or (ii) any written notice of cancellation or termination in respect of the current coverage of any such policy described in the preceding subclause (i).

4.2.4 Compliance with Laws. To Seller's Knowledge, each of the Sunlight Companies is in compliance with all applicable Laws, except to the extent such non-compliance would not reasonably be expected to result in a Material Adverse Effect.

4.2.5 Governmental Approvals. The Sunlight Companies have obtained all material Governmental Approvals that are required to be obtained for consummation of the transactions contemplated by the Transaction Documents. To Seller's Knowledge, the Sunlight Companies have obtained all Governmental Approvals that are required to conduct the business of the Sunlight Companies as currently conducted except for such Governmental Approvals for which failure to have would not have a Material Adverse Effect.

4.2.6 No Litigation. To Seller's Knowledge, except as set forth on Schedule 4.2.6, there are no Actions pending to which any Sunlight Company is a party (and, to Seller's Knowledge, there are no Actions threatened in writing against any Sunlight Company), in any case at law or in equity before any Governmental Person against or affecting any Sunlight Company or the Projects, in each case that would, individually or collectively, have a Material Adverse Effect. To Seller's Knowledge, there are no outstanding Orders of any Governmental Person arising from litigation or arbitration proceedings against any Sunlight Company or its Affiliates that bind any Sunlight Company, the Projects or any of the Leased Real Property, in each case that would, individually or collectively, have a Material Adverse Effect.

4.2.7 Tax Matters. Except as otherwise set forth on Schedule 4.2.7:

4.2.7.1 Tax Returns. To Seller's Knowledge, all material Tax Returns of or with respect to each Sunlight Company have been filed within the time and in the manner required by applicable Law (giving regard to valid extensions) and all such Tax Returns are and will be true, accurate and complete in all material respects. The representation in this Section 4.2.7.1 may only be relied upon for purposes of liability for Tax periods (or portions thereof) ending on or prior to the Closing Date. Nothing in this Section 4.2.7.1 shall be construed as a representation or warranty with respect to any Tax positions that Buyer or the Sunlight Companies may take in or in respect of a Tax period (or portion thereof) beginning after the Closing Date.

4.2.7.2 Taxes Paid or Accrued. To Seller's Knowledge, all material Taxes shown to be due on all Tax Returns filed on or before the Closing Date by each Sunlight Company, and, to Seller's Knowledge, all other material Taxes required to have been paid in respect of, or otherwise imposed upon, each Sunlight Company have been paid or will be paid in full on or before the Closing Date, and, to Seller's Knowledge, all material Taxes that are required to be withheld or collected by each Sunlight Company have been duly withheld and collected and, to the extent required, have been paid to the appropriate Governmental Person within the time and in the manner required by applicable Law.

4.2.7.3 Assessments. To Seller's Knowledge, no Taxing Authority has assessed or asserted or threatened to assess or to assert any deficiency or assessment, or

proposed (formally or informally) any adjustment or any examination, with respect to any Taxes against any Sunlight Company that has not been fully resolved or paid.

4.2.7.4 No Rulings. To Seller's Knowledge, no Sunlight Company or any Affiliate thereof (a) has received any private letter ruling or closing agreement from the IRS (or any comparable ruling or agreement from any other Taxing Authority) with respect to any Sunlight Company or (b) has any requests for such a ruling or agreement pending.

4.2.7.5 Statute of Limitations. To Seller's Knowledge, no Sunlight Company or any Affiliate thereof has waived or extended any statute of limitations in respect of Taxes of or with respect to any Sunlight Company.

4.2.7.6 Tax Sharing and Indemnification Agreements. To Seller's Knowledge, no Sunlight Company is party to any Tax sharing, Tax indemnification or similar agreement currently in force other than the Cash Grant Recapture Indemnity Agreements, the Cash Grant Letter Agreement and customary tax indemnification provisions in contracts entered into in the ordinary course of business that do not primarily relate to Tax matters.

4.2.7.7 Tax Classification. To Seller's Knowledge, each Sunlight Project Company and Desert Sunlight Holdings, LLC is and has at all times since formation been treated as a pass-through entity for U.S. federal and state Tax purposes, and, to Seller's Knowledge, no election has been filed with respect to any Sunlight Project Company or Desert Sunlight Holdings, LLC to cause such entity to be treated as an association taxable as a corporation for U.S. federal Tax purposes. To Seller's Knowledge, Company is treated as a partnership for U.S. federal and state income Tax purposes, and no election has been filed with respect to Company to cause it to be treated as an association taxable as a corporation for U.S. federal Tax purposes.

4.2.7.8 No Liens. To Seller's Knowledge, there are no Liens for Taxes upon any of the assets of any Sunlight Company other than Permitted Liens.

4.2.7.9 No Liability for Taxes of Other Persons. To Seller's Knowledge, no Sunlight Company has any Liability for the Taxes of any other Person as a transferee or successor, by contract or otherwise under applicable Law.

4.2.7.10 No ADS Property. To Seller's Knowledge, none of the material assets of any Sunlight Company are property described in Section 168(g) of the Code.

4.2.8 Environmental Matters.

4.2.8.1 Compliance. To Seller's Knowledge and except as has been cured or otherwise finally resolved in all material respects, (a) each Sunlight Company is in compliance with all applicable Environmental Laws other than such non-compliance as would not reasonably be expected to have a Material Adverse Effect, (b) no Environmental Claim has been filed, commenced or threatened in writing against any Sunlight Company alleging any violation of or any liability under an Environmental Law, which would reasonably be expected

to have a Material Adverse Effect and (c) no Release of Hazardous Material caused by any Sunlight Company has occurred at, onto, from, or under the Leased Real Property with respect to which remedial action or notice is required by any Sunlight Company under any Environmental Laws or Environmental Approvals that has not been completed and that would reasonably be expected to have a Material Adverse Effect.

4.2.8.2 Environmental Approvals. To Seller's Knowledge, the Sunlight Companies have obtained all Environmental Approvals necessary for the ownership and operation of the Projects and the conduct of the business of the Sunlight Companies, except for any such Environmental Approvals the absence of which would not result in a Material Adverse Effect.

4.2.8.3 Sections 4.2.8.1 and 4.2.8.2 provide the sole and exclusive representations and warranties of Seller with respect to environmental matters, including any and all matters arising under Environmental Law, including with respect to compliance therewith and liabilities thereunder.

4.2.9 Personal Property. To Seller's Knowledge, each Sunlight Company has good and valid title to, or in the case of leased assets, valid leasehold interests in, all material tangible property, machinery, equipment and other personal properties required for the operation of the Projects, in each case subject to no Liens, excepted for Permitted Liens.

4.2.10 Energy Regulatory Status.

4.2.10.1 Each of the Sunlight Project Companies has filed with FERC a notice of self-certification of its status as an EWG.

4.2.10.2 By letter order issued on September 23, 2013, in Docket Nos. ER13-1991-001 and ER13-1992-001, each of the Sunlight Project Companies was granted MBR Authority.

4.2.11 Bankruptcy. To Seller's Knowledge, no Bankruptcy Event has occurred and is continuing with respect to any Sunlight Company.

4.2.12 Absence of Certain Changes. Except as set forth on Schedule 4.2.12, to Seller's Knowledge and since the date of each Sunlight Company's most recently audited annual financial statements, no event, change, fact, condition or circumstance has occurred which has had, or would reasonably be expected to result in, a Material Adverse Effect.

4.2.13 Financial Statements. To Seller's Knowledge, true and correct copies of the audited annual financial statements of each Sunlight Company as of and for the period ended December 31, 2014 have been provided to Buyer. To Seller's Knowledge, such financial statements (a) have been prepared from the Books and Records of the respective Sunlight Company in accordance with GAAP, or are accompanied by GAAP reconciliations, subject to normal year-end audit adjustments and the lack of footnotes,

and (b) present fairly in all material respects the financial condition and results of operations of the respective Sunlight Company for the period or as of the date set forth therein.

4.2.14 Disclosure of Documents and Information. To Seller's Knowledge, Schedule 4.2.14 contains a true, correct and complete list of all Material Contracts, Governmental Approvals, and all amendments and supplements thereto to which any of the Sunlight Companies is a party or by which its assets are subject and Seller has provided or made available to Buyer true, correct and complete copies of all such Material Contracts and Governmental Approvals. To Seller's Knowledge, true, correct and complete copies of any Material Contracts and Governmental Approvals or amendments thereto that had not been provided or made available to Buyer on the Effective Date have been provided to or made available to Buyer. Prior to the Closing Date, Seller has provided true, correct and complete copies of all information delivered to or requested by Seller pursuant to the Managing Member Request Letter.

ARTICLE 5

REPRESENTATIONS, WARRANTIES AND ACKNOWLEDGEMENTS OF BUYER

5.1 Representations and Warranties of Buyer. Buyer hereby represents and warrants to Seller, as of the Effective Date and as of the Closing Date, as follows:

5.1.1 Organization. Buyer is a limited liability company, duly formed, validly existing and in good standing under the Laws of the State of Delaware. Buyer is qualified to do business in all jurisdictions where the failure to qualify would materially and adversely affect its ability to execute or deliver, or perform its obligations under, the Transaction Documents to which it is or will be a party. True and correct copies of the Organizational Documents of Buyer have been delivered to Seller.

5.1.2 Authority and Power. Buyer has the requisite power and authority to enter into each of the Transaction Documents to which it is or will be a party, to consummate each of the transactions and undertakings contemplated thereby, and to perform all the terms and conditions thereof to be performed by Buyer. The execution, delivery and performance of each of the Transaction Documents to which Buyer is or will be a party and the consummation of each of the transactions and undertakings contemplated thereby have been duly authorized by all requisite action on the part of Buyer.

5.1.3 Valid and Binding Obligations. Assuming the due authorization, execution and delivery of the Transaction Documents by each party thereto other than Buyer, each of the Transaction Documents to which Buyer is or will be a party has been, or will be when executed and delivered, duly and validly executed and delivered by Buyer, and is, or will be when executed and delivered, enforceable against Buyer in accordance with the terms thereof, except as such enforceability may be limited or denied by the Enforceability Exceptions.

5.1.4 Approvals, Consents, Filings, Waivers and Notices. Assuming that all approvals, consents, filings, waivers and notices set forth on Schedule 4.1.4 hereto have been timely made or obtained, as applicable, and are effective and valid, Buyer is not, and will not be, required to give any notice, make any filing, or obtain any consent or approval (including Governmental Approvals and consents or approvals of any third party) to execute, deliver or perform any of the Transaction Documents to which it is or will be a party or to consummate the transactions contemplated thereby, except where the failure to give any notice, make any filing, or obtain any consent or approval would not, individually or collectively, be reasonably be expected to materially and adversely affect the ability of Buyer to perform its obligations under the Transaction Documents or to consummate the transactions contemplated thereby.

5.1.5 No Violations. The execution, delivery and performance by Buyer of each of the Transaction Documents to which it is or will be a party does not and will not, and the consummation of the transactions contemplated thereby will not, (a) violate the Organizational Documents of Buyer, (b) violate or constitute a default (or any event that, with or without due notice or lapse of time, or both, would constitute a default) under, any Contract to which Buyer is a party or by which any of Buyer's properties or assets are bound that, in any case, would materially and adversely affect the ability of Buyer to perform any of its obligations under the Transaction Documents to which it is or will be a party, or (c) violate in any material respect any applicable Law or Order.

5.1.6 No Litigation. There are no Actions pending to which Buyer is a party (and, to Buyer's Knowledge, there are no Actions threatened in writing against Buyer) at law or in equity before any Governmental Person or arbitral body against or affecting Buyer, that could reasonably be expected to have a material adverse effect on the ability of Buyer to perform its obligations under the Transaction Documents or to consummate the transactions contemplated thereby.

5.1.7 Investment Company Act. Buyer is not an "investment company" or a company controlled by an "investment company" within the meaning of the Investment Company Act and the acceptance of the Assigned Interests by Buyer does not require registration of the Company as an "investment company" under the Investment Company Act.

5.1.8 Securities Law Matters. Buyer (a) is acquiring the Assigned Interests for the Buyer's own account, for investment and not with a view to the distribution thereof and (b) hereby acknowledges that the Assigned Interests have not been registered under the Securities Act, or registered or qualified for sale under any state securities laws, and cannot be resold without registration thereunder or exemption therefrom. Buyer is an "accredited investor," as such term is defined in Regulation D of the Securities Act, and will acquire the Assigned Interests for its own account and not with a view to a sale or distribution thereof in violation of the Securities Act, and the rules and regulations thereunder, any applicable state "blue sky" laws or any other applicable securities laws. Buyer has sufficient knowledge and experience in financial and business matters to enable it to evaluate the risks of investment in the Assigned Interests and at the Closing

will have the ability to bear the economic risk of this investment for an indefinite period of time.

5.1.9 Experienced and Knowledgeable Investor. Buyer is an experienced and knowledgeable investor in, or is being advised by an advisor experienced and knowledgeable in, the solar electric power generation, construction and ownership businesses. Prior to entering into this Agreement, Buyer was advised by its counsel, accountants, financial advisors, and such other Persons it has deemed appropriate concerning this Agreement and has relied solely (except for the representations and warranties of Seller set forth in Article 4) on an independent investigation and evaluation of, and appraisal and judgment with respect to, the Company, each Sunlight Company, the business, assets (including the Projects), Liabilities, results of operations, condition (financial or otherwise) and prospects of each Sunlight Company, and the revenue, price, and expense assumptions applicable thereto.

5.1.10 Brokers. No broker, finder, investment banker, or other Person is entitled to any brokerage, finder's or other fee or commission in connection with the transactions contemplated hereunder, based on the arrangements made by or on behalf of Buyer for which Seller would be responsible.

5.1.11 Bankruptcy. No Bankruptcy Event has occurred and is continuing with respect to Buyer.

5.1.12 Regulatory Status.

5.1.12.1 Buyer, apart from any authorizations already granted by regulation or order and effective as to the transactions contemplated hereunder, requires no authorization under Section 203(a)(2) of the FPA to execute this Agreement, to consummate the transactions contemplated by this Agreement, including acquiring the Assigned Interests (or the rights in or to the Assigned Agreements transferred hereunder), or to perform its obligations under this Agreement.

5.1.12.2 Buyer's acquisition and ownership of the Assigned Interests will not (a) cause either of the Sunlight Project Companies to lose its MBR Authority, or (b) cause either Sunlight Project Company to cease to be eligible for status as an EWG.

5.1.13 Tax Matters.

5.1.13.1 United States Person. Buyer, or, if it is disregarded as separate from its owner for federal income tax purposes, the Person that is treated as its owner for federal income tax purposes, is a "**United States person**" (as defined in Section 7701(a)(30) of the Code) and, therefore, is not a "foreign partner" within the meaning of Section 1446(e) of the Code.

5.1.13.2 Entity Classification. Consummation of the transactions contemplated by this Agreement will not cause any assets of any Sunlight Company to be treated

wholly or partly as subject to alternative depreciation under Section 168(g) of the Code or to be "tax-exempt use property" within the meaning of Section 168(h) of the Code. Buyer is a disregarded entity for federal income tax purposes that is wholly owned by NRG Yield LLC, a partnership for federal income tax purposes, that is owned by NRG Yield, Inc., a corporation for federal income tax purposes and NRG Energy, Inc., a corporation for federal income tax purposes.

5.1.14 Opportunity for Independent Investigation. Prior to its execution of this Agreement, Buyer has conducted to its satisfaction an independent investigation and verification of the current condition and affairs of the Sunlight Companies and the Projects. In making its decision to execute this Agreement and to purchase the Assigned Interests, Buyer has relied and will rely solely upon the results of such independent investigation and verification and upon the express representations, warranties, terms and conditions contained in this Agreement and the Transaction Documents.

5.1.15 Contracts with Members of the Company. Buyer has disclosed and, if written, provided Seller with copies of (a) any voting or other similar Contracts Buyer or any of its Affiliates has entered into with one or more of the other members of the Company (as of the Effective Date and after giving effect to the transactions contemplated hereby relating to the Projects or any Sunlight Company) and (b) any material Contracts or other arrangements Buyer or, to Buyer's Knowledge, any of its Affiliates has entered into with one or more of the other members of the Company (as of the Effective Date and after giving effect to the transfers of the Assigned Interests to Buyer under this Agreement) or any of their Affiliates that were negotiated or entered into in connection with, and directly relate to the investment amount, pricing, expected return or any other material economic term of the investment in the Company by Buyer or any of the other members of the Company (as of the Effective Date and after giving effect to the transactions contemplated hereby).

5.1.16 Additional Representations and Warranties of Buyer.

5.1.16.1 Buyer is a Permitted Equity Transferee, as such term is defined in the Master Agreements.

5.1.16.2 None of Buyer, any Person that Controls Buyer, or any of their respective Principal Persons is a Prohibited Person.

5.1.16.3 Buyer and its Principal Persons are in compliance with the Anti-Terrorism Order and have not previously violated the Anti-Terrorism Order.

5.1.16.4 Each of Buyer, any Person that Controls Buyer, and each of their respective Principal Persons, employees and agents is in compliance with the Office of Foreign Assets Control of the Treasury and all applicable Corrupt Practices Laws and has complied with and all applicable Corrupt Practices Laws in obtaining any consents, licenses, approvals, authorizations, rights or privileges with respect to the acquisition of its membership interests in the Company.

5.1.16.5 The internal management and accounting practices and controls of Buyer are adequate to ensure compliance with all Corrupt Practices Laws.

5.1.16.6 Buyer is not a Cash Grant Disqualified Person.

5.1.16.7 Buyer is not a First Solar Competitor (as defined in the MIPSA).

5.1.16.8 The sale to Buyer of the Assigned Interests will not violate any of the restrictions set forth in Schedule 5.1.16.8, and each statement set forth in the Buyer LLCA Certification, when delivered, is true and correct in all respects.

5.2 No Further Representations. Except for the representations and warranties expressly set forth in Article 4 of this Agreement, Seller expressly disclaims any representations or warranties of any kind, express or implied, relating to Seller, the Assigned Interests, the Sunlight Companies, the Projects or the transactions contemplated hereby. Without limiting the generality of the foregoing, and except for the representations and warranties expressly set forth in Article 4 of this Agreement and representations and warranties of the Seller in the Transaction Documents, Buyer acknowledges and agrees in particular as follows: (a) the Assigned Interests (and indirectly, interests in each Sunlight Company and Project), are being acquired, "as is, where is" on the Closing Date, and in their respective conditions on the Closing Date "with all faults"; (b) Buyer is relying on its own examination of the Assigned Interests, the Sunlight Companies and the Projects and no representations or warranties, whether express or implied, are given as to (i) Liabilities, development, construction or operation of the Sunlight Companies, including the Projects, (ii) the title, condition, value or quality of the Assigned Interests or the business, condition (financial or otherwise) or prospects of the Sunlight Companies, (iii) the risks or other incidents of ownership of the Assigned Interests and, indirectly, the Sunlight Companies, (iv) the Projects and the continued operation and maintenance thereof and any part thereof and (v) the merchantability, usage, suitability or fitness for any particular purpose with respect to the Sunlight Companies, the Projects, or any part thereof, or as to the absence of any defects therein, whether latent or patent; (c) no information or material provided by or communication made by Seller or any of its Representatives shall constitute, create or otherwise cause to exist any representation or warranty by Seller; and (d) prior to the Closing Date, Seller was a passive investor in the Company and accordingly Seller's representations and warranties herein qualified as to Seller's Knowledge are made (i) in respect of any information that Managing Member has disclosed to Seller, (ii) subject to any such information required by any Contract, or requested by Seller, to be disclosed by Managing Member and not so disclosed and (iii) in respect of any information that Seller independently obtained, or that Seller acquired or obtained in writing from any other members of the Company, any counterparties to the Material Contracts, or any other Persons involved with the Projects.

ARTICLE 6

COVENANTS

6.1 Covenants of All Parties. Each Party shall (a) subject to Section 1.2(j), use Commercially Reasonable Efforts to cause the Closing conditions set forth in Article 3 of this Agreement to be satisfied as soon as possible; provided, however, neither Party shall have any obligation to expend material funds or assume any material liabilities in connection with the foregoing, and (b) coordinate and cooperate with the other Party in providing such information and supplying such assistance as may be reasonably requested by such other Party in connection with the foregoing. Without limiting the generality of the foregoing, but subject to Section 1.2(j), or any other provision of this Agreement regarding approvals, each Party shall use Commercially Reasonable Efforts to obtain all authorizations, consents, orders, and approvals of, and to give all notices to and make all filings with, all Governmental Persons (including those pertaining to the Governmental Approvals) and third parties that may be or become necessary for its performance of its obligations under this Agreement and shall cooperate fully with the other Parties in promptly seeking to obtain all such authorizations, consents, orders, and approvals, giving such notices, and making such filings; provided, however, neither Party shall have any obligation to expend material funds or assume any material liabilities in connection with the foregoing.

6.2 Covenants of Seller.

6.2.1 Pre-Closing Period Actions. Subject to Section 6.2.2 and the constraints and limitations of applicable Organizational Documents and Law, and except as contemplated by this Agreement, during the Pre-Closing Period, Seller shall not exercise its voting rights as a member of the Company to approve or otherwise consent to (or, if necessary, affirmatively veto) the taking of any of the following actions by any Sunlight Company, in each case, without the prior written consent of Buyer, which consent shall not be unreasonably withheld, conditioned or delayed:

(a) redeem or otherwise acquire any equity ownership interests or issue any equity ownership interests or any option, warrant or right relating thereto;

(b) sell, lease, license, assign or transfer (including, without limitation, transfers to Seller or any Affiliate) any material Project assets or any Leased Real Property;

(c) merge or consolidate with any other entity;

(d) incur any material Indebtedness;

(e) except in the ordinary course of business, make any loans or advances to, or guarantees for the benefit of, any Persons;

(f) subject any portion of the assets of the Sunlight Companies to any Lien (other than Permitted Liens or Encumbrances);

(g) except in the ordinary course of business, amend, modify or supplement in any material respect or terminate any Material Contract;

(h) issue, sell or transfer any equity interests of any Sunlight Company, any securities convertible, exchangeable or exercisable into equity interests of such Sunlight Company, or warrants, options or other rights to acquire equity interests of such Sunlight Company;

(i) acquire (by merger, consolidation or acquisition of stock or assets or otherwise) any corporation, partnership or other business organization or division thereof or collection of assets constituting all or substantially all of a business or business unit; or

(j) change or authorize any material change in its Organizational Documents.

6.2.2 Qualifications on Conduct. Prior to Closing, Seller may exercise its voting right under the Company LLCA to cause any Sunlight Company to take (or not take, as the case may be) any of the actions described in Section 6.2.1 above if reasonably necessary under emergency circumstances (or if required (or prohibited, as the case may be) pursuant to applicable Law), and provided Buyer is notified as soon thereafter as practicable.

6.2.3 Books and Records; Project Costs. Seller shall, reasonably promptly after the Closing, provide to Buyer all of the Books and Records of each Sunlight Company, including copies of each Governmental Approval for such Sunlight Company, that are in the possession of Seller as of the Closing Date; provided, that Seller shall be entitled to retain copies of such Books and Records delivered to Buyer pursuant to this Section 6.2.3. Seller and Buyer shall each bear fifty percent (50%) of any reasonable third-party costs and expenses in connection with providing such information. However, nothing in this Section shall obligate Seller to disclose any of its income Tax Returns.

6.2.4 Reimbursement of Certain Expenses. Seller and Buyer shall each pay or reimburse each Sunlight Company, NextEra Desert Sunlight Holdings, LLC, Summit Solar Desert Sunlight LLC, Sumitomo Corporation and their respective Affiliates for fifty percent (50%) of all reasonable costs and expenses incurred by such entities in connection with the consummation of the transactions contemplated hereunder and the admission of Buyer as a member of the Company, on or before the tenth (10^{th}) day after the receipt by such Party of the Company's or such entity's invoices for the amount due.

6.3 Transfers. For so long as any Amended and Restated Seller Cash Grant Guarantee remains in effect, Buyer shall not transfer any of the Assigned Interests without Seller's and GECC's prior written consent; provided, that, for the avoidance of doubt such consent shall not be required with respect to any proposed transfer by Buyer where each Amended and Restated Seller Cash Grant Guarantee will be terminated and released as of the effective date of such proposed transfer.

6.4 Tax Matters; Cash Grants.

6.4.1 Cooperation. Seller shall, subject to the constraints and limitations of the Company LLCA and applicable Law, grant to Buyer (or its designees) access at all reasonable times to all of the material information and Books and Records relating to each Sunlight Company within the possession of Seller that are not otherwise delivered to Buyer pursuant to Section 6.2.3 (including work papers and correspondence with Taxing Authorities), and shall afford Buyer (or its designees) the right (at Buyer's expense) to take extracts therefrom and to make copies thereof to the extent reasonably necessary to permit Buyer (or its designees) to prepare Tax Returns. Notwithstanding anything to the contrary in this Agreement or any other Transaction Document, and for the avoidance of doubt, Seller shall not be responsible for, and Buyer shall be solely responsible for and shall assume, all costs and expenses associated with obtaining such access.

6.4.2 Transfer Taxes. All sales, use, transfer, goods and services, real property transfer, value added, recording, gains, documentary, bulk sales, stock transfer, stamp duty, excise, gross receipts and other similar taxes, duties, fees and charges ("**Transfer Taxes**"), if any, arising out of or in connection with the purchase of the Assigned Interests shall be borne by Buyer. Buyer shall file all required Tax Returns and other documentation with respect to such Transfer Taxes within the time and manner required by applicable Law and, if required by applicable Law, the non-filing party will, and will cause its Affiliates to, join in the execution of any such Tax Returns and other documentation by the filing party.

6.4.3 Cash Grant Disputes. Buyer shall promptly advise Seller of any oral or written correspondence with Treasury or any other Governmental Person with respect to the Cash Grant for each Project. Buyer shall use Commercially Reasonable Efforts to cause Seller to maintain the same control rights with respect to any Cash Grant controversy that Seller had under the terms of the Company LLCA prior to the sale of the Assigned Interests to Buyer.

6.5 Further Assurances. From time to time after the Closing, upon the request of a Party and without further consideration, the other Party shall execute and deliver to the requesting Party such documents and take such action as the requesting Party reasonably requests to consummate more effectively the intent and purpose of the Parties under this Agreement and the transactions contemplated hereby.

ARTICLE 7

INDEMNIFICATION AND REMEDIES

7.1 General Indemnity.

7.1.1 General. To the fullest extent permitted by applicable Law, (a) Seller shall defend, indemnify and hold harmless Buyer, and Buyer shall defend, indemnify and hold harmless Seller (the applicable indemnifying party, the "**Indemnitor**"), including, in

the case of each non-indemnifying Party, such Party's Affiliates and their respective Representatives, successors and assigns (each, an "**Indemnified Party,**" with each Party and its respective group of Indemnified Parties being referred to collectively as an "**Indemnified Group**") from and against any Loss suffered or incurred by any Indemnified Party to the extent arising out of, or resulting from (i) the inaccuracy or breach of any representation or warranty of the Indemnitor contained in the Transaction Documents or the bring-down certificates provided at Closing pursuant to Section 3.3.8 or Section 3.4.8 or (ii) the breach or default by the Indemnitor of any covenant or agreement of such Indemnitor contained in the Transaction Documents, (b) to the extent not otherwise paid by GECC under any Amended and Restated Seller Cash Grant Guarantee, Seller shall indemnify Buyer for any payment obligations of Buyer under the Buyer 1603 Cash Grant Recapture Indemnity Agreements (which obligations shall bear interest at the Prime Rate plus [***] percent ([***]%) per annum from the date of payment by Buyer until the date of reimbursement by Seller), but excluding any payment obligations arising as a result of a Buyer Cash Grant Event, (c) Buyer shall indemnify GECC for any payment obligations of GECC under any Amended and Restated Seller Cash Grant Guarantee that arise as a result of a Buyer Cash Grant Event (which obligations shall bear interest at the Prime Rate plus [***] percent ([***]%) per annum from the date of payment by GECC until the date of reimbursement by Buyer), (d) (i) Buyer shall indemnify Seller for any Loss suffered or incurred to the extent directly arising out of the Assigned Agreements on or after the Closing Date, except to the extent arising out of any Retained Rights and Obligations and (ii) Seller shall indemnify Buyer for any Loss suffered or incurred to the extent directly arising out of any Retained Obligations, and (e) Buyer shall defend, indemnify and hold harmless Seller, Seller Parent and each of their Affiliates and their respective Representatives, successors and assigns from any Loss suffered or incurred by any such Person solely to the extent arising out of, or resulting from claims relating to (i) a Buyer Cash Grant Event or (ii) the breach or default by the Buyer of any covenant, agreement or representation and warranty of the Buyer contained in this Agreement or the Company LLCA Amendment, in each case only to the extent such Loss suffered or incurred results from a claim made by a beneficiary under any Seller Parent Transfer Indemnity and without duplication of any liability under clause (a)(i) above (the "**General Indemnity**"). Notwithstanding the foregoing, no Indemnified Party shall be entitled to any indemnification hereunder in respect of any Loss to the extent caused by the fraud, negligence, willful misconduct or failure to perform material obligations under the Transaction Documents of such Indemnified Party or any Person who is a member of its Indemnified Group.

7.1.2 Limitations on General Indemnity.

7.1.2.1 Timing of Claim. Notwithstanding the provisions of Section 7.1.1 above, no Indemnified Party shall be entitled to make any claim for indemnification as provided in Section 7.1.1(a)(i) unless such claim shall have been made in writing no later than twelve (12) months after the Closing Date, other than for breaches of (a) those representations made in Sections 4.1.1, 4.1.2, 4.1.3, 4.1.7 (the "**Seller Fundamental Representations**") and Sections 5.1.1, 5.1.2, 5.1.3, 5.1.12 and 5.1.16 (the "**Buyer Fundamental Representations**" and

together with the Seller Fundamental Representations, the "**Fundamental Representations**"), as to which a claim may be made at any time prior to the expiration of the applicable statute of limitations; and (b) the Tax Representations of Seller and Buyer in this Agreement, as to which a claim may be made no later than sixty (60) days after the expiration of the applicable statute of limitations (taking into account applicable waivers and extensions). Notwithstanding the provisions of Section 7.1.1 above, Buyer shall not be entitled to make any claim for indemnification as provided in Section 7.1.1(d)(ii) in respect of Other EPC Payments unless such claim shall have been made in writing no later than the date on which the bonus payment obligations owed by any Sunlight Company to First Solar Electric (California), Inc. under the EPC Contracts are paid in full.

7.1.2.2 Deductible Amount for General Indemnity. Except for claims relating to a breach of Fundamental Representations, an Indemnified Party shall not be entitled to make any claim for indemnification under Section 7.1.1(a)(i) above with respect to the inaccuracy of any representation or warranty unless the aggregate amount of all Losses incurred by such Indemnified Party from claims arising out of, or resulting from Section 7.1.1(a)(i) exceeds an amount equal to [***] percent ([***]%) of the Purchase Price (the "**Deductible Amount**"), in which event an Indemnitor shall be required to indemnify the Indemnified Party only for such Losses thereof in excess of such Deductible Amount. For the avoidance of doubt, the Deductible Amounts shall not apply to any claims for indemnification under any subsection or clause of Section 7.1.1 other than Section 7.1.1(a)(i) thereof.

7.1.2.3 Overall Limitation on Liability of Parties for General Indemnity. Notwithstanding any other provision of this Agreement or any other Transaction Document, following the Closing, the aggregate Liability of the Parties under the General Indemnity or otherwise arising out of or relating to this Agreement (other than any claims relating to the Retained Obligations or for failure of a Party to pay an amount due under the Transaction Documents), and the other Transaction Documents (but excluding the Cash Grant Letter Agreement) from any and all causes (whether based in contract, tort (including negligence), strict liability, law or equity, or any other cause of action), shall not exceed [***] percent ([***]%) of the Purchase Price, except that (a) the aggregate Liability of Seller or Buyer shall not exceed [***] if such Liability arises from its breach of any of its Fundamental Representations, Tax Representations or any covenant of Seller and Buyer in this Agreement relating to Taxes, (b) the aggregate Liability of Buyer shall not be subject to any such limitations under this Section 7.1.2.3 if such Liability arises from Buyer's obligations under Section 7.1.1(c), Section 7.1.1(d)(i), or Section 7.1.1(e), and (c) the aggregate Liability of Seller shall not be subject to any such limitations under this Section 7.1.2.3 if such Liability arises from Seller's obligations under Section 7.1.1(b) or Section 7.1.1(d)(ii).

7.2 Payment of Claims.

7.2.1 Claim Procedure. If an Indemnified Party learns of an actual or potential indemnity claim (other than a claim by a third Person) for which such Indemnified Party may seek indemnification under Section 7.1, such Indemnified Party shall, reasonably promptly after becoming aware of such claim, notify the Indemnitor thereof in writing, specifying the nature of and specific basis for such claim and the actual or, if reasonably

practicable, the estimated amount of such claim to the extent then ascertainable (which estimate shall not be conclusive of the final amount of such indemnity claim) (such notice, a "**Claim Notice**"); provided, that the failure of an Indemnified Party to give timely notice shall not affect its rights to indemnification under Section 7.1, except to the extent that the Indemnitor has been actually and materially prejudiced by such failure. Within ten (10) days following receipt of the applicable Claim Notice, the Indemnitor shall notify such Indemnified Party in writing if the Indemnitor disputes that all or a portion of such indemnity claim is subject to indemnification hereunder, specifying the amount, if applicable, so disputed, and otherwise the Indemnitor shall be deemed to have agreed that any undisputed portion of such indemnity claim is subject to indemnification hereunder. Any such indemnity claim that the Indemnitor has agreed, or has been deemed to have agreed, is subject to indemnification hereunder shall be paid in accordance with Section 7.2.2. With respect to any disputed indemnity claim, after final judgment or award shall have been rendered by a court, arbitration board or administrative agency of competent jurisdiction and the expiration of the time in which to appeal therefrom, or a settlement shall have been consummated, or the Indemnified Party and the Indemnitor shall have arrived at a mutually binding agreement with respect to each separate matter indemnified by the Indemnitor, the Indemnified Party shall forward to the Indemnitor notice of any sums due and owing by the Indemnitor with respect to such matter, and such amount shall be paid as provided in Section 7.2.2.

7.2.2 Timing for Payment. Except for third party indemnity claims paid in accordance with Section 7.4.4, all indemnity claims shall be paid as follows: (a) if the Indemnitor is Buyer, by payment by Buyer of the sums so owing to the Indemnified Party in immediately available funds within twenty (20) days after the date of receipt of the corresponding claims under Section 7.1.1 and (b) if the Indemnitor is Seller, by payment by Seller of the sums so owing to the Indemnified Party in immediately available funds within twenty (20) days after the date of receipt of the corresponding claims under Section 7.1.1.

7.3 Other Limitations on Indemnities.

7.3.1 Mitigation and Limitation of Claims.

7.3.1.1 Reasonable Steps to Mitigate. Each Indemnified Party shall use Commercially Reasonable Efforts to mitigate all Losses relating to a claim, including availing itself of any defenses, limitations, rights of contribution, claims against third Persons and other rights at law or equity, and shall provide such evidence and documentation of the nature and extent of the claim as may be reasonably requested by the Indemnitor.

7.3.1.2 Subsequent Recoveries. If the amount of any Indemnified Party's Loss, at any time subsequent to an Indemnitor's making of a payment under this Article 7, is reduced by recovery, settlement, Tax refund or otherwise under or pursuant to any applicable insurance coverage, or pursuant to any applicable claim, recovery, settlement, or payment by or against any other Person, without duplication of any amount already reducing such Loss pursuant to clause (b) of the definition of "**Loss**" (collectively, "**Recoveries**"), the

amount of such Recoveries shall be repaid by such Indemnified Party to such Indemnitor within fifteen (15) days after receipt thereof (or credit therefor) by such Indemnified Party, up to the aggregate amount of (i) the payments made by such Indemnitor to such Indemnified Party plus (ii) any costs or expenses incurred by such Indemnitor in connection with its indemnification obligations with respect thereto.

7.3.2 Exclusive Remedy. Except as provided in the next sentence, following the Closing, the indemnification provisions of this Article 7 shall be the sole and exclusive remedy of each Party (including Indemnified Parties) against another Party (a) for any breach of any Party's representations, warranties, covenants or agreements contained in this Agreement and (b) otherwise with respect to the Transaction Documents, the Projects or the transactions contemplated hereby. The only exceptions to the foregoing sole and exclusive remedy are claims for non-monetary relief with respect to the enforcement of Section 9.8. In furtherance of the foregoing, each Party hereby waives, to the fullest extent permitted under applicable Law, any and all rights, claims and causes of action it or any of its Affiliates may have against the other Party hereunder or under applicable Law with respect to the matters described in clauses (a) and (b) above.

7.3.3 Change in Laws; Omissions by Request. Notwithstanding anything to the contrary in this Agreement or any other Transaction Document, Seller shall not be liable for any indemnification claim in respect of any damage, loss, cost or expense to the extent that such claim would not have arisen (or the amount of the claim would not have been increased) but for (a) a change in applicable Law or Legal Requirements made after the date hereof; or (b) an act or omission made or taken by Seller pursuant to the written request, consent or approval of Buyer.

7.4 Procedure for Indemnification With Respect to Third-Party Claims.

7.4.1 Notice of Claim. If any legal proceedings shall be instituted or any claim or demand shall be asserted by any third Person (which, for the avoidance of doubt, means any Person other than a Party or a Representative of a Party) in respect of which indemnification may be sought by any Indemnified Party under Section 7.1, such Indemnified Party shall, within twenty (20) days of the actual receipt thereof by a Representative, cause written notice of such legal proceedings or the assertion of such claim or demand to be forwarded to the Indemnitor, specifying the nature of such legal proceedings, claim or demand and the amount or the estimated amount thereof to the extent then determinable, which estimate shall not be binding upon the Indemnified Party; provided, that the failure of an Indemnified Party to give timely notice shall not affect its rights to indemnification under Section 7.1, except to the extent that the Indemnitor has been actually and materially prejudiced by such failure.

7.4.2 Conduct of Claim. Subject to the constraints and limitations of the Company LLCA or the Company LLCA Amendment, as applicable, the Indemnitor shall have the right, at its option and at its own expense, to be represented by counsel of its choice and to participate in, or take control of, the defense, negotiation and/or settlement

of any proceeding, claim or demand that relates to any amounts indemnifiable or potentially indemnifiable under Section 7.1; provided, that the Indemnified Party may participate in any such proceeding with counsel of its choice, which shall be at its own expense, unless (a) the Indemnitor chooses counsel not reasonably acceptable to Indemnified Party, (b) the Indemnitor does not pursue with reasonable diligence such defense, negotiation or settlement, or (c) in the reasonable opinion of such Indemnified Party and its counsel, such action, suit or proceeding involves the potential imposition of criminal liability upon such Indemnified Party or a conflict of interest between such Indemnified Party and the Indemnitor. The Indemnitor and the Indemnified Party shall cooperate fully with each other in connection with the defense, negotiation or settlement of any such legal proceeding, claim or demand.

7.4.3 Settlement. The Indemnified Party shall have a right to notice of any settlement, and the Indemnitor shall not execute or otherwise agree to any consent decree that (a) provides for other than monetary payment without the Indemnified Party's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed or (b) does not include as an unconditional term thereof the giving of a release from all Liability with respect to each claim made by each claimant or plaintiff against each Indemnified Party that is subject to the third-party claim, without the Indemnified Party's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, the Indemnified Party shall have the right to pay or settle any such claim; provided, that in such event it shall waive any right to indemnity therefor by the Indemnitor. If the Indemnitor elects not to defend or settle such proceeding, claim or demand and the Indemnified Party defends, settles or otherwise deals with any such proceeding, claim or demand directly, the Indemnified Party shall provide fifteen (15) days' advance written notice of any settlement to the Indemnitor and shall act reasonably and in accordance with the Indemnified Party's good faith business judgment.

7.4.4 Payment of Third-Party Claims. After final judgment or award shall have been rendered by a court, arbitration board or administrative agency of competent jurisdiction and the expiration of the time in which to appeal therefrom, or a settlement shall have been consummated, or the Indemnified Party and the Indemnitor shall have arrived at a mutually binding agreement with respect to each separate matter indemnified by the Indemnitor, the Indemnified Party shall forward to the Indemnitor notice of any sums due and owing by the Indemnitor with respect to such matter, and such amount shall be paid in immediately available funds within twenty (20) days after the date of receipt of such notice.

7.4.5 Access to Information. If any claim is made by a third party against an Indemnified Party, the Indemnified Party shall use Commercially Reasonable Efforts to make available to the Indemnitor those partners, members, officers and employees whose assistance, testimony or presence is necessary to assist the Indemnitor in evaluating and in defending such claims; provided, that any such access shall be conducted in such a manner as not to interfere unreasonably with the operations of the business of the

Indemnified Party, and any out of pocket expenses incurred by any Indemnified Party in connection therewith shall be included in such Indemnified Party's Losses.

7.4.6 Subrogation. Upon payment of a Loss by an Indemnitor to an Indemnified Party pursuant to this Article 7 for any claim made pursuant to Section 7.1 (other than any such payment relating to Taxes), such Indemnitor, without any further action, shall be subrogated to any and all claims and defenses that such Indemnified Party or any member of its Indemnified Group may have against third parties relating to such Loss, but only to the extent of the amount paid to such Indemnified Party or any member of its Indemnified Group by such Indemnitor in respect of such Loss, and such Indemnified Party and the members of its Indemnified Group shall use Commercially Reasonable Efforts to cooperate with such Indemnitor, at the expense of such Indemnitor in order to enable such Indemnitor to pursue such claims.

7.5 Treatment of Payments. The Parties shall treat all payments made by Seller to or for the benefit of Buyer and all payments by Buyer to or for the benefit of Seller under any indemnity provision of this Agreement as an adjustment to the Purchase Price for federal income tax purposes.

7.6 Waiver of Breaches. Notwithstanding anything to the contrary in this Agreement or any other Transaction Document, Seller shall not be liable under this Article 7 for any Losses based upon or arising out of any inaccuracy in or breach of any of the representations or warranties of Seller contained in this Agreement if (i) Seller had notified Buyer of such inaccuracy or breach prior to the Closing or (ii) Buyer had notified Seller of such inaccuracy or breach prior to the Closing.

ARTICLE 8

TERMINATION

8.1 Termination. This Agreement may be terminated at any time prior to the Closing only as follows:

(a) By mutual written agreement of Seller and Buyer.

(b) By Buyer or Seller by written notice to the other Party if the Closing shall not have occurred on or before July 31, 2015 (such date, the "**Expiration Date**"); provided, however, that if the Closing is delayed beyond the Expiration Date due to Seller's failure to satisfy a condition precedent wholly within its control, the Expiration Date shall be, at Buyer's sole discretion, extended on a day-for-day basis until such time as Seller satisfies or Buyer waives such condition precedent; provided, further, that if the Closing is delayed beyond the Expiration Date due to Buyer's failure to satisfy a condition precedent wholly within its control, the Expiration Date shall be, at Seller's sole discretion, extended on a day-for-day basis until such time as Buyer satisfies or Seller waives such condition precedent.

(c) By Seller upon written notice to Buyer if Buyer shall have breached in any material respect any of its covenants contained in this Agreement, but (except in the case of a failure by Buyer to pay the Purchase Price or Working Capital Amount when due) only if (i) Seller have first given written notice to Buyer identifying such breach, and (ii) Buyer has not cured or remedied such breach (including, where payment of compensation would reasonably be considered an adequate remedy, the payment of such adequate compensation) within thirty (30) days of receipt of such notice.

(d) By Buyer upon written notice to Seller if Seller shall have breached in any material respect any of its covenants contained in this Agreement, but only if (i) Buyer shall have first given written notice to Seller identifying such breach, and (ii) Seller has not cured or remedied such breach (including, where payment of compensation could reasonably be considered an adequate remedy, the payment of such adequate compensation) within thirty (30) days of receipt of such notice.

(e) By Buyer or Seller upon ten (10) Business Days' prior written notice to the other Party in the event that (i) as provided in Section 1.2(j), Buyer or Seller, as applicable, rejects any modification, amendment and/or new condition required or imposed upon any Party with respect to the forms of Exhibits attached to this Agreement, (ii) any Seller Parent Transfer Indemnity that may be required to be delivered by Seller Parent is not in form and substance acceptable to Buyer or Seller in their respective sole discretion, or (iii) Buyer has determined, as provided in Section 3.5.4, not to provide any additional certifications in the Buyer LLCA Certification.

8.2 Effect of Termination. In the event of a termination of this Agreement as provided in Section 8.1, this Agreement shall cease to have force and effect, and there shall be no further Liability or obligation on the part of Seller or Buyer, except that (a) the provisions of Article 1, Article 7, Article 8 and Article 9 shall continue to apply following any such termination, and (b) each Party shall continue to be liable for any breach by such Party of its covenants contained in this Agreement occurring prior to such termination.

ARTICLE 9

MISCELLANEOUS

9.1 Notices. Any notice, statement, demand, claim, offer or other written instrument required or permitted to be given pursuant to this Agreement shall be in writing signed by the Party giving such notice and shall be sent by facsimile or other electronic transmission, hand messenger delivery, overnight courier service, or certified mail (receipt requested) to the other Party at the address set forth below:

(a) If to Buyer, to it at:

NRG Yield Operating LLC
211 Carnegie Center
Princeton New Jersey 08540

Attn: Office of the General Counsel
Fax: 609.524.4589
Email: ogc@nrgyield.com

(b) If to Seller, to it at:

EFS Desert Sun, LLC
c/o GE Energy Financial Services, Inc.
800 Long Ridge Road
Stamford, CT 06927
Attention: Portfolio Manager – EFS Desert Sun, LLC
Facsimile: (203) 357-4890

With a copy (which shall not constitute notice) to:

Chadbourne & Parke LLP
1301 Avenue of the Americas
New York, NY 10019
Attention: Paul L. Weber
Telephone: (212) 408-5344
Facsimile: (646) 710-5344
Email: pweber@chadbourne.com

Each Party shall have the right to change the place to which notices shall be sent or delivered or to specify one additional address to which copies of notices may be sent, in either case by similar notice sent or delivered in like manner to the other Party. Without limiting any other means by which a Party may be able to prove that a notice has been received by another Party, all notices and communications shall be deemed to have been duly given: (i) at the time delivered by hand, if personally delivered; (ii) five (5) Business Days after being deposited in the mail, postage prepaid, if mailed by first class certified mail, receipt requested; (iii) when received, if sent by facsimile or other electronic transmission, if received prior to 5:00 p.m., recipient's time, on a Business Day, or on the next Business Day, if received later than 5:00 p.m., recipient's time, and (iv) on the next Business Day after timely delivery to the courier, if sent by overnight air courier guaranteeing next day delivery. In any case hereunder in which a Party is required or permitted to respond to a notice from the other Party within a specified period, such period shall run from the date on which the notice was deemed duly given as above provided, and the response shall be considered to be timely given if given as above provided by the last day of the period provided for such response.

9.2 Entire Agreement; Amendments. This Agreement and the other Transaction Documents constitute the entire agreement and supersede all prior agreements and understandings, both written and oral, of the Parties with respect to the subject matter hereof. No oral representations or modifications concerning this instrument nor any course of dealing between or among any Persons having any interest in this Agreement shall be of any force or effect unless contained in a subsequent written modification signed by the Party to be charged.

This Agreement may be amended, modified or waived only by a written instrument executed by the Parties.

9.3 Successors and Assigns. This Agreement shall be binding upon, and shall inure to the benefit of, and shall be enforceable by, the Parties and their respective successors and permitted assigns. This Agreement or any right hereunder may not be assigned by any Party without the prior written consent of the other Party.

9.4 Currency Matters; Set-Off. Dollars shall be the currency of account in the case of all obligations arising under or relating to this Agreement. All payments to be made by each Party under this Agreement shall be calculated and be made without (and free and clear of any deduction for) set-off or counterclaim.

9.5 Governing Law. This Agreement, and any instrument or agreement required hereunder (to the extent not otherwise expressly provided for therein), shall be governed by, and construed under, the laws of the State of New York, without reference to conflicts of laws rules, except for Section 5.1401 of the New York General Obligations Law.

9.6 Consent to Jurisdiction; Waiver of Jury Trial. The Parties agree that any Action by or against any Party (or its Affiliates or designees) with respect to or arising out of this Agreement or any other Transaction Document shall be brought exclusively in the State or Federal Courts located in the borough of Manhattan, State of New York, as the Party instituting such Action may elect, except that actions to enforce an interim or final arbitration award may be filed in any court having jurisdiction. By execution and delivery of this Agreement, each Party (for itself, its Affiliates and its designees) irrevocably and unconditionally consents and submits to the exclusive jurisdiction of such courts and the appellate courts therefrom, and waives any right it may have to assert the doctrine of forum non conveniens or similar doctrine or to object to venue with respect to any proceeding. The Parties irrevocably consent to the service of process in any such Action or proceeding by the mailing of copies thereof by registered or certified mail, first class postage prepaid to the addresses set forth in Section 9.1, or in any other manner permitted by Law. In all cases, to the extent permitted by Law, each of the Parties hereto irrevocably waives its right to a jury trial with respect to any and all Actions, claims and disputes in connection with this Agreement, any other Transaction Document or the transactions contemplated hereby or thereby.

9.7 Expenses. Regardless of whether the transactions contemplated by this Agreement are consummated, each Party shall bear responsibility for its own costs and expenses in connection with this Agreement, the other Transaction Documents and the transactions contemplated hereby or thereby, including the fees and expenses of its legal counsel and other consultants and advisors in connection with this Agreement and the other Transaction Documents, except as may be otherwise provided herein.

9.8 Confidential Information. Section 15.10 of the Company LLCA as in effect immediately prior to Closing shall be deemed incorporated herein with respect to public announcements and the disclosure of information hereunder. For the purposes of Section 15.10 of the Company LLCA, the Transaction Documents (including this Agreement), the information

contained therein and any information provided by Seller or Buyer pursuant thereto shall be deemed to be information furnished under the Company LLCA.

9.9 Joint Effort. Preparation of this Agreement has been a joint effort of the Parties and the resulting document shall be construed without prejudice or preference to either Party.

9.10 Waiver of Consequential Damages. Notwithstanding anything to the contrary in this Agreement or any other Transaction Document, in no event shall any Party or its Affiliates, or their respective Representatives, be liable hereunder at any time for consequential, indirect, special or punitive loss or damage of the other Party or any of its Affiliates, whether in contract, tort (including negligence), strict liability or otherwise, and each Party hereby expressly releases the other Party, its Affiliates, and their respective Representatives, successors and assigns therefrom. For the avoidance of doubt, the loss or reduction of federal income tax benefits associated with Buyer's interest in the Company shall not constitute consequential or indirect damages.

9.11 Captions. The captions contained in this Agreement are for convenience and reference only and in no way define, describe, extend or limit the scope or intent of this Agreement or the intent of any provision contained herein.

9.12 Severability. The invalidity under Law of one or more phrases, sentences, clauses, Sections or Articles contained in this Agreement shall not affect the validity of the remaining portions of this Agreement so long as the material purposes of this Agreement can be determined and effectuated.

9.13 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall constitute an original but all of which, taken together, shall constitute but one agreement.

9.14 Third Parties. Except as otherwise expressly provided in this Agreement, nothing contained in this Agreement shall be construed to create any right in, duty to, standard of care with respect to, or any Liability to any Person who is not a party to this Agreement.

9.15 No Waiver. Any failure of a Party to enforce any of the provisions of this Agreement or to require compliance with any of its terms at any time during the pendency of this Agreement shall in no way affect the validity of this Agreement, or any part hereof, and shall not be deemed a waiver of the right of such Party thereafter to enforce any and each such provision.

9.16 Delivery by Facsimile or PDF. Each of this Agreement and the other Transaction Documents, and any amendments hereto or thereto, to the extent signed and delivered by means of a facsimile machine or electronic transmission in portable document format (pdf), shall be treated in all manner and respects as an original Contract and shall be considered to have the same binding legal effect as if it were the original signed version thereof delivered in person. At the request of any Party, the other Party shall re-execute original forms thereof and deliver them to the other Party. No Party shall raise the use of a facsimile machine or electronic transmission in pdf to deliver a signature or the fact that any signature was

transmitted or communicated through such means as a defense to the formation of a Contract and each Party forever waives any such defense.

(*Signature pages follow*)

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed and delivered as of the Effective Date.

SELLER

EFS DESERT SUN, LLC,
a Delaware limited liability company

By: EFS Desert Sun Holdings, LLC,
its managing member

By: EFS Renewables Holdings, LLC,
its managing member

By: /s/ Walter Smith
Name: Walter Smith
Title: Vice President

BUYER

NRG YIELD OPERATING LLC,
a Delaware limited liability company

By: /s/ Kirkland B. Andrews
Name: Kirkland B. Andrews
Title: EVP and Chief Financial Officer

Exhibit A to the Purchase and Sale Agreement

ASSIGNMENT AND ASSUMPTION AGREEMENT

This ASSIGNMENT AND ASSUMPTION AGREEMENT (this "Agreement") is entered into this June [●], 2015 (the "Effective Date") by and between EFS DESERT SUN, LLC, a Delaware limited liability company ("Assignor"), and NRG YIELD OPERATING LLC, a Delaware limited liability company (the "Assignee"), and acknowledged by FIRST SOLAR DEVELOPMENT, INC. Capitalized terms used herein but not defined herein shall have the meanings ascribed to such terms in the Second A&R LLC Agreement, or if not defined therein, the Purchase and Sale Agreement (each as defined below).

WHEREAS, simultaneously with this Agreement, the Assignee is entering into that certain Second Amended and Restated Limited Liability Company Agreement of Desert Sunlight Investment Holdings, LLC (the "Second A&R LLC Agreement") with NextEra Desert Sunlight Holdings, LLC and Summit Solar Desert Sunlight, LLC; and

WHEREAS, the Assignor has agreed to grant, convey, transfer, assign and deliver to the Assignee, and the Assignee has agreed to accept and assume, except as provided for herein, all of the rights, duties and obligations of the Assignor with respect to its Class B Membership Interests in Desert Sunlight Investment Holdings, LLC (the "Company"), pursuant to that certain Purchase and Sale Agreement, dated as of June 17, 2015, between the Assignor and the Assignee (the "Purchase and Sale Agreement").

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged:

1. Assignment of Interests. The Assignor hereby irrevocably grants, conveys, transfers, assigns, and delivers unto the Assignee, free and clear of all Liens (as defined in the Master Agreements), fifty percent (50%) of the Class B Membership Interests, which constitutes one hundred percent (100%) of the Assignor's Membership Interest in the Company (the "Assigned Interest"), and delegates any and all duties, obligations, responsibilities, claims, demands and other commitments in connection with the Assigned Interest and, to the extent relating to the Assigned Interest, the Second A&R LLC Agreement, the Investment Agreement, and the agreements set forth in Part I of Exhibit A (such agreements in Part I of Exhibit A, the "Assigned Agreements"), as applicable, unto the Assignee, but in each case only to the extent any of such duties, obligations, responsibilities, claims, demands and other commitments in connection with the Assigned Interest and the Assigned Agreements arise on or after the Effective Date (other than any such duties, obligations, responsibilities, claims, demands and other commitments under Section 8.3(a)(iii) of the MIPSA (as defined in Exhibit A hereto) that the Assignor assigns and delegates to the Assignee in full without regard to the time they arose or arise), except for (a) the duties, obligations, responsibilities, claims, demands and other commitments of the Assignor described in Part II of Exhibit A hereto (such obligations in Part II of Exhibit A, collectively, the "Retained Obligations") and (b) the Excluded Cash Grant Interests (as such term is defined in the Cash Grant Letter Agreement, the "Excluded Cash Grant Interests" and, together with the Retained Obligations, the "Retained Rights and Obligations"). The Assignor hereby confirms that any Retained Rights and Obligations shall not be reduced by

the transactions hereunder. Notwithstanding the foregoing and without limiting the assignment and delegation provided in this Section 1, the Assignor shall remain obligated under Section 9.6 of the MIPSA and shall be bound by and have the rights of a Party (as defined in the MIPSA) under Sections 9.1, 9.2, 9.4, 9.5, 9.6, 9.7, 9.9, 9.10, 9.11, 9.12, 9.17 and 9.18 of the MIPSA with respect to the Assignor's obligations under Section 9.6 of the MIPSA and its Retained Obligations described in paragraphs 1 and 2 of Part II of Exhibit A hereto.

2. Acceptance of Assigned Interests. The Assignee hereby accepts and assumes the Assigned Interest and all associated rights and obligations under the Assigned Agreements (but excluding the Retained Rights and Obligations). From the date hereof, subject to the terms of the Second A&R LLC Agreement, the Assignee agrees to perform and be bound by all the terms, conditions and covenants of the Assignor and assumes the duties and obligations (but excluding the duties, obligations, responsibilities, claims, demands and other commitments that are part of the Retained Rights and Obligations) of the Assignor with respect to the Assigned Interest (including under the Assigned Agreements).

3. Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OR CHOICE OF LAWS OTHER THAN SECTION 5-1401 OF THE NEW YORK GENERAL OBLIGATIONS LAW.

4. Further Assurances. The Assignor agrees to execute, acknowledge and deliver, as appropriate, any and all such other and additional instruments, notices, and other documents and to perform such other acts as may be reasonably necessary more fully to assure the Assignee, its successors and assigns, all of the rights and interests hereby sold, assigned, conveyed and transferred or intended to be so sold, assigned, conveyed and transferred.

5. Counterparts and Headings. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same agreement. The headings used in this Agreement have been inserted for convenience of reference only and do not define, limit, interpret or constitute a part of this Agreement.

(*Signatures on following page*)

IN WITNESS WHEREOF, each of the Assignor and the Assignee has caused this Agreement to be executed and delivered by one of its duly authorized officers as of the date first above written.

EFS DESERT SUN, LLC,
as Assignor

By: _____
Name:
Title:

NRG YIELD OPERATING LLC,
as Assignee

By: _____
Name:
Title:

Acknowledged as to the Assignor's confirmation in Section 1:

FIRST SOLAR DEVELOPMENT, INC.

By: _____
Name:
Title:

Exhibit A

PART I
Assigned Agreements

1. Seller Guaranty, dated September 29, 2011, by First Solar, Inc. to EFS Desert Sun, LLC and NextEra Desert Sunlight Holdings, LLC, as partially assigned by EFS Desert Sun, LLC to Summit Solar Desert Sunlight, LLC, pursuant to the Assignment and Assumption Agreement, dated as of September 27, 2012, by and among EFS Desert Sun, LLC and Summit Solar Desert Sunlight, LLC.

2. [Agreement Regarding Distributions, dated as of October 6, 2011, among NextEra Desert Sunlight Holdings, LLC, EFS Desert Sun, LLC, Desert Sunlight Investment Holdings, LLC, Citibank, N.A., Goldman Sachs Lending Partners LLC and J. Aron & Company, and the Letter Agreement Regarding Agreement Regarding Distributions delivered pursuant thereto, dated as of September 27, 2012, among Summit Solar Desert Sunlight, LLC, NextEra Desert Sunlight Holdings, LLC, EFS Desert Sun, LLC, Desert Sunlight Investment Holdings, LLC, Citibank, N.A., Goldman Sachs Lending Partners LLC and J. Aron & Company.]

3. Membership Interest Purchase and Sale Agreement, dated as of September 29, 2011, among First Solar Development, Inc., EFS Desert Sun, LLC and NextEra Desert Sunlight Holdings, LLC, updated by the Desert Sunlight MIPSA Purchase Price Adjustment Letter, dated as of April 27, 2012 from First Solar Development, Inc. and accepted and agreed by EFS Desert Sun, LLC and NextEra Desert Sunlight Holdings, LLC, as partially assigned by EFS Desert Sun, LLC to Summit Solar Desert Sunlight, LLC, pursuant to the Assignment and Assumption Agreement, dated as of September 27, 2012, by and among EFS Desert Sun, LLC and Summit Solar Desert Sunlight, LLC (the "MIPSA").

PART II
Retained Obligations

1. Any obligations or liabilities, actual or contingent, of the Assignor under Section 8.3(a)(i) of the MIPSA resulting from or arising out of any inaccuracy or breach of any representation or warranty made by the Assignor in the MIPSA Agreement or any Ancillary Agreement (as defined in the MIPSA).

2. Any obligations or liabilities, actual or contingent, under Section 8.3(a)(ii) of the MIPSA arising out of a breach by the Assignor prior to the Effective Date of any covenant or agreement contained in the MIPSA or any Ancillary Agreement (as defined in the MIPSA).

3. Twenty five percent (25%) of the amount by which the actual out-of-pocket costs paid by the Sunlight Companies to repair the damage to the Projects caused by

that certain tornado casualty event affecting the Projects that occurred on or about April 21, 2015 exceed the sum of (a) any insurance deductible amount paid or accrued prior to the Effective Date or (b) any insurance proceeds received by the Sunlight Companies, as determined when all such insurance proceeds are received.

4. Liabilities and obligations resulting from or arising out of: (a) the incident described in the Event Notification and Investigation Report dated June 26, 2013 issued by First Solar Electric (California), Inc., which report is attached hereto as Exhibit B, and (b) the incident described in the Borrower's Officer Certificates dated August 27, 2013 issued to Deutsche Bank Trust Company Americas, in its capacity as the Master Administrative Agent under the Master Agreements, which certificates are attached hereto as Exhibit C.

5. Twenty-five percent (25%) of any bonus payment obligations owed by any Sunlight Company to First Solar Electric (California), Inc., under the EPC Contracts including without limitation such bonus payments required in connection with "Total Bonus Payments" on the "Bonus True-Up Date" (as such terms are defined under the EPC Contracts).

6. Twenty-five percent (25%) of any payment obligations determined to be due and owing after the Effective Date by any Sunlight Company to First Solar Electric (California), Inc. under the EPC Contracts (other than any bonus payment obligations) in respect of any work or services performed by First Solar Electric (California), Inc. under the EPC Contract or payments or charges in respect of the EPC Contract (but excluding payment obligation with respect to the completion of the Punchlist items which are covered by the Punchlist Holdback); provided that the aggregate amount of liabilities retained by the Assignor under this paragraph 6 shall not exceed $2,500,000 (such payment obligations, the "Other EPC Payments").

Exhibit B

Report

(*See attached*)

Exhibit C

Officer Certificates

(*See attached*)

Exhibit B to the Purchase and Sale Agreement

CASH GRANT RECAPTURE INDEMNITY AGREEMENT

This CASH GRANT RECAPTURE INDEMNITY AGREEMENT, dated as of June ___, 2015 (this "Agreement"), is made and entered into by NRG YIELD OPERATING LLC, a Delaware limited liability company ("NRG Member") in favor of DESERT SUNLIGHT 250, LLC, a Delaware limited liability company ("Borrower"), DESERT SUNLIGHT HOLDINGS, LLC, a Delaware limited liability company ("Holdings"), DESERT SUNLIGHT INVESTMENT HOLDINGS, LLC, a Delaware limited liability company ("Holdings Parent"), and DEUTSCHE BANK TRUST COMPANY AMERICAS, as collateral agent for the Secured Parties (in such capacity, together with its successors and assigns in such capacity, the "Collateral Agent"). The Collateral Agent, the other Secured Parties, Borrower, Holdings and Holdings Parent are sometimes collectively referred to herein as the "Beneficiaries" and each, individually, as a "Beneficiary". Borrower, Holdings and Holdings Parent are sometimes collectively referred to herein as the "Sunlight Entities" and each, individually, as a "Sunlight Entity".

RECITALS

A. On the date hereof, NRG Member shall have purchased 25% of the Equity Interests in Holdings Parent from EFS Desert Sun, LLC.

B. Holdings Parent directly owns 100% of the Equity Interests in Holdings, and Holdings directly owns 100% of the Equity Interests in Borrower.

C. Borrower owns, operates and maintains the Project.

D. In order to finance the development, design, engineering, construction, commissioning, operation and maintenance of the Project, Borrower has entered into that certain Master Agreement, dated as of September 29, 2011 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "Master Agreement"), by and among Borrower, DOE, the Master Administrative Agent, the Collateral Agent, the Intercreditor Agent, the A-1 Administrative Agent, the A-2 Administrative Agent, the A-3 Administrative Agent, the LC Facility Administrative Agent, the SPV Trustee, the other Agents party thereto and the LC Issuing Banks and Lenders party thereto, pursuant to which, among other things, the Lenders and the LC Issuing Banks have made loans and other financial accommodations to, and for the benefit of, Borrower.

E. In connection with the execution of the Master Agreement, Borrower, Holdings, DOE, the Facility Administrative Agents, the Master Administrative Agent, the Collateral Agent, the Intercreditor Agent, the LC Issuing Banks, the Lenders and each Interest Rate Hedge Counterparty have entered into that certain Collateral Agency and Intercreditor Agreement, dated as of September 29, 2011 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "Intercreditor Agreement").

F. It is a condition precedent to the transfer of Equity Interests under the Master Agreement that NRG Member shall have executed this Agreement.

G. For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, NRG Member agrees as follows:

SECTION 1. Definitions. Unless otherwise defined herein, capitalized terms used in this Agreement shall have the meanings ascribed to such terms in the Master Agreement. As used in this Agreement, the following terms shall have the following meanings:

"1603 Grant" means any payment for specified energy property in lieu of tax credits under Section 1603 of the Recovery Act or any successor provision with respect to the Project.

"1603 Grant Application" means an application filed by Borrower, as an applicant, for a 1603 Grant.

"1603 Grant Audit" means an audit or examination by Treasury of the 1603 Grant Application that results in either a 1603 Grant Shortfall Liability or a 1603 Grant Recapture Liability.

"1603 Grant Code and Guidance" means (a) Section 1603 of the Recovery Act and (b) guidance issued on July 9, 2009 (as updated from time to time thereafter), by the Treasury for payment for specified energy property in lieu of tax credits under the Recovery Act and any clarification, addition or supplement thereto issued by the Treasury or any other Governmental Authority, including any similar guidance concerning a refundable tax credit that replaces the 1603 Grant program (but only to the extent specifically applicable to the 1603 Grant).

"1603 Grant Indemnity Trigger" means (a) Borrower's disposal to a Disqualified Person of "specified energy property" (as defined in Section 1603(d) of the Recovery Act) with respect to which any 1603 Grant is received, (b) any voluntary cessation of use of "specified energy property" or voluntary change in the purpose for which "specified energy property" is used, or (c) any direct or indirect transfer by NRG Member of its Equity Interests or its profit interests in Borrower to a Disqualified Person, but only the extent that, with respect to the foregoing clauses (a), (b) and (c), at the time of such disposal, cessation, change or transfer, NRG Member was an indirect or beneficial owner of Borrower.

"1603 Grant Placed in Service Date" means, with respect to any portion of the Project, the date on which such portion of the Project is considered to be placed in service for purposes of the 1603 Grant Code and Guidance, which dates the parties hereto acknowledge and agree were as follows: with respect to Block no. 12, December 28, 2013, with respect to Block no. 13, January 22, 2014, with respect to Block no. 14, April 2, 2014, with respect to Block no. 15, September 29, 2014, with respect to Block no. 16, December 19, 2013, with respect to Block no. 17, December 19, 2013, with respect to Block no. 18, September 29, 2014, with respect to Block no. 19, November 5, 2014, and with respect to Block no. 20, December 19, 2013; for purposes of this definition, "Block" shall have the meaning set forth in the PV Power Plant EPC Contract.

"1603 Grant Recapture Liability" means any loss, liability, payment or other obligation of Borrower arising out of, resulting from or attributable to all or any portion of a 1603 Grant received by or for the benefit of Borrower in respect of the Project being "recaptured" or disallowed by the Treasury because of a 1603 Grant Indemnity Trigger including any interest and penalties related thereto as described in the 1603 Grant Code and Guidance.

"1603 Grant Recapture Period" means, with respect to any portion of the Project, the period from the 1603 Grant Placed in Service Date for such portion of the Project until the fifth anniversary thereof unless the 1603 Grant Code and Guidance extends the applicable vesting period.

"1603 Grant Shortfall Liability" means an amount equal to the amount of the outstanding A-3 Loans on the A-3 Loan Maturity Date (after giving effect to any repayments and prepayments thereof on or prior to such date), (such amount, the "1603 Grant Shortfall"), as the same shall be reduced by any 1603 Grant Proceeds received by Borrower after the A-3 Loan Maturity Date; provided, however, that the 1603 Grant Shortfall Liability shall not include any amount of the 1603 Grant Shortfall that is a result of a determination by any Governmental Authority that any component of the Project is ineligible for (or subject to a reduction of) the 1603 Grant because any such component was not placed in service or was placed in service after the deadline prescribed in the 1603 Grant Code and Guidance.

"Additional Member" has the meaning assigned to such term in Section 15.

"Agreement" has the meaning assigned to such term in the preamble to this Agreement.

"Applicable Percentage" means, (a) in respect of any Losses indemnified by NRG Member under this Agreement other than Losses for which its Applicable Percentage is 100%, at any date of determination, a ratio (expressed as a percentage) of (i) the Equity Interests of Holdings Parent held by NRG Member to (ii) all Equity Interests of Holdings Parent; provided that, for purposes of determining any Applicable Percentage, the Equity Interests of Holdings Parent held by NRG Member shall be calculated without giving effect to any transfer, sale or other disposition of Equity Interests of Holdings Parent other than Permitted Transfers and (b) in respect of any Losses arising out of, resulting from or attributable to (i) a 1603 Grant Indemnity Trigger of the type set forth in clause (c) of the definition thereof or (ii) any misstatements, misrepresentations or inaccuracies, in each case as to matters of fact, in respect of NRG Member or any direct or indirect owner of NRG Member made by Borrower in any 1603 Grant Application, 100%.

"Beneficiary" and "Beneficiaries" have the respective meanings assigned to such terms in the preamble to this Agreement.

"Borrower" has the meaning assigned to such term in the preamble to this Agreement.

"Claim" has the meaning assigned to such term in Section 2(b).

"Collateral Agent" has the meaning assigned to such term in the preamble to this Agreement.

"Holdings" has the meaning assigned to such term in the preamble to this Agreement.

"Holdings Parent" has the meaning assigned to such term in the preamble to this Agreement.

"Intercreditor Agreement" has the meaning assigned to such term in the recitals to this Agreement.

"Losses" has the meaning assigned to such term in Section 2(a).

"Master Agreement" has the meaning assigned to such term in the recitals to this Agreement.

"Member" means each Person that directly owns any Equity Interest in Holdings Parent.

"NRG Member" has the meaning assigned to such term in the preamble to this Agreement.

"Proceeding" has the meaning assigned to such term in Section 2(c).

"Process Agent" has the meaning assigned to such term in Section 5(c).

"Sunlight Entity" and "Sunlight Entities" have the respective meanings assigned to such terms in the preamble to this Agreement.

"Termination Date" has the meaning assigned to such term in Section 12.

SECTION 2. Indemnity.

(a) NRG Member hereby agrees to indemnify and hold harmless each Beneficiary from and against its Applicable Percentage of (i) any and all 1603 Grant Recapture Liabilities, (ii) any 1603 Grant Shortfall Liability, (iii) any losses, liabilities, payments or other obligations incurred by such Person arising out of, resulting from or attributable to a 1603 Grant Audit, and (iv) any losses, liabilities, payments or other obligations incurred by such Person arising out of, resulting from or attributable to any misstatements, misrepresentations or inaccuracies, in each case of a factual nature, of Borrower made in any 1603 Grant Application (items (i), (ii), (iii) and (iv) collectively, but without duplication, "Losses") and, with respect to items (i) and (iii) (to the extent the 1603 Grant Audit results in a 1603 Grant Recapture Liability), in an aggregate amount not to exceed the amount of 1603 Grant actually received by Borrower. NRG Member's obligations under this Section 2(a) with respect to Losses related to 1603 Grant Shortfall Liabilities shall be limited to the payment of its Applicable Percentage of the outstanding principal of and interest on the A-3 Loans at the time any payment in respect thereof is made and any such payment shall be applied solely to the repayment of such principal and interest. Losses shall exclude any indirect, consequential, punitive, special or incidental damages. All amounts paid by NRG Member pursuant to this Agreement shall constitute contributions of equity or loans to Holdings Parent, which shall in turn constitute contributions of equity by Holdings Parent to Holdings and by Holdings to Borrower; provided that the foregoing equity contributions by Holdings Parent or Holdings, as applicable, may be made in the form of loans from Holdings Parent to Holdings, as permitted by Section 6.1(i) of the Master Agreement, and loans from Holdings to Borrower, as permitted by Section 6.1(h) of the Master Agreement, and if any such loans are made, the proceeds of such loans shall constitute contributions of equity and the NRG Member shall be deemed to have made a contribution of equity in the amount of any such proceeds.

(b) For the avoidance of doubt, NRG Member shall have no obligations under this Agreement in respect of Losses arising out of, resulting from or attributable to (i) the exercise by the Collateral Agent and the Secured Parties of their remedies under the Financing Documents, including without limitation, foreclosure or (ii) the actions or identity of any direct or indirect owner of Equity Interests in Borrower other than NRG Member or direct or indirect owners of NRG Member. The NRG Member or any of its Affiliates may, in good faith and by appropriate proceedings, diligently contest any Losses hereunder (and defer payment during such contest) and the Beneficiaries shall permit the NRG Member, at its sole cost and expense, to direct and control such proceedings. If any Beneficiary recovers or otherwise receives a refund or credit against other liabilities of any 1603 Grant Recapture Liabilities in respect of which NRG Member paid a Loss hereunder, the Beneficiaries, as applicable, shall, within 10 Business Days of receipt (or receipt of notice of such a credit), pay over to NRG Member the amount so recovered, refunded, or credited, along with any interest or similar amounts paid thereon.

(c) If the Treasury or any other Governmental Authority shall make any claim, commence any audit, investigation or other action (a "Proceeding") or otherwise seek to impose any liability that could give rise to a Loss subject to indemnification under this Section 2 (a "Claim"), NRG Member (if it has knowledge of such Claim) and each Sunlight Entity with knowledge of such Claim shall promptly notify the Beneficiaries (and, in the case of such notice by a Sunlight Entity, NRG Member), in writing of such Claim; provided, however, that the failure by NRG Member or such Sunlight Entity to so notify any Beneficiary (or, in the case of any such failure by a Sunlight Entity, NRG Member) shall not relieve NRG Member from any liability which it may have under this Section 2. NRG Member shall, without duplication and subject to Section 2(a), provide reimbursement or pay for any and all Losses no later than 30 days after receiving demand therefor. Each Beneficiary shall be entitled to make demand upon NRG Member at any time upon the incurrence of any Loss. Any demand by a Beneficiary for indemnification of any Loss shall be made in writing to NRG Member, shall specify the nature and the amount of the Loss and shall be conclusive as thereto absent manifest error. All payments to be made by NRG Member pursuant to Section 2(a)(ii) shall be made directly to the 1603 Grant Suspense Account and all other payments to be made by NRG Member under this Section 2 shall be made directly to the Revenue Account, or to such other account as the indemnified Beneficiary shall direct by notice to Borrower and NRG Member.

(d) The obligations of NRG Member under this Section 2 are absolute and unconditional, irrespective of the value, genuineness, validity or enforceability of any Financing Document or any other agreement or instrument referred to herein or therein, or any substitution, release or exchange of any other guarantee of, or security for, any of the Obligations, and, to the fullest extent permitted by law, irrespective of any other circumstance whatsoever that might otherwise constitute a legal or equitable discharge or defense of their undertakings hereunder, it being the intent of this Section 2(d) that the obligations of NRG Member hereunder shall be absolute and unconditional, under any and all circumstances. Without limiting the generality of the foregoing, it is agreed that the occurrence of one or more of the following shall not alter or impair the liability of NRG Member hereunder which shall remain absolute and unconditional as described above:

(i) at any time or from time to time, without notice to NRG Member, the time for any performance of, or compliance with, any of the Obligations or any of the

obligations of the Financing Parties under any other Financing Document shall be extended, or such performance or compliance shall be waived;

(ii) any failure or omission to assert or enforce or agreement or election not to assert or enforce, or the stay or enjoining, by order of court, by operation of law or otherwise, of the exercise or enforcement of, any claim or demand or any right, power or remedy (whether arising under the Financing Documents, at law, in equity or otherwise) with respect to the Obligations or any agreement relating thereto, or with respect to any other guaranty of or security for the payment of the Obligations;

(iii) any of the acts mentioned in any of the provisions of any Financing Document or any other agreement or instrument referred to herein or therein shall be done or omitted;

(iv) any rescission, waiver, amendment or modification of, or any consent to departure from, any of the terms or provisions (including provisions relating to events of default) hereof, any of the other Financing Documents or any agreement or instrument executed pursuant thereto, or of any other guaranty or security for the Obligations, in each case whether or not in accordance with the terms hereof or such Financing Document or any agreement relating to such other guaranty or security;

(v) the maturity of any of the Obligations shall be accelerated, or any of the Obligations or any of the obligations of any Sunlight Entity under any other Financing Document shall be modified, waived, supplemented or amended in any respect, or shall at any time be found to be illegal, invalid or unenforceable in any respect, or any right under any Financing Document or any other agreement or instrument referred to herein or therein shall be waived or any other guarantee of any of the Obligations or any of the obligations of any Sunlight Entity under any other Financing Document or any security therefor shall be released or exchanged in whole or in part or otherwise dealt with;

(vi) any lien or security interest granted to, or in favor of, the Collateral Agent or any other Secured Party or any party to a Financing Document as security for any of the Obligations (including without limitation Liens intended to be created by the Security Documents) or any of the obligations of any Sunlight Entity under any other Financing Document shall fail to be perfected or shall be released;

(vii) the performance or failure to perform by NRG Member of its obligations hereunder or by any Member or any other Borrower Party of its obligations under any other agreement, or by the condition (financial, legal or otherwise), affairs, status, nature or actions of any Sunlight Entity;

(viii) subject to Section 15, any change in ownership of any Sunlight Entity;

(ix) the voluntary or involuntary liquidation, dissolution, sale of assets, marshaling of assets and liabilities, receivership, conservatorship, custodianship,

insolvency, bankruptcy, assignment for the benefit of creditors, reorganization, arrangement, readjustment or similar proceeding affecting any Person;

(x) any defenses, set offs or counterclaims which NRG Member or any Sunlight Entity may allege or assert against any Beneficiary in respect of the Obligations, including failure of consideration, breach of warranty, payment, statute of frauds, statute of limitations, accord and satisfaction and usury; or

(xi) any other act or thing or omission, or delay to do any other act or thing, which may or might in any manner or to any extent vary the risk of NRG Member as an obligor under this Agreement.

(e) NRG Member hereby expressly waives, for the benefit of the Beneficiaries, diligence, presentment, demand of payment, protest and all notices whatsoever (other than any notices required under this Agreement) and any requirement that the Collateral Agent or any other Secured Party or any party to a Financing Document exhaust any right, power or remedy or proceed against any Sunlight Entity under this Agreement, any other Financing Document or any other agreement or instrument referred to herein or therein, or against any other Person under any other guarantee of, or security for, any of the Obligations or any of the obligations of any Sunlight Entity under any other Financing Document, or pursue any other remedy in the power of the Collateral Agent or such other Secured Party whatsoever. NRG Member hereby further expressly waives, for the benefit of the Beneficiaries, (i) any defense arising by reason of the incapacity, lack of authority or any disability or other defense of any Sunlight Entity or any Member including any defense based on or arising out of the lack of validity or the unenforceability of the Obligations or any agreement or instrument relating thereto or by reason of the cessation of the liability of any Sunlight Entity or any Member from any cause other than payment in full of the Obligations, (ii) any defense based upon any statute or rule of law which provides that the obligation of a surety must be neither larger in amount nor in other respects more burdensome than that of the principal, (iii) any defense based upon any Beneficiary's errors or omissions in the administration of the Obligations, except behavior which amounts to bad faith, (iv) (A) any principles or provisions of law, statutory or otherwise, which are or might be in conflict with the terms hereof and any legal or equitable discharge of NRG Member's obligations hereunder, (B) any rights to set offs, recoupments and counterclaims, and (C) promptness, diligence and any requirement that any Beneficiary protect, secure, perfect or insure any security interest or lien or any property subject thereto, (v) notices, demands, presentments, protests, notices of protest, notices of dishonor and notices of any action or inaction, including acceptance hereof, notices of default hereunder, under the other Financing Documents or any agreement or instrument related thereto, notices of any renewal, extension or modification of the Obligations or any agreement related thereto, notices of any extension of credit to any Sunlight Entity and any right to consent to any thereof, and (vi) any defenses or benefits that may be derived from or afforded by law which limit the liability of or exonerate guarantors or sureties, or which may conflict with the terms hereof.

(f) The obligations of NRG Member under this Section 2 shall be automatically reinstated if and to the extent that for any reason any payment by or on behalf of NRG Member under this Agreement is rescinded or must be otherwise restored by any Sunlight Entity or the Collateral Agent to NRG Member as a result of any proceedings in bankruptcy, and

NRG Member agrees that it will indemnify each Secured Party on demand for all reasonable costs and expenses (including reasonable and documented fees and expenses of counsel) incurred by such Secured Party in connection with such rescission or restoration. This Section 2(f) shall survive the termination of this Agreement.

(g) This Agreement is a primary obligation of NRG Member and not merely a contract for surety.

SECTION 3. Representations, Warranties and Covenants. NRG Member represents and warrants to each Beneficiary that, as of the date of this Agreement:

(a) It is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization.

(b) It has the power and authority, and the legal right, to make, deliver and perform this Agreement and to consummate the transactions contemplated thereby. It has taken all necessary organizational (including partnership) action to authorize the execution, delivery and performance of this Agreement and to consummate the transactions contemplated thereby. This Agreement constitutes a legal, valid and binding obligation of NRG Member, enforceable against NRG Member in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and by general equitable principles (whether enforcement is sought by proceedings in equity or at law). The execution, delivery and performance of this Agreement will not violate any law applicable to NRG Member or any constitutive document or contractual obligation of NRG Member and will not result in, or require, the creation or imposition of any Lien on any of their respective properties or revenues pursuant to any law or any such contractual obligation, except, other than in the case of the constitutive documents, as could not reasonably be expected to have a material adverse effect on the ability of NRG Member to perform its obligations hereunder.

(c) No material action, consent or approval of, material registration or filing with, material notice to, or any other material action by, any Governmental Authority is or will be required in connection with the due execution, delivery and performance by NRG Member of this Agreement.

(d) It has not sold or transferred, and shall not sell or transfer, in each case directly or indirectly, any of its voting or economic interest in the Loan Parties to anyone but a Permitted Equity Transferee by means of a Permitted Transfer.

SECTION 4. GOVERNING LAW. This Agreement shall be construed and enforced in accordance with, and the rights of the parties shall be governed by, the laws of the State of New York excluding choice-of-law principles of such States that would permit the application of the laws of a jurisdiction other than such State.

SECTION 5. Consent to Jurisdiction; Waiver of Immunity.

(a) Each of the parties hereto irrevocably consents and agrees that any legal action, suit or proceeding against it with respect to its obligations, liabilities or any other matter

under or arising out of or in connection with this Agreement or the transactions contemplated thereby may be brought in or removed to the courts of the United States of America for the Southern District of New York or the District of Columbia, or, to the extent that such courts are not available or decline to accept jurisdiction over such legal action or proceeding, the State of New York, in and for the County of New York in respect of any actions brought against it as a defendant in any action or proceeding arising out of this Agreement, and hereby expressly and irrevocably accepts and submits to the exclusive jurisdiction of each such court with respect to any such action, suit or proceeding. Each of the parties hereto hereby waives any objection which it may now or hereafter have to the laying of venue of any of the aforesaid actions, suits or proceedings, brought in any such court and hereby further waives and agrees not to plead or claim in any such court that any such action, suit or proceeding brought therein has been brought in an inconvenient forum.

(b) Each of the parties hereto hereby irrevocably agrees that any and all legal process may be served in any such action, suit or proceeding brought in any of the aforementioned courts by delivery of such process in the manner provided in Section 8, and such service shall be deemed to be effective service of process upon it in any such action, suit or proceeding. Each of the parties hereto agrees that the failure of such agent to give notice to it of any such service shall not impair or affect the validity of such service or any judgment rendered in any action, suit or proceeding based thereon. Nothing herein shall be deemed to limit the ability of any party hereto to serve any such legal process in any other manner permitted by applicable law or to obtain jurisdiction over any other party hereto or bring actions, suits or proceedings against any other party hereto in such other jurisdictions, and in such manner, as may be permitted by applicable law.

(c) NRG Member and each Sunlight Entity hereby irrevocably appoints [CT Corporation System (the "Process Agent"), with an office on the date hereof at 111 Eighth Avenue, 13th Floor, New York, New York 10019], as its agent to receive on behalf of itself and its property service of copies of the summons and complaint and any other process that may be served in any such action or proceeding in the State of New York in connection with this Agreement (the "Process Agent"). If for any reason the Process Agent shall cease to act as such for NRG Member or any Sunlight Entity, NRG Member or such Sunlight Entity, as the case may be, hereby agrees to designate a new agent in New York City on the terms and for the purposes of this Section 5 reasonably satisfactory to the Beneficiaries. Such service may be made by mailing or delivering a copy of such process to NRG Member or such Sunlight Entity, as the case may be, in care of the Process Agent at the Process Agent's above address, and NRG Member and each Sunlight Entity hereby irrevocably authorize and direct the Process Agent to accept such service on its behalf. As an alternative method of service, NRG Member and each Sunlight Entity also irrevocably consents to the service of any and all process in any such action or proceeding by the air mailing of copies of such process to NRG Member or such Sunlight Entity, as the case may be, at its then effective notice address pursuant to Section 8. Nothing in this Agreement shall affect any right that any party may otherwise have to bring any action or proceeding relating to this Agreement or any other Financing Document in the courts of any jurisdiction.

SECTION 6. Waiver of Jury Trial. EACH PARTY TO THIS AGREEMENT HEREBY EXPRESSLY WAIVES ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, DEMAND,

ACTION OR CAUSE OF ACTION ARISING UNDER THIS AGREEMENT OR IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF THE PARTIES HERETO, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER FOUNDED IN CONTRACT OR TORT OR OTHERWISE; AND EACH PARTY HEREBY AGREES AND CONSENTS THAT ANY SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY, AND THAT ANY PARTY TO THIS AGREEMENT MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS SECTION WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF THE SIGNATORIES HERETO TO THE WAIVER OF THEIR RIGHT TO TRIAL BY JURY.

SECTION 7. Amendments, Etc. The terms of this Agreement may be waived, altered or amended only by an instrument in writing duly executed by NRG Member, each Sunlight Entity and Collateral Agent (acting at the direction of the Master Administrative Agent). Any such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

SECTION 8. Addresses for Notices. All notices and other communications provided for hereunder shall be (i) in writing and (ii) sent by facsimile, overnight courier (if for inland delivery) or international courier (if for overseas delivery) (with a copy, which shall not constitute notice for the purposes of this Agreement, by electronic mail) to a party hereto at its address and contact number specified in below, or at such other address and contact number as is designated by such party in a written notice to the other parties hereto:

(a) NRG Member:

NRG Yield Operating LLC
211 Carnegie Center
Princeton, New Jersey 08540
Attention: Office of the General Counsel
Facsimile: (609) 524-4589
Email: ogc@nrgyield.com

(b) Borrower:

Desert Sunlight 250, LLC
c/o NextEra Energy Resources, LLC
700 Universe Boulevard
Juno Beach, Florida 33408-0428
Attention: Business Manager
Telephone: (561) 304-5942
Facsimile: (561) 691-7309
E-mail: Tyler.Hardin@nexteraenergy.com

(c) Holdings:

Desert Sunlight Holdings, LLC
c/o NextEra Energy Resources, LLC
700 Universe Boulevard
Juno Beach, Florida 33408-0428
Attention: Business Manager
Telephone: (561) 304-5942
Facsimile: (561) 691-7309
E-mail: Tyler.Hardin@nexteraenergy.com

(d) Holdings Parent:

Desert Sunlight Investment Holdings, LLC
c/o NextEra Energy Resources, LLC
700 Universe Boulevard
Juno Beach, Florida 33408-0428
Attention: Business Manager
Telephone: (561) 304-5942
Facsimile: (561) 691-7309
E-mail: Tyler.Hardin@nexteraenergy.com

(e) Collateral Agent:

Deutsche Bank Trust Company Americas
60 Wall Street, 27th Floor, MS NYC60-2710
New York, NY 10005
Attention: Project Finance, Project Desert Sunlight
Facsimile: (732) 578-4636

All notices and communications shall be effective when received by the addressee thereof during business hours on a Business Day in such Person's location as indicated by such Person's address in paragraphs (a) to (e) above, or at such other address as is designated by such Person in a written notice to the other parties hereto.

SECTION 9. No Waiver; Remedies. No failure or delay on the part of any Sunlight Entity or any Beneficiary in exercising any right, power or privilege hereunder or under this Agreement and no course of dealing between any Sunlight Entity or any Beneficiary, or any of their Affiliates, on the one hand, and NRG Member on the other hand, shall impair any such right, power or privilege or operate as a waiver thereof; nor shall any single or partial exercise of any right, power or privilege hereunder or preclude any other or further exercise thereof or the exercise of any other right, power or privilege hereunder. The rights, powers and remedies herein expressly provided are cumulative and not exclusive of any rights, powers or remedies which any party thereto would otherwise have. No notice to or demand on NRG Member in any case shall entitle NRG Member to any other or further notice or demand in similar or other circumstances or constitute a waiver of the rights of any Sunlight Entity or any Beneficiary to any other or further action in any circumstances without notice or demand.

SECTION 10. Severability. Any provision of this Agreement held to be invalid, illegal

or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions hereof; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction.

SECTION 11. Counterparts. This Agreement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. Delivery of an executed counterpart of a signature page to this Agreement by email or facsimile shall be effective as delivery of a manually executed counterpart of this Agreement.

SECTION 12. Termination. Notwithstanding anything herein to the contrary, this Agreement shall immediately and automatically terminate, and be of no further force and effect, upon the earlier of (a) the occurrence of the Discharge Date and (b) expiration of the 1603 Grant Recapture Period (such earlier date, the "Termination Date"); provided that the foregoing shall not limit the obligations of NRG Member under this Agreement with respect to any claim asserted prior to the Termination Date.

SECTION 13. Entire Agreement. This Agreement, together with the other Financing Documents, constitute the entire contract between and among the parties relating to the subject matter hereof and supersedes any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. In the event of any conflict between the terms, conditions and provisions of this Agreement and any such agreement or understanding, the terms, conditions and provisions of this Agreement shall prevail.

SECTION 14. Benefit; Successors and Permitted Assigns.

(a) This Agreement is intended solely for the benefit of and is enforceable by the parties hereto and their respective successors or assigns and is not for the benefit of or enforceable by any other Person. This Agreement shall be binding upon NRG Member and its successors and permitted assigns and shall inure to the benefit of the successors and permitted assigns of the Beneficiaries.

(b) This Agreement and all obligations of NRG Member hereunder to the Beneficiaries shall not be assignable by NRG Member in whole or in part without the prior written consent of the Beneficiaries and each of the Lenders.

(c) NRG Member hereby consents to the assignment by each Sunlight Entity of all its right, title and interest in, to and under this Agreement to the Collateral Agent as collateral security for any and all obligations of the Sunlight Entities under the Financing Documents. Each Sunlight Entity hereby acknowledges the right of the Collateral Agent, upon the occurrence and during the continuance of an Event of Default under the Financing Agreement, to exercise and enforce all rights of each Sunlight Entity to effect any payments from NRG Member due and payable in accordance with the terms of this Agreement.

SECTION 15. Additional Members. From time to time subsequent to the date hereof, in connection with a Permitted Transfer in accordance with the terms of the Financing Documents, additional Persons may become parties to a 1603 Grant Recapture Indemnity Agreement (each,

an "Additional Member"). Upon execution and delivery of any such 1603 Grant Recapture Indemnity Agreement by all parties thereto, and delivery of an executed copy thereof to NRG Member and the Collateral Agent, notice of which is hereby waived by each Sunlight Entity, the transferring Member shall not have any obligations under this Agreement solely to the extent such obligations arise after the effective date of such Permitted Transfer, except to the extent that such transferring Member retains any direct or indirect Equity Interests in any Sunlight Entity.

[*Signature pages follow*]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered by their authorized representatives thereunto duly authorized as of the date first above written.

NRG YIELD OPERATING LLC

By:_____
Name:
Title:

DESERT SUNLIGHT 250, LLC

By:_____
Name:
Title:

DESERT SUNLIGHT HOLDINGS, LLC

By:_____
Name:
Title:

DESERT SUNLIGHT INVESTMENT HOLDINGS, LLC

By:_____
Name:
Title:

DEUTSCHE BANK TRUST COMPANY AMERICAS, as Collateral Agent

By:_____

Name:

Title:

By:_____

Name:

Title:

Exhibit C to the Purchase and Sale Agreement

CASH GRANT RECAPTURE INDEMNITY AGREEMENT

This CASH GRANT RECAPTURE INDEMNITY AGREEMENT, dated as of June ___, 2015 (this "Agreement"), is made and entered into by NRG YIELD OPERATING LLC, a Delaware limited liability company ("NRG Member") in favor of DESERT SUNLIGHT 300, LLC, a Delaware limited liability company ("Borrower"), DESERT SUNLIGHT HOLDINGS, LLC, a Delaware limited liability company ("Holdings"), DESERT SUNLIGHT INVESTMENT HOLDINGS, LLC, a Delaware limited liability company ("Holdings Parent"), and DEUTSCHE BANK TRUST COMPANY AMERICAS, as collateral agent for the Secured Parties (in such capacity, together with its successors and assigns in such capacity, the "Collateral Agent"). The Collateral Agent, the other Secured Parties, Borrower, Holdings and Holdings Parent are sometimes collectively referred to herein as the "Beneficiaries" and each, individually, as a "Beneficiary". Borrower, Holdings and Holdings Parent are sometimes collectively referred to herein as the "Sunlight Entities" and each, individually, as a "Sunlight Entity".

RECITALS

A. On the date hereof, NRG Member shall have purchased 25% of the Equity Interests in Holdings Parent from EFS Desert Sun, LLC.

B. Holdings Parent directly owns 100% of the Equity Interests in Holdings, and Holdings directly owns 100% of the Equity Interests in Borrower.

C. Borrower owns, operates and maintains the Project.

D. In order to finance the development, design, engineering, construction, commissioning, operation and maintenance of the Project, Borrower has entered into that certain Master Agreement, dated as of September 29, 2011 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "Master Agreement"), by and among Borrower, DOE, the Master Administrative Agent, the Collateral Agent, the Intercreditor Agent, the A-1 Administrative Agent, the A-2 Administrative Agent, the A-3 Administrative Agent, the LC Facility Administrative Agent, the SPV Trustee, the other Agents party thereto and the LC Issuing Banks and Lenders party thereto, pursuant to which, among other things, the Lenders and the LC Issuing Banks have made loans and other financial accommodations to, and for the benefit of, Borrower.

E. In connection with the execution of the Master Agreement, Borrower, Holdings, DOE, the Facility Administrative Agents, the Master Administrative Agent, the Collateral Agent, the Intercreditor Agent, the LC Issuing Banks, the Lenders and each Interest Rate Hedge Counterparty have entered into that certain Collateral Agency and Intercreditor Agreement, dated as of September 29, 2011 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "Intercreditor Agreement").

F. It is a condition precedent to the transfer of Equity Interests under the Master Agreement that NRG Member shall have executed this Agreement.

G. For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, NRG Member agrees as follows:

SECTION 1. Definitions. Unless otherwise defined herein, capitalized terms used in this Agreement shall have the meanings ascribed to such terms in the Master Agreement. As used in this Agreement, the following terms shall have the following meanings:

"1603 Grant" means any payment for specified energy property in lieu of tax credits under Section 1603 of the Recovery Act or any successor provision with respect to the Project.

"1603 Grant Application" means an application filed by Borrower, as an applicant, for a 1603 Grant.

"1603 Grant Audit" means an audit or examination by Treasury of the 1603 Grant Application that results in either a 1603 Grant Shortfall Liability or a 1603 Grant Recapture Liability.

"1603 Grant Code and Guidance" means (a) Section 1603 of the Recovery Act and (b) guidance issued on July 9, 2009 (as updated from time to time thereafter), by the Treasury for payment for specified energy property in lieu of tax credits under the Recovery Act and any clarification, addition or supplement thereto issued by the Treasury or any other Governmental Authority, including any similar guidance concerning a refundable tax credit that replaces the 1603 Grant program (but only to the extent specifically applicable to the 1603 Grant).

"1603 Grant Indemnity Trigger" means (a) Borrower's disposal to a Disqualified Person of "specified energy property" (as defined in Section 1603(d) of the Recovery Act) with respect to which any 1603 Grant is received, (b) any voluntary cessation of use of "specified energy property" or voluntary change in the purpose for which "specified energy property" is used, or (c) any direct or indirect transfer by NRG Member of its Equity Interests or its profit interests in Borrower to a Disqualified Person, but only the extent that, with respect to the foregoing clauses (a), (b) and (c), at the time of such disposal, cessation, change or transfer, NRG Member was an indirect or beneficial owner of Borrower.

"1603 Grant Placed in Service Date" means, with respect to any portion of the Project, the date on which such portion of the Project is considered to be placed in service for purposes of the 1603 Grant Code and Guidance, which dates the parties hereto acknowledge and agree were as follows: with respect to Block no. 1, December 19, 2013, with respect to Block no. 2, December 19, 2013, with respect to Block no. 3, December 28, 2013, with respect to Block no. 4, December 28, 2013, with respect to Block no. 5, September 29, 2014, with respect to Block no. 6, September 29, 2014, with respect to Block no. 7, September 29, 2014, with respect to Block no. 8, September 29, 2014, with respect to Block no. 9, September 29, 2014, with respect to Block no. 10, December 19, 2013 and with respect to Block no. 11, December 19, 2013; for purposes of this definition, "Block" shall have the meaning set forth in the PV Power Plant EPC Contract.

"1603 Grant Recapture Liability" means any loss, liability, payment or other obligation of Borrower arising out of, resulting from or attributable to all or any portion of a 1603 Grant received by or for the benefit of Borrower in respect of the Project being "recaptured" or

disallowed by the Treasury because of a 1603 Grant Indemnity Trigger including any interest and penalties related thereto as described in the 1603 Grant Code and Guidance.

"1603 Grant Recapture Period" means, with respect to any portion of the Project, the period from the 1603 Grant Placed in Service Date for such portion of the Project until the fifth anniversary thereof unless the 1603 Grant Code and Guidance extends the applicable vesting period.

"1603 Grant Shortfall Liability" means an amount equal to the amount of the outstanding A-3 Loans on the A-3 Loan Maturity Date (after giving effect to any repayments and prepayments thereof on or prior to such date), (such amount, the "1603 Grant Shortfall"), as the same shall be reduced by any 1603 Grant Proceeds received by Borrower after the A-3 Loan Maturity Date; provided, however, that the 1603 Grant Shortfall Liability shall not include any amount of the 1603 Grant Shortfall that is a result of a determination by any Governmental Authority that any component of the Project is ineligible for (or subject to a reduction of) the 1603 Grant because any such component was not placed in service or was placed in service after the deadline prescribed in the 1603 Grant Code and Guidance.

"Additional Member" has the meaning assigned to such term in Section 15.

"Agreement" has the meaning assigned to such term in the preamble to this Agreement.

"Applicable Percentage" means, (a) in respect of any Losses indemnified by NRG Member under this Agreement other than Losses for which its Applicable Percentage is 100%, at any date of determination, a ratio (expressed as a percentage) of (i) the Equity Interests of Holdings Parent held by NRG Member to (ii) all Equity Interests of Holdings Parent; provided that, for purposes of determining any Applicable Percentage, the Equity Interests of Holdings Parent held by NRG Member shall be calculated without giving effect to any transfer, sale or other disposition of Equity Interests of Holdings Parent other than Permitted Transfers and (b) in respect of any Losses arising out of, resulting from or attributable to (i) a 1603 Grant Indemnity Trigger of the type set forth in clause (c) of the definition thereof or (ii) any misstatements, misrepresentations or inaccuracies, in each case as to matters of fact, in respect of NRG Member or any direct or indirect owner of NRG Member made by Borrower in any 1603 Grant Application, 100%.

"Beneficiary" and "Beneficiaries" have the respective meanings assigned to such terms in the preamble to this Agreement.

"Borrower" has the meaning assigned to such term in the preamble to this Agreement.

"Claim" has the meaning assigned to such term in Section 2(b).

"Collateral Agent" has the meaning assigned to such term in the preamble to this Agreement.

"Holdings" has the meaning assigned to such term in the preamble to this Agreement.

"Holdings Parent" has the meaning assigned to such term in the preamble to this Agreement.

"Intercreditor Agreement" has the meaning assigned to such term in the recitals to this Agreement.

"Losses" has the meaning assigned to such term in Section 2(a).

"Master Agreement" has the meaning assigned to such term in the recitals to this Agreement.

"Member" means each Person that directly owns any Equity Interest in Holdings Parent.

"NRG Member" has the meaning assigned to such term in the preamble to this Agreement.

"Proceeding" has the meaning assigned to such term in Section 2(c).

"Process Agent" has the meaning assigned to such term in Section 5(c).

"Sunlight Entity" and "Sunlight Entities" have the respective meanings assigned to such terms in the preamble to this Agreement.

"Termination Date" has the meaning assigned to such term in Section 12.

SECTION 2. Indemnity.

(a) NRG Member hereby agrees to indemnify and hold harmless each Beneficiary from and against its Applicable Percentage of (i) any and all 1603 Grant Recapture Liabilities, (ii) any 1603 Grant Shortfall Liability, (iii) any losses, liabilities, payments or other obligations incurred by such Person arising out of, resulting from or attributable to a 1603 Grant Audit, and (iv) any losses, liabilities, payments or other obligations incurred by such Person arising out of, resulting from or attributable to any misstatements, misrepresentations or inaccuracies, in each case of a factual nature, of Borrower made in any 1603 Grant Application (items (i), (ii), (iii) and (iv) collectively, but without duplication, "Losses") and, with respect to items (i) and (iii) (to the extent the 1603 Grant Audit results in a 1603 Grant Recapture Liability), in an aggregate amount not to exceed the amount of 1603 Grant actually received by Borrower. NRG Member's obligations under this Section 2(a) with respect to Losses related to 1603 Grant Shortfall Liabilities shall be limited to the payment of its Applicable Percentage of the outstanding principal of and interest on the A-3 Loans at the time any payment in respect thereof is made and any such payment shall be applied solely to the repayment of such principal and interest. Losses shall exclude any indirect, consequential, punitive, special or incidental damages. All amounts paid by NRG Member pursuant to this Agreement shall constitute contributions of equity or loans to Holdings Parent, which shall in turn constitute contributions of equity by Holdings Parent to Holdings and by Holdings to Borrower; provided that the foregoing equity contributions by Holdings Parent or Holdings, as applicable, may be made in the form of loans from Holdings Parent to Holdings, as permitted by Section 6.1(i) of the Master Agreement, and loans from Holdings to Borrower, as permitted by Section 6.1(h) of the Master

Agreement, and if any such loans are made, the proceeds of such loans shall constitute contributions of equity and the NRG Member shall be deemed to have made a contribution of equity in the amount of any such proceeds.

(b) For the avoidance of doubt, NRG Member shall have no obligations under this Agreement in respect of Losses arising out of, resulting from or attributable to (i) the exercise by the Collateral Agent and the Secured Parties of their remedies under the Financing Documents, including without limitation, foreclosure or (ii) the actions or identity of any direct or indirect owner of Equity Interests in Borrower other than NRG Member or direct or indirect owners of NRG Member. The NRG Member or any of its Affiliates may, in good faith and by appropriate proceedings, diligently contest any Losses hereunder (and defer payment during such contest) and the Beneficiaries shall permit the NRG Member, at its sole cost and expense, to direct and control such proceedings. If any Beneficiary recovers or otherwise receives a refund or credit against other liabilities of any 1603 Grant Recapture Liabilities in respect of which NRG Member paid a Loss hereunder, the Beneficiaries, as applicable, shall, within 10 Business Days of receipt (or receipt of notice of such a credit), pay over to NRG Member the amount so recovered, refunded, or credited, along with any interest or similar amounts paid thereon.

(c) If the Treasury or any other Governmental Authority shall make any claim, commence any audit, investigation or other action (a "Proceeding") or otherwise seek to impose any liability that could give rise to a Loss subject to indemnification under this Section 2 (a "Claim"), NRG Member (if it has knowledge of such Claim) and each Sunlight Entity with knowledge of such Claim shall promptly notify the Beneficiaries (and, in the case of such notice by a Sunlight Entity, NRG Member), in writing of such Claim; provided, however, that the failure by NRG Member or such Sunlight Entity to so notify any Beneficiary (or, in the case of any such failure by a Sunlight Entity, NRG Member) shall not relieve NRG Member from any liability which it may have under this Section 2. NRG Member shall, without duplication and subject to Section 2(a), provide reimbursement or pay for any and all Losses no later than 30 days after receiving demand therefor. Each Beneficiary shall be entitled to make demand upon NRG Member at any time upon the incurrence of any Loss. Any demand by a Beneficiary for indemnification of any Loss shall be made in writing to NRG Member, shall specify the nature and the amount of the Loss and shall be conclusive as thereto absent manifest error. All payments to be made by NRG Member pursuant to Section 2(a)(ii) shall be made directly to the 1603 Grant Suspense Account and all other payments to be made by NRG Member under this Section 2 shall be made directly to the Revenue Account, or to such other account as the indemnified Beneficiary shall direct by notice to Borrower and NRG Member.

(d) The obligations of NRG Member under this Section 2 are absolute and unconditional, irrespective of the value, genuineness, validity or enforceability of any Financing Document or any other agreement or instrument referred to herein or therein, or any substitution, release or exchange of any other guarantee of, or security for, any of the Obligations, and, to the fullest extent permitted by law, irrespective of any other circumstance whatsoever that might otherwise constitute a legal or equitable discharge or defense of their undertakings hereunder, it being the intent of this Section 2(d) that the obligations of NRG Member hereunder shall be absolute and unconditional, under any and all circumstances. Without limiting the generality of the foregoing, it is agreed that the occurrence of one or more of the following shall not alter or

impair the liability of NRG Member hereunder which shall remain absolute and unconditional as described above:

(i) at any time or from time to time, without notice to NRG Member, the time for any performance of, or compliance with, any of the Obligations or any of the obligations of the Financing Parties under any other Financing Document shall be extended, or such performance or compliance shall be waived;

(ii) any failure or omission to assert or enforce or agreement or election not to assert or enforce, or the stay or enjoining, by order of court, by operation of law or otherwise, of the exercise or enforcement of, any claim or demand or any right, power or remedy (whether arising under the Financing Documents, at law, in equity or otherwise) with respect to the Obligations or any agreement relating thereto, or with respect to any other guaranty of or security for the payment of the Obligations;

(iii) any of the acts mentioned in any of the provisions of any Financing Document or any other agreement or instrument referred to herein or therein shall be done or omitted;

(iv) any rescission, waiver, amendment or modification of, or any consent to departure from, any of the terms or provisions (including provisions relating to events of default) hereof, any of the other Financing Documents or any agreement or instrument executed pursuant thereto, or of any other guaranty or security for the Obligations, in each case whether or not in accordance with the terms hereof or such Financing Document or any agreement relating to such other guaranty or security;

(v) the maturity of any of the Obligations shall be accelerated, or any of the Obligations or any of the obligations of any Sunlight Entity under any other Financing Document shall be modified, waived, supplemented or amended in any respect, or shall at any time be found to be illegal, invalid or unenforceable in any respect, or any right under any Financing Document or any other agreement or instrument referred to herein or therein shall be waived or any other guarantee of any of the Obligations or any of the obligations of any Sunlight Entity under any other Financing Document or any security therefor shall be released or exchanged in whole or in part or otherwise dealt with;

(vi) any lien or security interest granted to, or in favor of, the Collateral Agent or any other Secured Party or any party to a Financing Document as security for any of the Obligations (including without limitation Liens intended to be created by the Security Documents) or any of the obligations of any Sunlight Entity under any other Financing Document shall fail to be perfected or shall be released;

(vii) the performance or failure to perform by NRG Member of its obligations hereunder or by any Member or any other Borrower Party of its obligations under any other agreement, or by the condition (financial, legal or otherwise), affairs, status, nature or actions of any Sunlight Entity;

(viii) subject to Section 15, any change in ownership of any Sunlight Entity;

(ix) the voluntary or involuntary liquidation, dissolution, sale of assets, marshaling of assets and liabilities, receivership, conservatorship, custodianship, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization, arrangement, readjustment or similar proceeding affecting any Person;

(x) any defenses, set offs or counterclaims which NRG Member or any Sunlight Entity may allege or assert against any Beneficiary in respect of the Obligations, including failure of consideration, breach of warranty, payment, statute of frauds, statute of limitations, accord and satisfaction and usury; or

(xi) any other act or thing or omission, or delay to do any other act or thing, which may or might in any manner or to any extent vary the risk of NRG Member as an obligor under this Agreement.

(e) NRG Member hereby expressly waives, for the benefit of the Beneficiaries, diligence, presentment, demand of payment, protest and all notices whatsoever (other than any notices required under this Agreement) and any requirement that the Collateral Agent or any other Secured Party or any party to a Financing Document exhaust any right, power or remedy or proceed against any Sunlight Entity under this Agreement, any other Financing Document or any other agreement or instrument referred to herein or therein, or against any other Person under any other guarantee of, or security for, any of the Obligations or any of the obligations of any Sunlight Entity under any other Financing Document, or pursue any other remedy in the power of the Collateral Agent or such other Secured Party whatsoever. NRG Member hereby further expressly waives, for the benefit of the Beneficiaries, (i) any defense arising by reason of the incapacity, lack of authority or any disability or other defense of any Sunlight Entity or any Member including any defense based on or arising out of the lack of validity or the unenforceability of the Obligations or any agreement or instrument relating thereto or by reason of the cessation of the liability of any Sunlight Entity or any Member from any cause other than payment in full of the Obligations, (ii) any defense based upon any statute or rule of law which provides that the obligation of a surety must be neither larger in amount nor in other respects more burdensome than that of the principal, (iii) any defense based upon any Beneficiary's errors or omissions in the administration of the Obligations, except behavior which amounts to bad faith, (iv) (A) any principles or provisions of law, statutory or otherwise, which are or might be in conflict with the terms hereof and any legal or equitable discharge of NRG Member's obligations hereunder, (B) any rights to set offs, recoupments and counterclaims, and (C) promptness, diligence and any requirement that any Beneficiary protect, secure, perfect or insure any security interest or lien or any property subject thereto, (v) notices, demands, presentments, protests, notices of protest, notices of dishonor and notices of any action or inaction, including acceptance hereof, notices of default hereunder, under the other Financing Documents or any agreement or instrument related thereto, notices of any renewal, extension or modification of the Obligations or any agreement related thereto, notices of any extension of credit to any Sunlight Entity and any right to consent to any thereof, and (vi) any defenses or benefits that may be derived from or afforded by law which limit the liability of or exonerate guarantors or sureties, or which may conflict with the terms hereof.

(f) The obligations of NRG Member under this Section 2 shall be automatically reinstated if and to the extent that for any reason any payment by or on behalf of NRG Member under this Agreement is rescinded or must be otherwise restored by any Sunlight Entity or the Collateral Agent to NRG Member as a result of any proceedings in bankruptcy, and NRG Member agrees that it will indemnify each Secured Party on demand for all reasonable costs and expenses (including reasonable and documented fees and expenses of counsel) incurred by such Secured Party in connection with such rescission or restoration. This Section 2(f) shall survive the termination of this Agreement.

(g) This Agreement is a primary obligation of NRG Member and not merely a contract for surety.

SECTION 3. Representations, Warranties and Covenants. NRG Member represents and warrants to each Beneficiary that, as of the date of this Agreement:

(a) It is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization.

(b) It has the power and authority, and the legal right, to make, deliver and perform this Agreement and to consummate the transactions contemplated thereby. It has taken all necessary organizational (including partnership) action to authorize the execution, delivery and performance of this Agreement and to consummate the transactions contemplated thereby. This Agreement constitutes a legal, valid and binding obligation of NRG Member, enforceable against NRG Member in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and by general equitable principles (whether enforcement is sought by proceedings in equity or at law). The execution, delivery and performance of this Agreement will not violate any law applicable to NRG Member or any constitutive document or contractual obligation of NRG Member and will not result in, or require, the creation or imposition of any Lien on any of their respective properties or revenues pursuant to any law or any such contractual obligation, except, other than in the case of the constitutive documents, as could not reasonably be expected to have a material adverse effect on the ability of NRG Member to perform its obligations hereunder.

(c) No material action, consent or approval of, material registration or filing with, material notice to, or any other material action by, any Governmental Authority is or will be required in connection with the due execution, delivery and performance by NRG Member of this Agreement.

(d) It has not sold or transferred, and shall not sell or transfer, in each case directly or indirectly, any of its voting or economic interest in the Loan Parties to anyone but a Permitted Equity Transferee by means of a Permitted Transfer.

SECTION 4. GOVERNING LAW. This Agreement shall be construed and enforced in accordance with, and the rights of the parties shall be governed by, the laws of the State of New York excluding choice-of-law principles of such States that would permit the application of the laws of a jurisdiction other than such State.

SECTION 5. Consent to Jurisdiction; Waiver of Immunity.

(a) Each of the parties hereto irrevocably consents and agrees that any legal action, suit or proceeding against it with respect to its obligations, liabilities or any other matter under or arising out of or in connection with this Agreement or the transactions contemplated thereby may be brought in or removed to the courts of the United States of America for the Southern District of New York or the District of Columbia, or, to the extent that such courts are not available or decline to accept jurisdiction over such legal action or proceeding, the State of New York, in and for the County of New York in respect of any actions brought against it as a defendant in any action or proceeding arising out of this Agreement, and hereby expressly and irrevocably accepts and submits to the exclusive jurisdiction of each such court with respect to any such action, suit or proceeding. Each of the parties hereto hereby waives any objection which it may now or hereafter have to the laying of venue of any of the aforesaid actions, suits or proceedings, brought in any such court and hereby further waives and agrees not to plead or claim in any such court that any such action, suit or proceeding brought therein has been brought in an inconvenient forum.

(b) Each of the parties hereto hereby irrevocably agrees that any and all legal process may be served in any such action, suit or proceeding brought in any of the aforementioned courts by delivery of such process in the manner provided in Section 8, and such service shall be deemed to be effective service of process upon it in any such action, suit or proceeding. Each of the parties hereto agrees that the failure of such agent to give notice to it of any such service shall not impair or affect the validity of such service or any judgment rendered in any action, suit or proceeding based thereon. Nothing herein shall be deemed to limit the ability of any party hereto to serve any such legal process in any other manner permitted by applicable law or to obtain jurisdiction over any other party hereto or bring actions, suits or proceedings against any other party hereto in such other jurisdictions, and in such manner, as may be permitted by applicable law.

(c) NRG Member and each Sunlight Entity hereby irrevocably appoints [CT Corporation System (the "Process Agent"), with an office on the date hereof at 111 Eighth Avenue, 13th Floor, New York, New York 10019], as its agent to receive on behalf of itself and its property service of copies of the summons and complaint and any other process that may be served in any such action or proceeding in the State of New York in connection with this Agreement (the "Process Agent"). If for any reason the Process Agent shall cease to act as such for NRG Member or any Sunlight Entity, NRG Member or such Sunlight Entity, as the case may be, hereby agrees to designate a new agent in New York City on the terms and for the purposes of this Section 5 reasonably satisfactory to the Beneficiaries. Such service may be made by mailing or delivering a copy of such process to NRG Member or such Sunlight Entity, as the case may be, in care of the Process Agent at the Process Agent's above address, and NRG Member and each Sunlight Entity hereby irrevocably authorize and direct the Process Agent to accept such service on its behalf. As an alternative method of service, NRG Member and each Sunlight Entity also irrevocably consents to the service of any and all process in any such action or proceeding by the air mailing of copies of such process to NRG Member or such Sunlight Entity, as the case may be, at its then effective notice address pursuant to Section 8. Nothing in this Agreement shall affect any right that any party may otherwise have to bring any action or

proceeding relating to this Agreement or any other Financing Document in the courts of any jurisdiction.

SECTION 6. Waiver of Jury Trial. EACH PARTY TO THIS AGREEMENT HEREBY EXPRESSLY WAIVES ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION ARISING UNDER THIS AGREEMENT OR IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF THE PARTIES HERETO, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER FOUNDED IN CONTRACT OR TORT OR OTHERWISE; AND EACH PARTY HEREBY AGREES AND CONSENTS THAT ANY SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY, AND THAT ANY PARTY TO THIS AGREEMENT MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS SECTION WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF THE SIGNATORIES HERETO TO THE WAIVER OF THEIR RIGHT TO TRIAL BY JURY.

SECTION 7. Amendments, Etc. The terms of this Agreement may be waived, altered or amended only by an instrument in writing duly executed by NRG Member, each Sunlight Entity and Collateral Agent (acting at the direction of the Master Administrative Agent). Any such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

SECTION 8. Addresses for Notices. All notices and other communications provided for hereunder shall be (i) in writing and (ii) sent by facsimile, overnight courier (if for inland delivery) or international courier (if for overseas delivery) (with a copy, which shall not constitute notice for the purposes of this Agreement, by electronic mail) to a party hereto at its address and contact number specified in below, or at such other address and contact number as is designated by such party in a written notice to the other parties hereto:

(a) NRG Member:

NRG Yield Operating LLC
211 Carnegie Center
Princeton, New Jersey 08540
Attention: Office of the General Counsel
Facsimile: (609) 524-4589
Email: ogc@nrgyield.com

(b) Borrower:

Desert Sunlight 300, LLC
c/o NextEra Energy Resources, LLC
700 Universe Boulevard
Juno Beach, Florida 33408-0428
Attention: Business Manager
Telephone: (561) 304-5942
Facsimile: (561) 691-7309

E-mail: Tyler.Hardin@nexteraenergy.com

(c) Holdings:

Desert Sunlight Holdings, LLC
c/o NextEra Energy Resources, LLC
700 Universe Boulevard
Juno Beach, Florida 33408-0428
Attention: Business Manager
Telephone: (561) 304-5942
Facsimile: (561) 691-7309
E-mail: Tyler.Hardin@nexteraenergy.com

(d) Holdings Parent:

Desert Sunlight Investment Holdings, LLC
c/o NextEra Energy Resources, LLC
700 Universe Boulevard
Juno Beach, Florida 33408-0428
Attention: Business Manager
Telephone: (561) 304-5942
Facsimile: (561) 691-7309
E-mail: Tyler.Hardin@nexteraenergy.com

(e) Collateral Agent:

Deutsche Bank Trust Company Americas
60 Wall Street, 27th Floor, MS NYC60-2710
New York, NY 10005
Attention: Project Finance, Project Desert Sunlight
Facsimile: (732) 578-4636

All notices and communications shall be effective when received by the addressee thereof during business hours on a Business Day in such Person's location as indicated by such Person's address in paragraphs (a) to (e) above, or at such other address as is designated by such Person in a written notice to the other parties hereto.

SECTION 9. No Waiver; Remedies. No failure or delay on the part of any Sunlight Entity or any Beneficiary in exercising any right, power or privilege hereunder or under this Agreement and no course of dealing between any Sunlight Entity or any Beneficiary, or any of their Affiliates, on the one hand, and NRG Member on the other hand, shall impair any such right, power or privilege or operate as a waiver thereof; nor shall any single or partial exercise of any right, power or privilege hereunder or preclude any other or further exercise thereof or the exercise of any other right, power or privilege hereunder. The rights, powers and remedies herein expressly provided are cumulative and not exclusive of any rights, powers or remedies which any party thereto would otherwise have. No notice to or demand on NRG Member in any

case shall entitle NRG Member to any other or further notice or demand in similar or other circumstances or constitute a waiver of the rights of any Sunlight Entity or any Beneficiary to any other or further action in any circumstances without notice or demand.

SECTION 10. Severability. Any provision of this Agreement held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions hereof; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction.

SECTION 11. Counterparts. This Agreement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. Delivery of an executed counterpart of a signature page to this Agreement by email or facsimile shall be effective as delivery of a manually executed counterpart of this Agreement.

SECTION 12. Termination. Notwithstanding anything herein to the contrary, this Agreement shall immediately and automatically terminate, and be of no further force and effect, upon the earlier of (a) the occurrence of the Discharge Date and (b) expiration of the 1603 Grant Recapture Period (such earlier date, the "Termination Date"); provided that the foregoing shall not limit the obligations of NRG Member under this Agreement with respect to any claim asserted prior to the Termination Date.

SECTION 13. Entire Agreement. This Agreement, together with the other Financing Documents, constitute the entire contract between and among the parties relating to the subject matter hereof and supersedes any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. In the event of any conflict between the terms, conditions and provisions of this Agreement and any such agreement or understanding, the terms, conditions and provisions of this Agreement shall prevail.

SECTION 14. Benefit; Successors and Permitted Assigns.

(a) This Agreement is intended solely for the benefit of and is enforceable by the parties hereto and their respective successors or assigns and is not for the benefit of or enforceable by any other Person. This Agreement shall be binding upon NRG Member and its successors and permitted assigns and shall inure to the benefit of the successors and permitted assigns of the Beneficiaries.

(b) This Agreement and all obligations of NRG Member hereunder to the Beneficiaries shall not be assignable by NRG Member in whole or in part without the prior written consent of the Beneficiaries and each of the Lenders.

(c) NRG Member hereby consents to the assignment by each Sunlight Entity of all its right, title and interest in, to and under this Agreement to the Collateral Agent as collateral security for any and all obligations of the Sunlight Entities under the Financing Documents. Each Sunlight Entity hereby acknowledges the right of the Collateral Agent, upon the occurrence and during the continuance of an Event of Default under the Financing

Agreement, to exercise and enforce all rights of each Sunlight Entity to effect any payments from NRG Member due and payable in accordance with the terms of this Agreement.

SECTION 15. Additional Members. From time to time subsequent to the date hereof, in connection with a Permitted Transfer in accordance with the terms of the Financing Documents, additional Persons may become parties to a 1603 Grant Recapture Indemnity Agreement (each, an "Additional Member"). Upon execution and delivery of any such 1603 Grant Recapture Indemnity Agreement by all parties thereto, and delivery of an executed copy thereof to NRG Member and the Collateral Agent, notice of which is hereby waived by each Sunlight Entity, the transferring Member shall not have any obligations under this Agreement solely to the extent such obligations arise after the effective date of such Permitted Transfer, except to the extent that such transferring Member retains any direct or indirect Equity Interests in any Sunlight Entity.

[*Signature pages follow*]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered by their authorized representatives thereunto duly authorized as of the date first above written.

NRG YIELD OPERATING LLC

By:_____
Name:
Title:

DESERT SUNLIGHT 300, LLC

By:_____
Name:
Title:

DESERT SUNLIGHT HOLDINGS, LLC

By:_____
Name:
Title:

DESERT SUNLIGHT INVESTMENT HOLDINGS, LLC

By:_____
Name:
Title:

DEUTSCHE BANK TRUST COMPANY AMERICAS, as Collateral Agent

By:_____

Name:

Title:

By:_____

Name:

Title:

Exhibit D to the Purchase and Sale Agreement

AMENDED AND RESTATED GUARANTY AGREEMENT

This Amended and Restated Guaranty Agreement (this "Guaranty") is made as of June ___, 2015, by General Electric Capital Corporation, a Delaware corporation (the "Guarantor"), to and for the benefit of Deutsche Bank Trust Company Americas, as collateral agent for the Secured Parties referred to in the Master Agreement as defined below (in such capacity, together with its successors and assigns in such capacity, the "Collateral Agent" and a "Beneficiary"), Desert Sunlight 250, LLC, a Delaware limited liability company ("Borrower" and a "Beneficiary"), Desert Sunlight Holdings, LLC, a Delaware limited liability company ("Holdings" and a "Beneficiary"), and Desert Sunlight Investment Holdings, LLC, a Delaware limited liability company ("Holdings Parent" and a "Beneficiary" and, together with the Collateral Agent, Borrower, and Holdings, the "Beneficiaries"). Each capitalized term used but not defined herein shall have the meaning assigned to such term (whether directly or by reference to another agreement or document) in the Master Agreement defined below.

RECITALS

WHEREAS reference is made to the Master Agreement, dated as of September 29, 2011 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "Master Agreement"), among Borrower, Holdings, DOE, the Master Administrative Agent, the Collateral Agent, the A-1 Administrative Agent, the A-2 Administrative Agent, the A-3 Administrative Agent, the LC Facility Administrative Agent, the SPV Trustee, the other Agents party thereto and the LC Issuing Banks and Lenders party thereto;

WHEREAS, the Guarantor made that certain Guaranty Agreement, dated as of September 29, 2011 (the "Original Guaranty"), for the benefit of the Beneficiaries, guaranteeing the obligations of EFS Desert Sun LLC ("EFS") under the Equity Contribution Agreement and the Cash Grant Recapture Indemnity Agreement (as such terms are defined in the Original Guaranty);

WHEREAS NRG Yield Operating LLC, a Delaware limited liability company (the "NRG Member") is concurrently (a) acquiring twenty five percent (25%) of the Equity Interests in Holdings Parent as of the date hereof from EFS (the "Purchase") and (b) entering into that certain Cash Grant Recapture Indemnity Agreement, dated as of the date hereof (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "NRG Cash Grant Recapture Indemnity Agreement"), made and entered into by NRG Member in favor of Borrower, Holdings, Holdings Parent and the Collateral Agent;

WHEREAS the Guarantor and the Beneficiaries wish to amend and restate the Original Guaranty in its entirety; and

WHERAS the Guarantor will obtain benefits from the Purchase and the execution, delivery and performance of the NRG Cash Grant Recapture Indemnity Agreement, and it is a

condition to the occurrence of the Purchase under the Master Agreement that the Guarantor execute and deliver to the Beneficiaries this Guaranty.

NOW, THEREFORE, in consideration of the foregoing recitals and the agreements contained in the NRG Cash Grant Recapture Indemnity Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, do hereby agree as follows:

1. Representations and Warranties. The Guarantor represents and warrants that (a) it is duly incorporated and validly existing under the laws of its jurisdiction of incorporation and it has all requisite corporate power and authority to execute and deliver, and to perform its obligations under, this Guaranty and to consummate the transactions contemplated hereby; (b) the execution, delivery and performance of this Guaranty and the consummation of the transactions contemplated hereby have been duly and validly authorized by all necessary corporate action required on the Guarantor's part and do not contravene any provision of its Organizational Documents or any law, regulation or contractual restriction binding on it or its assets, and no other proceedings on its part are necessary to authorize this Guaranty or to consummate the transactions contemplated hereby; (c) this Guaranty has been duly executed and delivered by the Guarantor; and (d) this Guaranty constitutes the valid and legally binding obligation of the Guarantor, enforceable against the Guarantor in accordance with its terms, except as may be limited by bankruptcy, insolvency, reorganization or other laws affecting creditors' rights generally and by general equitable principles.

2. Guaranty. From and after the date hereof until the termination of this Guaranty in accordance with Section 10 hereof, the Guarantor hereby irrevocably and unconditionally guarantees to the Beneficiaries, and each Beneficiary's respective successors and permitted assigns, the full and prompt payment when due of: (a) all of the funding, contribution, indemnity and payment obligations of the NRG Member described in Section 2 of the NRG Cash Grant Recapture Indemnity Agreement (the "NRG Cash Grant Obligations") and (b) any payment or other obligation of Borrower arising out of all or any portion of a 1603 Grant received by or for the benefit of Borrower in respect of the Project being “recaptured” or disallowed by the Treasury because of (i) any direct or indirect transfer by EFS Desert Sun, LLC, a Delaware limited liability company ("GE Member") of its Equity Interests in Borrower to a Disqualified Person, but only to the extent that at the time of such transfer, GE Member was an indirect or beneficial owner of Borrower and (ii) any misstatements, misrepresentations or inaccuracies, in each case as to matters of fact, in respect of GE Member or any direct or indirect owner of GE Member made by Borrower in any 1603 Grant Application ("GE Cash Grant Obligations", and together with the NRG Cash Grant Obligations, the "Cash Grant Obligations"), in each case when the same shall become due and payable, whether at maturity, by acceleration or otherwise, in each case after any applicable grace periods or notice requirements, according to the terms of the NRG Cash Grant Recapture Indemnity Agreement; provided, however, that (A) the Guarantor shall not be liable to make any payment until twenty Business Days following receipt by the Guarantor of written notice from any Beneficiary that payment of an amount is due thereunder (a "Demand Notice") and (B) no Beneficiary may deliver any Demand Notice or otherwise make

any demand or claim against Guarantor under this Guaranty without first having demanded payment from the NRG Member in respect of the NRG Cash Grant Obligations.

Any Beneficiary may deliver a Demand Notice under this Guaranty. The Guarantor shall make payments under this Guaranty to an account as specified in Section 2(c) of the NRG Cash Grant Recapture Indemnity Agreement (or as otherwise provided in the NRG Cash Grant Recapture Indemnity Agreement).

With respect to any claim, action or proceeding against the Guarantor in connection with this Guaranty, Guarantor shall be entitled to assert only those defenses, claims, setoffs and other rights which the NRG Member would be able to assert if such claim, action or proceeding were to be asserted or instituted against the NRG Member based upon the NRG Cash Grant Recapture Indemnity Agreement (such defenses, claims, setoffs and other rights, the "NRG Member Rights").

3. Consent to Certain Actions. (a) The Guarantor hereby acknowledges and agrees that the following actions may be undertaken from time to time without notice to the Guarantor and such actions shall not release, impair, or otherwise affect this Guaranty:

(i) any other Transaction Document may be amended in accordance with its terms to amend or modify any terms therein; and

(ii) the Collateral Agent may grant any waiver or consent in respect of any Cash Grant Obligation.

(b) The Guarantor hereby acknowledges and agrees that the following actions may be undertaken from time to time with Guarantor's prior written consent, and upon such consent such actions shall not release, impair, or otherwise affect this Guaranty: (i) the NRG Cash Grant Recapture Indemnity Agreement may be amended in accordance with its terms to amend, modify, increase or decrease the Cash Grant Obligations or to change the time of payment of the Cash Grant Obligations, the terms thereof, or of any payment thereof, or to amend or modify any other terms of the NRG Cash Grant Recapture Indemnity Agreement and (ii) the Beneficiaries and the NRG Member may compromise or settle any unpaid Cash Grant Obligation or any other obligation or amount due or owing, or claimed to be due or owing, under the NRG Cash Grant Recapture Indemnity Agreement.

4. Waiver. The Guarantor hereby waives all suretyship defenses and the defenses under this Guaranty of promptness, diligence, presentment, demand for payment, protest, notice of dishonor, notice of default, notice of acceptance, notice of intent to accelerate, notice of acceleration, notice of the incurring of the Cash Grant Obligations created under or pursuant to the NRG Cash Grant Recapture Indemnity Agreement and all other notices, demands or conditions whatsoever, except as otherwise required or provided for herein but nothing contained herein shall be construed as a waiver by the Guarantor of the NRG Member Rights. Except to the extent provided in Section 10, this Guaranty is a continuing, absolute, irrevocable and unconditional guaranty by the Guarantor of the Cash Grant Obligations. The Guarantor's

obligations hereunder shall remain in full force and effect, shall not be affected, impaired, reduced or modified, and the Guarantor shall have no right to terminate this Guaranty or to be released, relieved or discharged, in whole or in part, from its payment of the Cash Grant Obligations by reason of the following, all of which the Guarantor hereby waives (except as otherwise provided for herein): (a) any bankruptcy, reorganization, dissolution or insolvency under any law of the NRG Member or any Borrower Party, or by any action of a trustee in any such proceeding; (b) any amendment, supplement or modification to, waiver, consent, adjustment, compromise, release, delay or failure to exercise any right, remedy, power or privilege under or in respect of the NRG Cash Grant Recapture Indemnity Agreement or the Cash Grant Obligations, in each case solely to the extent that Guarantor has provided prior written consent for such event; (c) any merger or consolidation of the NRG Member or any Borrower Party into or with any other Person or change in form of organization, name, membership or ownership of the NRG Member or any other Person; (d) any lack of genuineness, validity, regularity, legality, enforceability or value of the NRG Cash Grant Recapture Indemnity Agreement or the Cash Grant Obligations or any other Transaction Document or the lack of authority of the NRG Member or any other Person to enter into the NRG Cash Grant Recapture Indemnity Agreement; or (e) to the extent permitted by Legal Requirements, any other event, circumstance, act or omission whatsoever which might constitute a legal or equitable discharge of a surety or guarantor.

5. Subordination; Subrogation. The Guarantor shall be subrogated to all rights of the Beneficiaries in respect of any amounts paid by Guarantor pursuant to the provisions of this Guaranty; provided, however, that notwithstanding anything to the contrary contained in this Guaranty or in the NRG Cash Grant Recapture Indemnity Agreement, and notwithstanding any payment or payments made by the Guarantor hereunder or any right of set-off of the Guarantor against any Beneficiary, the Guarantor hereby subordinates to the Beneficiaries such right of subrogation or any collateral security, guarantee or right of offset held by any Beneficiary for the payment of the Cash Grant Obligations, until, in any such case, all of the Cash Grant Obligations are indefeasibly paid in full. After the date hereof, if any amount shall be paid to the Guarantor on account of such subrogation rights at any time when all of the Cash Grant Obligations shall not have been indefeasibly satisfied and discharged in full, such amount shall forthwith upon receipt by the Guarantor, be transferred to an account as specified in Section 2(c) of the NRG Cash Grant Recapture Indemnity Agreement (or as otherwise provided in the NRG Cash Grant Recapture Indemnity Agreement), to be applied against the Cash Grant Obligations; provided that in the event of any such transfer, the obligation of Borrower to the Guarantor with respect to subrogation that would otherwise have been satisfied shall remain outstanding.

6. Liability of Guarantor. The Guarantor agrees that this Guaranty is a guaranty of payment and not merely a guaranty of collection. Except as set forth in Section 2, the liability of the Guarantor under this Guaranty shall not be conditional or contingent upon the pursuit of any remedy against the NRG Member or any requirement that any Beneficiary exhaust any right, power or remedy or proceed against any other Person prior to any action against the Guarantor under the terms hereof.

7. Reinstatement of Guaranty. This Guaranty shall continue to be effective or be reinstated, as the case may be, if at any time any payment (or any portion thereof) of any of the Cash Grant Obligations is rescinded or must otherwise be returned or restored by any Beneficiary for any reason, including, without limitation, upon the insolvency, bankruptcy, liquidation, reorganization or dissolution of any Person, or upon or as a result of the appointment of a receiver, intervenor or conservator of, or trustee or similar officer for, any Person or any substantial part of such Person's property, all as though such payment had not been made.

8. No Exclusive Remedy. No delay or omission on the part of any Beneficiary, or its successors or permitted assigns, in the exercise of, or failure to exercise, any right or remedy shall operate as a waiver thereof, a waiver of any other rights or remedies or a release of the Guarantor from any obligations hereunder and no single or partial remedy shall preclude any further exercise thereof or the exercise of any other right or remedy. The rights and remedies provided herein are cumulative and not exclusive of any rights and remedies provided by law or otherwise to enforce this Guaranty or the Cash Grant Obligations.

9. Continuing Guaranty. Subject to Section 10 hereof, this Guaranty is a continuing guaranty and (a) shall be binding upon the Guarantor and its successors and permitted assigns and (b) shall inure to the benefit of and be enforceable by each Beneficiary and its successors and permitted assigns.

10. Termination. Notwithstanding any provision hereof to the contrary, subject to Section 7 hereof and subject to the proviso below, all obligations of the Guarantor under Section 2 of this Guaranty shall terminate automatically upon the earlier to occur of (a) the date when NRG Member no longer holds Equity Interests in Holdings Parent and (b) the date when all Cash Grant Obligations shall have been indefeasibly paid in full, in each case without further action on the part of the Guarantor or the Beneficiaries, and thereafter shall have no force and effect; provided, however, that if prior to such date any Beneficiary shall have made one or more demands of the Guarantor under this Guaranty in writing, this Guaranty shall survive solely with respect to those demands until final resolution of such demands and payment in full of all amounts required to be paid hereunder, if any, in respect thereof. Subject to Section 7 hereof, this Guaranty shall also terminate on the Discharge Date.

11. Amendment; Waiver. No amendment of any provision of this Guaranty shall be effective unless it is in writing and signed by the Guarantor and the Beneficiaries, and no waiver of any provision of this Guaranty, and no consent to any departure by the Guarantor therefrom, shall be effective unless it is in writing and signed by the Beneficiaries. No waiver shall operate as a waiver of, or estoppel with respect to, any prior or subsequent failure to comply with the provision waived or any other provision of this Guaranty.

12. Counterparts. This Guaranty may be executed in any number of counterparts, each of which when so executed shall be deemed to constitute one and the same Guaranty.

13. Captions. The captions in this Guaranty have been inserted only for convenience of reference and do not modify, explain, enlarge or restrict any of the provisions hereof.

14. Notices. All notices, requests, demands and other communications under this Guaranty, and copies of all notices to NRG Member under the NRG Cash Grant Recapture Indemnity Agreement (as and to the extent provided in such agreement), must be in writing and must be delivered in person or sent by certified mail, postage prepaid, by overnight delivery, and properly addressed as follows:

If to the Guarantor:

General Electric Capital Corporation
201 High Ridge Road
Stamford, CT 06927 9400
Facsimile: (203) 585 1196
Attention: Senior Vice President-Corporate
Treasury and Global Funding Operation

with copies to:

EFS Desert Sun, LLC
c/o GE Energy Financial Services, Inc.
800 Long Ridge Road
Stamford, CT 06927
Attention: Portfolio Manager – EFS Desert Sun, LLC
Facsimile: (203) 357-4890

NRG Yield Operating LLC
211 Carnegie Center
Princeton New Jersey 08540
Attn: Office of the General Counsel
Fax: 609.524.4589

If to the Collateral Agent:

Deutsche Bank Trust Company Americas
60 Wall Street, 27th Floor, MS NYC60-2710
New York, NY 10005
Attention: Project Finance, Project Desert Sunlight
Facsimile: (732) 578-4636

If to Borrower, Holdings or Holdings Parent:

Desert Sunlight 250, LLC
c/o NextEra Energy Resources, LLC
700 Universe Boulevard

Juno Beach, FL 33408-0428
Attention: Business Manager
Telephone: (561) 304-5942
Facsimile: (561) 691-7309

The Guarantor and any Beneficiary may from time to time change its address for the purpose of notices thereto by a similar notice specifying a new address, but no such change shall be effective until it is actually received by the Person sought to be charged with its contents. Notices which are addressed as provided in this Section 14 given in person or by overnight delivery or mail shall be effective upon receipt.

15. Attorney's Cost. The Guarantor agrees to pay all reasonable attorney's fees and disbursements and all other reasonable and actual costs and expenses which may be incurred by any Beneficiary in the enforcement of this Guaranty or the Cash Grant Obligations without duplication of any incurrence or payment of such costs and expenses.

16. No Set-Off. By acceptance of this Guaranty, each Beneficiary shall be deemed to have waived any right to set-off, combine, consolidate or otherwise appropriate and apply (a) any assets of the Guarantor at any time held by such Beneficiary or (b) any indebtedness or other liabilities at any time owing by such Beneficiary to the Guarantor or the NRG Member, as the case may be, against, or on account of, any obligations or liabilities owed by the Guarantor to such Beneficiary under this Guaranty, as applicable.

17. No Third Party Beneficiaries. Nothing in this Guaranty, whether express or implied, is intended to confer any rights or remedies on any Persons other than the Guarantor, the Beneficiaries, the Secured Parties and their respective permitted successors and assigns, nor is anything herein intended to relieve or discharge the obligation or liability of any third Persons to the Guarantor, the Beneficiaries or the Secured Parties, nor give any third Persons any right of subrogation or action against the Guarantor, the Beneficiaries or the Secured Parties.

18. Construction of Agreement. This Guaranty shall be construed without regard to the identity of the Person who drafted the various provisions hereof. Each and every provision of this Guaranty shall be construed as though the parties hereto participated equally in the drafting of the same. Consequently, the Guarantor and the Beneficiaries acknowledge and agree that any rule of construction that a document is to be construed against the drafting party shall not be applicable to this Guaranty.

19. Governing Law; Jurisdiction. This Guaranty shall be construed and enforced in accordance with, and the rights of the parties shall be governed by, the laws of the State of New York, excluding choice-of-law principles of the law of such States that would permit the applicable of the laws of a jurisdiction other than such State. The Guarantor and each Beneficiary hereby irrevocably consent and agree that any legal action, suit or proceeding brought in connection with this Guaranty may be brought in any Federal or State of New York court located in the Borough of Manhattan, the City of New York (including the Supreme Court of the State of New York sitting in New York County and the United States District Court of the

Southern District of New York), and any appellate court from any thereof in any action or proceeding arising out of this Guaranty, and hereby expressly and irrevocably accept and submit to the exclusive jurisdiction of each such court with respect to any such action, suit or proceeding. The Guarantor and each Beneficiary hereby waive any objection which they may now or hereafter have to the laying of venue of any of the aforesaid actions, suits or proceedings, brought in any such court and hereby further waive and agree not to plead or claim in any such court that any such action, suit or proceeding brought therein has been brought in an inconvenient forum.

20. Waiver of Jury Trial. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS GUARANTY OR THE TRANSACTIONS CONTEMPLATED HEREBY.

21. Excluded Parties List. Upon the Collateral Agent's request, for so long as the NRG Member is a Member and on or prior to the date of termination of this Guaranty in accordance with Section 10, the Guarantor shall deliver to DOE a certificate of an authorized officer of Guarantor stating that the Guarantor is not listed on the U.S. Government's Excluded Parties List System (EPLS), established pursuant to 9.404 of the Federal Acquisition Regulations.

22. Letter of Credit Replacement. This Guaranty may be replaced at any time with an irrevocable standby letter of credit denominated in Dollars and issued in favor of the Beneficiaries by an Acceptable Bank in a stated amount equal to the sum of the portion of any 1603 Grant Proceeds received by Borrower that remain subject to recapture. On the effective date of such letter of credit, this Guaranty shall, subject to Section 7 hereof, terminate and be of no further force and effect.

23. Amendment and Restatement. This Guaranty amends and restates in its entirety the Original Guaranty. All rights, benefits, duties, liabilities and obligations of the parties to the Original Guaranty are hereby amended, restated and superseded in their entirety according to the terms and provisions set forth herein.

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IN WITNESS WHEREOF, the undersigned, intending to be legally bound hereby, have executed this Guaranty as of the first date written above.

GUARANTOR:

GENERAL ELECTRIC CAPITAL CORPORATION,
as the Guarantor

By: _____

Name:

Title:

ACCEPTED AND AGREED:

DEUTSCHE BANK TRUST COMPANY AMERICAS,
in its capacity as the Collateral Agent

By:_____
Name
Title:

By:_____
Name
Title:

DESERT SUNLIGHT 250, LLC

By:_____
Name
Title:

DESERT SUNLIGHT HOLDINGS, LLC

By:_____
Name
Title:

DESERT SUNLIGHT INVESTMENT HOLDINGS, LLC

By:_____
Name
Title:

Exhibit E to the Purchase and Sale Agreement

AMENDED AND RESTATED GUARANTY AGREEMENT

This Amended and Restated Guaranty Agreement (this "Guaranty") is made as of June ___, 2015, by General Electric Capital Corporation, a Delaware corporation (the "Guarantor"), to and for the benefit of Deutsche Bank Trust Company Americas, as collateral agent for the Secured Parties referred to in the Master Agreement as defined below (in such capacity, together with its successors and assigns in such capacity, the "Collateral Agent" and a "Beneficiary"), Desert Sunlight 300, LLC, a Delaware limited liability company ("Borrower" and a "Beneficiary"), Desert Sunlight Holdings, LLC, a Delaware limited liability company ("Holdings" and a "Beneficiary"), and Desert Sunlight Investment Holdings, LLC, a Delaware limited liability company ("Holdings Parent" and a "Beneficiary" and, together with the Collateral Agent, Borrower, and Holdings, the "Beneficiaries"). Each capitalized term used but not defined herein shall have the meaning assigned to such term (whether directly or by reference to another agreement or document) in the Master Agreement defined below.

RECITALS

WHEREAS reference is made to the Master Agreement, dated as of September 29, 2011 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "Master Agreement"), among Borrower, Holdings, DOE, the Master Administrative Agent, the Collateral Agent, the A-1 Administrative Agent, the A-2 Administrative Agent, the A-3 Administrative Agent, the LC Facility Administrative Agent, the SPV Trustee, the other Agents party thereto and the LC Issuing Banks and Lenders party thereto;

WHEREAS, the Guarantor made that certain Guaranty Agreement, dated as of September 29, 2011 (the "Original Guaranty"), for the benefit of the Beneficiaries, guaranteeing the obligations of EFS Desert Sun LLC ("EFS") under the Equity Contribution Agreement and the Cash Grant Recapture Indemnity Agreement (as such terms are defined in the Original Guaranty);

WHEREAS NRG Yield Operating LLC, a Delaware limited liability company (the "NRG Member") is concurrently (a) acquiring twenty five percent (25%) of the Equity Interests in Holdings Parent as of the date hereof from EFS (the "Purchase") and (b) entering into that certain Cash Grant Recapture Indemnity Agreement, dated as of the date hereof (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "NRG Cash Grant Recapture Indemnity Agreement"), made and entered into by NRG Member in favor of Borrower, Holdings, Holdings Parent and the Collateral Agent;

WHEREAS the Guarantor and the Beneficiaries wish to amend and restate the Original Guaranty in its entirety; and

WHERAS the Guarantor will obtain benefits from the Purchase and the execution, delivery and performance of the NRG Cash Grant Recapture Indemnity Agreement, and it is a

condition to the occurrence of the Purchase under the Master Agreement that the Guarantor execute and deliver to the Beneficiaries this Guaranty.

NOW, THEREFORE, in consideration of the foregoing recitals and the agreements contained in the NRG Cash Grant Recapture Indemnity Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, do hereby agree as follows:

1. Representations and Warranties. The Guarantor represents and warrants that (a) it is duly incorporated and validly existing under the laws of its jurisdiction of incorporation and it has all requisite corporate power and authority to execute and deliver, and to perform its obligations under, this Guaranty and to consummate the transactions contemplated hereby; (b) the execution, delivery and performance of this Guaranty and the consummation of the transactions contemplated hereby have been duly and validly authorized by all necessary corporate action required on the Guarantor's part and do not contravene any provision of its Organizational Documents or any law, regulation or contractual restriction binding on it or its assets, and no other proceedings on its part are necessary to authorize this Guaranty or to consummate the transactions contemplated hereby; (c) this Guaranty has been duly executed and delivered by the Guarantor; and (d) this Guaranty constitutes the valid and legally binding obligation of the Guarantor, enforceable against the Guarantor in accordance with its terms, except as may be limited by bankruptcy, insolvency, reorganization or other laws affecting creditors' rights generally and by general equitable principles.

2. Guaranty. From and after the date hereof until the termination of this Guaranty in accordance with Section 10 hereof, the Guarantor hereby irrevocably and unconditionally guarantees to the Beneficiaries, and each Beneficiary's respective successors and permitted assigns, the full and prompt payment when due of: (a) all of the funding, contribution, indemnity and payment obligations of the NRG Member described in Section 2 of the NRG Cash Grant Recapture Indemnity Agreement (the "NRG Cash Grant Obligations") and (b) any payment or other obligation of Borrower arising out of all or any portion of a 1603 Grant received by or for the benefit of Borrower in respect of the Project being “recaptured” or disallowed by the Treasury because of (i) any direct or indirect transfer by EFS Desert Sun, LLC, a Delaware limited liability company ("GE Member") of its Equity Interests in Borrower to a Disqualified Person, but only to the extent that at the time of such transfer, GE Member was an indirect or beneficial owner of Borrower and (ii) any misstatements, misrepresentations or inaccuracies, in each case as to matters of fact, in respect of GE Member or any direct or indirect owner of GE Member made by Borrower in any 1603 Grant Application ("GE Cash Grant Obligations", and together with the NRG Cash Grant Obligations, the "Cash Grant Obligations"), in each case when the same shall become due and payable, whether at maturity, by acceleration or otherwise, in each case after any applicable grace periods or notice requirements, according to the terms of the NRG Cash Grant Recapture Indemnity Agreement; provided, however, that (A) the Guarantor shall not be liable to make any payment until twenty Business Days following receipt by the Guarantor of written notice from any Beneficiary that payment of an amount is due thereunder (a "Demand Notice") and (B) no Beneficiary may deliver any Demand Notice or otherwise make

any demand or claim against Guarantor under this Guaranty without first having demanded payment from the NRG Member in respect of the NRG Cash Grant Obligations.

Any Beneficiary may deliver a Demand Notice under this Guaranty. The Guarantor shall make payments under this Guaranty to an account as specified in Section 2(c) of the NRG Cash Grant Recapture Indemnity Agreement (or as otherwise provided in the NRG Cash Grant Recapture Indemnity Agreement).

With respect to any claim, action or proceeding against the Guarantor in connection with this Guaranty, Guarantor shall be entitled to assert only those defenses, claims, setoffs and other rights which the NRG Member would be able to assert if such claim, action or proceeding were to be asserted or instituted against the NRG Member based upon the NRG Cash Grant Recapture Indemnity Agreement (such defenses, claims, setoffs and other rights, the "NRG Member Rights").

3. Consent to Certain Actions. (a) The Guarantor hereby acknowledges and agrees that the following actions may be undertaken from time to time without notice to the Guarantor and such actions shall not release, impair, or otherwise affect this Guaranty:

(i) any other Transaction Document may be amended in accordance with its terms to amend or modify any terms therein; and

(ii) the Collateral Agent may grant any waiver or consent in respect of any Cash Grant Obligation.

(b) The Guarantor hereby acknowledges and agrees that the following actions may be undertaken from time to time with Guarantor's prior written consent, and upon such consent such actions shall not release, impair, or otherwise affect this Guaranty: (i) the NRG Cash Grant Recapture Indemnity Agreement may be amended in accordance with its terms to amend, modify, increase or decrease the Cash Grant Obligations or to change the time of payment of the Cash Grant Obligations, the terms thereof, or of any payment thereof, or to amend or modify any other terms of the NRG Cash Grant Recapture Indemnity Agreement and (ii) the Beneficiaries and the NRG Member may compromise or settle any unpaid Cash Grant Obligation or any other obligation or amount due or owing, or claimed to be due or owing, under the NRG Cash Grant Recapture Indemnity Agreement.

4. Waiver. The Guarantor hereby waives all suretyship defenses and the defenses under this Guaranty of promptness, diligence, presentment, demand for payment, protest, notice of dishonor, notice of default, notice of acceptance, notice of intent to accelerate, notice of acceleration, notice of the incurring of the Cash Grant Obligations created under or pursuant to the NRG Cash Grant Recapture Indemnity Agreement and all other notices, demands or conditions whatsoever, except as otherwise required or provided for herein but nothing contained herein shall be construed as a waiver by the Guarantor of the NRG Member Rights. Except to the extent provided in Section 10, this Guaranty is a continuing, absolute, irrevocable and unconditional guaranty by the Guarantor of the Cash Grant Obligations. The Guarantor's obligations hereunder shall remain in full force and effect, shall not be affected, impaired,

reduced or modified, and the Guarantor shall have no right to terminate this Guaranty or to be released, relieved or discharged, in whole or in part, from its payment of the Cash Grant Obligations by reason of the following, all of which the Guarantor hereby waives (except as otherwise provided for herein): (a) any bankruptcy, reorganization, dissolution or insolvency under any law of the NRG Member or any Borrower Party, or by any action of a trustee in any such proceeding; (b) any amendment, supplement or modification to, waiver, consent, adjustment, compromise, release, delay or failure to exercise any right, remedy, power or privilege under or in respect of the NRG Cash Grant Recapture Indemnity Agreement or the Cash Grant Obligations, in each case solely to the extent that Guarantor has provided prior written consent for such event; (c) any merger or consolidation of the NRG Member or any Borrower Party into or with any other Person or change in form of organization, name, membership or ownership of the NRG Member or any other Person; (d) any lack of genuineness, validity, regularity, legality, enforceability or value of the NRG Cash Grant Recapture Indemnity Agreement or the Cash Grant Obligations or any other Transaction Document or the lack of authority of the NRG Member or any other Person to enter into the NRG Cash Grant Recapture Indemnity Agreement; or (e) to the extent permitted by Legal Requirements, any other event, circumstance, act or omission whatsoever which might constitute a legal or equitable discharge of a surety or guarantor.

5. Subordination; Subrogation. The Guarantor shall be subrogated to all rights of the Beneficiaries in respect of any amounts paid by Guarantor pursuant to the provisions of this Guaranty; provided, however, that notwithstanding anything to the contrary contained in this Guaranty or in the NRG Cash Grant Recapture Indemnity Agreement, and notwithstanding any payment or payments made by the Guarantor hereunder or any right of set-off of the Guarantor against any Beneficiary, the Guarantor hereby subordinates to the Beneficiaries such right of subrogation or any collateral security, guarantee or right of offset held by any Beneficiary for the payment of the Cash Grant Obligations, until, in any such case, all of the Cash Grant Obligations are indefeasibly paid in full. After the date hereof, if any amount shall be paid to the Guarantor on account of such subrogation rights at any time when all of the Cash Grant Obligations shall not have been indefeasibly satisfied and discharged in full, such amount shall forthwith upon receipt by the Guarantor, be transferred to an account as specified in Section 2(c) of the NRG Cash Grant Recapture Indemnity Agreement (or as otherwise provided in the NRG Cash Grant Recapture Indemnity Agreement), to be applied against the Cash Grant Obligations; provided that in the event of any such transfer, the obligation of Borrower to the Guarantor with respect to subrogation that would otherwise have been satisfied shall remain outstanding.

6. Liability of Guarantor. The Guarantor agrees that this Guaranty is a guaranty of payment and not merely a guaranty of collection. Except as set forth in Section 2, the liability of the Guarantor under this Guaranty shall not be conditional or contingent upon the pursuit of any remedy against the NRG Member or any requirement that any Beneficiary exhaust any right, power or remedy or proceed against any other Person prior to any action against the Guarantor under the terms hereof.

7. Reinstatement of Guaranty. This Guaranty shall continue to be effective or be reinstated, as the case may be, if at any time any payment (or any portion thereof) of any of the

Cash Grant Obligations is rescinded or must otherwise be returned or restored by any Beneficiary for any reason, including, without limitation, upon the insolvency, bankruptcy, liquidation, reorganization or dissolution of any Person, or upon or as a result of the appointment of a receiver, intervenor or conservator of, or trustee or similar officer for, any Person or any substantial part of such Person's property, all as though such payment had not been made.

8. No Exclusive Remedy. No delay or omission on the part of any Beneficiary, or its successors or permitted assigns, in the exercise of, or failure to exercise, any right or remedy shall operate as a waiver thereof, a waiver of any other rights or remedies or a release of the Guarantor from any obligations hereunder and no single or partial remedy shall preclude any further exercise thereof or the exercise of any other right or remedy. The rights and remedies provided herein are cumulative and not exclusive of any rights and remedies provided by law or otherwise to enforce this Guaranty or the Cash Grant Obligations.

9. Continuing Guaranty. Subject to Section 10 hereof, this Guaranty is a continuing guaranty and (a) shall be binding upon the Guarantor and its successors and permitted assigns and (b) shall inure to the benefit of and be enforceable by each Beneficiary and its successors and permitted assigns.

10. Termination. Notwithstanding any provision hereof to the contrary, subject to Section 7 hereof and subject to the proviso below, all obligations of the Guarantor under Section 2 of this Guaranty shall terminate automatically upon the earlier to occur of (a) the date when NRG Member no longer holds Equity Interests in Holdings Parent and (b) the date when all Cash Grant Obligations shall have been indefeasibly paid in full, in each case without further action on the part of the Guarantor or the Beneficiaries, and thereafter shall have no force and effect; provided, however, that if prior to such date any Beneficiary shall have made one or more demands of the Guarantor under this Guaranty in writing, this Guaranty shall survive solely with respect to those demands until final resolution of such demands and payment in full of all amounts required to be paid hereunder, if any, in respect thereof. Subject to Section 7 hereof, this Guaranty shall also terminate on the Discharge Date.

11. Amendment; Waiver. No amendment of any provision of this Guaranty shall be effective unless it is in writing and signed by the Guarantor and the Beneficiaries, and no waiver of any provision of this Guaranty, and no consent to any departure by the Guarantor therefrom, shall be effective unless it is in writing and signed by the Beneficiaries. No waiver shall operate as a waiver of, or estoppel with respect to, any prior or subsequent failure to comply with the provision waived or any other provision of this Guaranty.

12. Counterparts. This Guaranty may be executed in any number of counterparts, each of which when so executed shall be deemed to constitute one and the same Guaranty.

13. Captions. The captions in this Guaranty have been inserted only for convenience of reference and do not modify, explain, enlarge or restrict any of the provisions hereof.

14. Notices. All notices, requests, demands and other communications under this Guaranty, and copies of all notices to NRG Member under the NRG Cash Grant Recapture

Indemnity Agreement (as and to the extent provided in such agreement), must be in writing and must be delivered in person or sent by certified mail, postage prepaid, by overnight delivery, and properly addressed as follows:

If to the Guarantor:

General Electric Capital Corporation
201 High Ridge Road
Stamford, CT 06927 9400
Facsimile: (203) 585 1196
Attention: Senior Vice President-Corporate
Treasury and Global Funding Operation

with copies to:

EFS Desert Sun, LLC
c/o GE Energy Financial Services, Inc.
800 Long Ridge Road
Stamford, CT 06927
Attention: Portfolio Manager – EFS Desert Sun, LLC
Facsimile: (203) 357-4890

NRG Yield Operating LLC
211 Carnegie Center
Princeton New Jersey 08540
Attn: Office of the General Counsel
Fax: 609.524.4589

If to the Collateral Agent:

Deutsche Bank Trust Company Americas
60 Wall Street, 27th Floor, MS NYC60-2710
New York, NY 10005
Attention: Project Finance, Project Desert Sunlight
Facsimile: (732) 578-4636

If to Borrower, Holdings or Holdings Parent:

Desert Sunlight 300, LLC
c/o NextEra Energy Resources, LLC
700 Universe Boulevard
Juno Beach, FL 33408-0428
Attention: Business Manager
Telephone: (561) 304-5942
Facsimile: (561) 691-7309

The Guarantor and any Beneficiary may from time to time change its address for the purpose of notices thereto by a similar notice specifying a new address, but no such change shall be effective until it is actually received by the Person sought to be charged with its contents. Notices which are addressed as provided in this Section 14 given in person or by overnight delivery or mail shall be effective upon receipt.

15. Attorney's Cost. The Guarantor agrees to pay all reasonable attorney's fees and disbursements and all other reasonable and actual costs and expenses which may be incurred by any Beneficiary in the enforcement of this Guaranty or the Cash Grant Obligations without duplication of any incurrence or payment of such costs and expenses.

16. No Set-Off. By acceptance of this Guaranty, each Beneficiary shall be deemed to have waived any right to set-off, combine, consolidate or otherwise appropriate and apply (a) any assets of the Guarantor at any time held by such Beneficiary or (b) any indebtedness or other liabilities at any time owing by such Beneficiary to the Guarantor or the NRG Member, as the case may be, against, or on account of, any obligations or liabilities owed by the Guarantor to such Beneficiary under this Guaranty, as applicable.

17. No Third Party Beneficiaries. Nothing in this Guaranty, whether express or implied, is intended to confer any rights or remedies on any Persons other than the Guarantor, the Beneficiaries, the Secured Parties and their respective permitted successors and assigns, nor is anything herein intended to relieve or discharge the obligation or liability of any third Persons to the Guarantor, the Beneficiaries or the Secured Parties, nor give any third Persons any right of subrogation or action against the Guarantor, the Beneficiaries or the Secured Parties.

18. Construction of Agreement. This Guaranty shall be construed without regard to the identity of the Person who drafted the various provisions hereof. Each and every provision of this Guaranty shall be construed as though the parties hereto participated equally in the drafting of the same. Consequently, the Guarantor and the Beneficiaries acknowledge and agree that any rule of construction that a document is to be construed against the drafting party shall not be applicable to this Guaranty.

19. Governing Law; Jurisdiction. This Guaranty shall be construed and enforced in accordance with, and the rights of the parties shall be governed by, the laws of the State of New York, excluding choice-of-law principles of the law of such States that would permit the applicable of the laws of a jurisdiction other than such State. The Guarantor and each Beneficiary hereby irrevocably consent and agree that any legal action, suit or proceeding brought in connection with this Guaranty may be brought in any Federal or State of New York court located in the Borough of Manhattan, the City of New York (including the Supreme Court of the State of New York sitting in New York County and the United States District Court of the Southern District of New York), and any appellate court from any thereof in any action or proceeding arising out of this Guaranty, and hereby expressly and irrevocably accept and submit to the exclusive jurisdiction of each such court with respect to any such action, suit or proceeding. The Guarantor and each Beneficiary hereby waive any objection which they may now or hereafter have to the laying of venue of any of the aforesaid actions, suits or proceedings,

brought in any such court and hereby further waive and agree not to plead or claim in any such court that any such action, suit or proceeding brought therein has been brought in an inconvenient forum.

20. Waiver of Jury Trial. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS GUARANTY OR THE TRANSACTIONS CONTEMPLATED HEREBY.

21. Excluded Parties List. Upon the Collateral Agent's request, for so long as the NRG Member is a Member and on or prior to the date of termination of this Guaranty in accordance with Section 10, the Guarantor shall deliver to DOE a certificate of an authorized officer of Guarantor stating that the Guarantor is not listed on the U.S. Government's Excluded Parties List System (EPLS), established pursuant to 9.404 of the Federal Acquisition Regulations.

22. Letter of Credit Replacement. This Guaranty may be replaced at any time with an irrevocable standby letter of credit denominated in Dollars and issued in favor of the Beneficiaries by an Acceptable Bank in a stated amount equal to the sum of the portion of any 1603 Grant Proceeds received by Borrower that remain subject to recapture. On the effective date of such letter of credit, this Guaranty shall, subject to Section 7 hereof, terminate and be of no further force and effect.

23. Amendment and Restatement. This Guaranty amends and restates in its entirety the Original Guaranty. All rights, benefits, duties, liabilities and obligations of the parties to the Original Guaranty are hereby amended, restated and superseded in their entirety according to the terms and provisions set forth herein.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the undersigned, intending to be legally bound hereby, have executed this Guaranty as of the first date written above.

GUARANTOR:
GENERAL ELECTRIC CAPITAL CORPORATION,
as the Guarantor

By:
Name:
Title:

ACCEPTED AND AGREED:

DEUTSCHE BANK TRUST COMPANY AMERICAS,
in its capacity as the Collateral Agent

By:_____
Name
Title:

By:_____
Name
Title:

DESERT SUNLIGHT 300, LLC

By:_____
Name
Title:

DESERT SUNLIGHT HOLDINGS, LLC

By:_____
Name
Title:

DESERT SUNLIGHT INVESTMENT HOLDINGS, LLC

By:_____
Name
Title:

Exhibit F to the Purchase and Sale Agreement

[*Intentionally Omitted*]

Exhibit G to the Purchase and Sale Agreement

Form of Cash Grant Letter Agreement

EFS Desert Sun, LLC
c/o GE Energy Financial Services, Inc.
800 Long Ridge Road
Stamford, CT 06927

Desert Sunlight Investment Holdings, LLC
c/o NextEra Energy Resources, LLC
700 Universe Boulevard
Juno Beach, Florida 33408-0428

NextEra Desert Sunlight Holdings, LLC
c/o NextEra Energy Resources, LLC
700 Universe Boulevard
Juno Beach, Florida 33408

Summit Solar Desert Sunlight, LLC
c/o Summit Solar Americas, Inc.
600 Third Avenue
New York, NY 10016

NRG Yield Operating LLC
211 Carnegie Center
Princeton New Jersey 08540
Attn: Office of the General Counsel

Dear Sirs and Madams,

THIS CASH GRANT LETTER AGREEMENT (this "**Agreement**"), dated as of June [•], 2015 (the "**Effective Date**"), is entered into by and among Desert Sunlight Investment Holdings, LLC, a Delaware limited liability company (the "**Company**"), EFS Desert Sun, LLC, a Delaware limited liability company ("**EFS Desert Sun**"), NextEra Desert Sunlight Holdings, LLC, a Delaware limited liability company (the "**NextEra Member**"), Summit Solar Desert Sunlight, LLC, a Delaware limited liability company (the "**Sumitomo Member**") and NRG Yield Operating LLC, a Delaware limited liability company (the "**Purchaser**", collectively with the Company, the NextEra Member, EFS Desert Sun and the Sumitomo Member, the "**Parties**").

RECITALS

A. The Company owns one hundred percent (100%) of the issued and outstanding membership interests of Desert Sunlight Holdings, LLC ("**DS Holdings**"), which owns one hundred percent (100%) of the issued and outstanding membership interests of Desert Sunlight 250, LLC ("**Sunlight 250**") and Desert Sunlight 300, LLC ("**Sunlight 300**", and together with Sunlight 250, DS Holdings and the Company, the "**Sunlight Companies**"), each of which

respectively owns, operates and maintains the 250 MW solar PV electric generating facility located in and near Desert Center, California (the "**Desert Sunlight 250 Project**") and the 300 MW solar PV electric generating facility located in and near Desert Center, California (the "**Desert Sunlight 300 Project**", collectively with the Desert Sunlight 250 Project, the "**Projects**").

B. The Sunlight Companies filed multiple applications for a cash grant in lieu of the investment tax credit under Section 48 of the Internal Revenue Code under the terms of Section 1603 of the American Recovery and Reinvestment Act of 2009 (the "**Cash Grant**") with the United States Treasury ("**Treasury**"). To date, Treasury has paid to the Sunlight Companies one or more Cash Grant payments in an aggregate amount of $360,468,007, which is less than the $572,628,661 aggregate amount requested on the Cash Grant applications (after applying sequestration at an assumed rate of 7.3%), resulting in a shortfall of $212,160,654 (the "**Cash Grant Shortfall**"). The Company intends to exercise remedies available to the Sunlight Companies to recover the Cash Grant Shortfall, including pursuing ongoing negotiations with Treasury and, if necessary, commencing and pursuing a cause of action in any appropriate judicial or administrative venue (the "**Cash Grant Proceeding**").

C. Pursuant to the Assignment and Assumption Agreement dated as of the Effective Date entered into by and between EFS Desert Sun and the Purchaser (the "**Assignment Agreement**"), EFS Desert Sun sold one hundred percent (100%) of its Class B membership interests in the Company to the Purchaser (the "**Sale**") and delegated to the Purchaser all its duties, obligations, responsibilities, claims, demands and other commitments in connection with such membership interests in each case solely to the extent arising on or after the Effective Date, except for (a) the Retained Obligations (as such term is defined in the Assignment Agreement) and (b) all of EFS Desert Sun's rights to any future distributions of Cash Grant proceeds ("**Specified Cash Grant Proceeds**") and all of its rights and obligations in respect of notices, participations, consents and disputes with respect to any Cash Grant Proceeding, as described further in this Agreement (the interests transferred to the Purchaser, the "**Assigned Interests**") and the interests retained by EFS Desert Sun with respect to the Specified Cash Grant Proceeds and any Cash Grant Proceeding, as described further in this Agreement, collectively, the "**Excluded Cash Grant Interests**").

D. Pursuant to the Second Amended and Restated Limited Liability Company Agreement for Desert Sunlight Investment Holdings, LLC, dated as of the Effective Date, entered into by and among the NextEra Member, the Sumitomo Member and the Purchaser (the "**Second Amended and Restated LLCA**"), the Purchaser was admitted as a Member, after which, the NextEra Member owns one hundred percent (100%) of the outstanding Class A membership interests in the Company, the Sumitomo Member owns fifty percent (50%) of the outstanding Class B membership interests in the Company and the Purchaser owns fifty percent (50%) of the outstanding Class B Interests in the Company, other than the Excluded Cash Grant Interests and the Retained Obligations. Capitalized terms used herein but not otherwise defined shall have the meanings ascribed to such terms in the Second Amended and Restated LLCA.

NOW, THEREFORE, in consideration of the mutual covenants and agreements in this Agreement and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

ARTICLE I
SALE AND CAPITAL ACCOUNT BALANCES

1.1 The Parties hereby acknowledge and agree that following the Sale, EFS Desert Sun has retained the Excluded Cash Grant Interests and Retained Obligations and the Purchaser has acquired the Assigned Interests which exclude the Excluded Cash Grant Interests and Retained Obligations. The Parties further acknowledge and agree that the Excluded Cash Grant Interests retained by EFS Desert Sun provide EFS Desert Sun with all of the rights under the Second Amended and Restated LLCA with respect to the Cash Grant to the full extent that EFS Desert Sun had such rights prior to the Sale. Additionally, the Parties acknowledge and agree that EFS Desert Sun rather than the Purchaser is solely responsible for the performance of any obligations under the Second Amended and Restated LLCA with respect to the Excluded Cash Grant Interests and the Retained Obligations.

1.2 The Parties agree that, consistent with Section 3.3 of the Second Amended and Restated LLCA, immediately following the Sale, the Purchaser's initial Capital Account shall equal the balance of EFS Desert Sun's Capital Account immediately prior to the Sale and EFS Desert Sun's Capital Account shall be zero.

ARTICLE II

ALLOCATIONS AND DISTRIBUTIONS WITH RESPECT TO THE CASH GRANT

2.1 Following the Sale, the Parties agree that notwithstanding Section 6.1 of the Second Amended and Restated LLCA (a) all Net Profit (including any tax-exempt income and taxable interest income) arising from the Company's receipt of the Specified Cash Grant Proceeds and indemnity payments received by the Company pursuant to Article V or Article VI shall be allocated to EFS Desert Sun rather than to the Purchaser and (b) twenty five percent (25%) of all Net Loss arising with respect to the Cash Grant Proceeding Expenses (as defined in Article VI) shall be allocated to EFS Desert Sun rather than to the Purchaser.

2.2 Following the Sale, the Parties agree that notwithstanding Section 6.7 of the Second Amended and Restated LLCA, upon receipt by the Sunlight Companies of any Cash Grant proceeds (including any interest with respect thereto) with respect to the Projects, all distributions of Distributable Cash that otherwise would have been distributable to the Purchaser shall not be distributed to the Purchaser (and the Purchaser agrees it shall have no interest therein) and shall instead be distributed to EFS Desert Sun until EFS Desert Sun has received aggregate distributions under this Section 2.2 equal to twenty five percent (25%) of the Cash Grant proceeds (including any interest with respect thereto) received by the Sunlight Companies after the Sale.

2.3 In the event that the Purchaser receives any distributions that should have been paid to EFS Desert Sun pursuant to Section 2.2, the Purchaser shall hold such amounts in trust for EFS Desert Sun and shall promptly pay such amounts to EFS Desert Sun.

ARTICLE III

TAX TREATMENT

3.1 Following the Sale, the Parties agree to treat EFS Desert Sun as a partner for federal and state income tax purposes until the later of (i) final resolution of the Cash Grant Proceeding and (ii) after all the distributions and allocations contemplated by this Agreement have been satisfied in full.

3.2 The Parties agree to the extent permitted by applicable law to file the Company's Tax Returns pursuant to Section 10.4 of the Second Amended and Restated LLCA in a manner consistent with the tax treatment described in this Agreement, and the Tax Matters Member shall cause the Company to issue a Schedule K-1 to EFS Desert Sun, for each taxable year that EFS Desert Sun is treated as a partner, reflecting the allocations and distributions to EFS Desert Sun as described in this Agreement. The Parties agree that they will not take any position on their tax returns that is inconsistent with the tax treatment described in this Agreement unless required by applicable law.

3.3 EFS Desert Sun shall have all notice, participation and consultation rights as specified in Section 10.7 of the Second Amended and Restated LLCA solely with respect to any tax matters that may affect the allocations of Net Profit and Net Loss to EFS Desert Sun contemplated by the Parties under this Agreement.

ARTICLE IV

CASH GRANT CONTEST RIGHTS

The rights and obligations retained by EFS Desert Sun with respect to the Excluded Cash Grant Interests shall include, without limitation, the rights and obligations in respect of notices, participation, consents and disputes specified in Section 4.8, Section 10.9 and Article 13 of the Second Amended and Restated LLCA and the consent rights specified in Section 5.6.2.1(d), Section 5.6.2.2(o) and Section 5.6.2.2(q) of the Second Amended and Restated LLCA, in each case, only insofar as such rights relate to claims, actions or proceedings in respect of the Specified Cash Grant Proceeds. EFS Desert Sun's rights with respect to the Excluded Cash Grant Interests are exclusive to it and the Purchaser will not take any action that would interfere with or otherwise impair the exercise of those rights by EFS Desert Sun.

ARTICLE V

CASH GRANT INDEMNITY CLAIMS

To the extent all or any portion of the Cash Grant Shortfall (and any interest with respect thereto) is not received as a result of any action or misrepresentation by any Member, EFS Desert Sun or any other Person, the Parties agree that the Company shall pursue all available claims and remedies against such Member, EFS Desert Sun or any other Person, as applicable, under any indemnification agreements with respect to the Cash Grant to which such Person or its guarantors may be party and upon receipt of any proceeds from such indemnity claims, such

proceeds shall be distributed to EFS Desert Sun and the Members in the same manner that Cash Grant proceeds would have been distributed to EFS Desert Sun and the Members under Section 6.7 of the Second Amended and Restated LLCA, as modified by Section 2.2. Net Profit, if any, from the receipt of such indemnity proceeds shall be allocated to EFS Desert Sun and the Members in accordance with Section 6.1 of the Second Amended and Restated LLCA, as modified by Section 2.1.

ARTICLE VI

CASH GRANT PROCEEDING EXPENSES

6.1 At least [ten (10)] Business Days prior to each quarterly distribution under Section 6.7 of the Second Amended and Restated LLCA, the Managing Member shall provide EFS Desert Sun with a report summarizing the total out of pocket expenses incurred subsequent to the date hereof by the Sunlight Companies with respect to the pursuit of claims and remedies with respect to the Cash Grant Proceedings and pursuant to Article V and the defense of any claim against a Sunlight Company that could result in 1603 Grant Recapture Liability (collectively, the "**Cash Grant Proceeding Expenses**"). Upon the request of any Member or EFS Desert Sun, the Managing Member shall provide such Member or EFS Desert Sun with reasonable documentation supporting such expenditures.

6.2 At least [two (2)] Business Days prior to any quarterly distribution under Section 6.7 of the Second Amended and Restated LLCA, EFS Desert Sun shall make a capital contribution to the Company in an amount equal to (a) twenty five percent (25%) of the aggregate Cash Grant Proceeding Expenses incurred to date minus (b) the aggregate amount of capital contributions by EFS Desert Sun pursuant to this Section 6.2; provided, however, that if the capital contribution amount due for any quarterly period is less than $[50,000], such capital contribution will be deferred until the capital contribution amount is at least equal to $[50,000]; provided further, that a final capital contribution shall be made for any amounts owing below $[50,000] upon the conclusion of any Cash Grant Proceeding**.** Notwithstanding Section 6.7 of the Second Amended and Restated LLCA, the capital contributions received by the Company from EFS Desert Sun pursuant to this Section 6.2 will be specially distributed to the Purchaser.

6.3 The Managing Member shall pursue any indemnification right of the Sunlight Companies against any Person with respect to any Cash Grant Proceeding Expenses and, upon receipt of any proceeds from such indemnity claims, such proceeds shall be distributed to EFS Desert Sun and the Members in the same manner that Cash Grant proceeds would have been distributed to EFS Desert Sun and the Members under Section 6.7 of the Second Amended and Restated LLCA, as modified by Section 2.2. Net Profit, if any, from the receipt of such indemnity proceeds shall be allocated to EFS Desert Sun and the Members in accordance with Section 6.1 of the Second Amended and Restated LLCA, as modified by Section 2.1.

6.4 Notwithstanding the foregoing provisions of this Article VI, nothing in this Agreement shall limit the liabilities of EFS Desert Sun or GECC for EFS Desert Sun under any of the Financing Documents, the Project Agreements or other Contracts,

including the First Solar MIPSA, the Investment Agreement, the First Amended Agreement, the Equity Contribution Agreements, the Special Termination Payment Indemnity and Payment Agreements, and the Cash Grant Recapture Indemnity Agreements.

ARTICLE VII

MISCELLANEOUS

7.1 Any notice, demand, consent, authorization, election, offer, approval, request, or other communication (each such action, a "**Notice**") required or permitted under this Agreement must be in writing and shall be deemed to have been duly given and received (a) on the date of service, if a Business Day, when served personally or sent by facsimile transmission to the party to whom Notice is to be given, otherwise on the next Business Day, or (b) on the fourth (4^{th}) day after mailing, if mailed by first class registered or certified mail if mailed nationally, or by registered airmail if mailed internationally, postage prepaid, and addressed to the party to whom Notice is to be given at the address set forth below or at the most recent address specified by Notice given to the other party hereto, or (c) on the next Business Day if sent by a nationally or internationally recognized courier for next day service and so addressed and if there is evidence of acceptance by receipt:

To NextEra Member:	NextEra Desert Sunlight Holdings, LLC c/o NextEra Energy Resources, LLC 700 Universe Boulevard Juno Beach, Florida 33408 Attention: Vice President of Development- Matthew Handel Facsimile: (561) 691-7307
with a copy to:	NextEra Energy Resources, LLC 700 Universe Boulevard Juno Beach, Florida 33408 Attention: Vice President and General Counsel Facsimile: (561) 691-2988
To Sumitomo Member:	Summit Solar Desert Sunlight, LLC c/o Summit Solar Americas, Inc. 600 Third Avenue New York, NY 10016 Attention: Teruyuki Miyazaki Facsimile: 212-207-0820

with a copy to:	Lewis Farberman, Esq. Sumitomo Corp of America 600 Third Avenue New York, NY 10016 Facsimile: 212-207-0823
To Purchaser:	NRG Yield Operating LLC 211 Carnegie Center Princeton New Jersey 08540 Attn: Office of the General Counsel Fax: 609.524.4589 Email: ogc@nrgyield.com
If to EFS Desert Sun:	EFS Desert Sun, LLC c/o GE Energy Financial Services, Inc. 800 Long Ridge Road Stamford, CT 06927 Attention: Portfolio Manager – EFS Desert Sun, LLC Facsimile: (203) 357-4890
with a copy to:	Chadbourne & Parke LLP 1301 Avenue of the Americas New York, NY 10019 Attention: Paul L. Weber Telephone: (212) 408-5344 Facsimile: (646) 710-5344 Email: pweber@chadbourne.com
If to the Company:	Desert Sunlight Investment Holdings, LLC c/o NextEra Energy Resources, LLC 700 Universe Boulevard Juno Beach, Florida 33408-0428

The Parties recognize that irreparable injury will result from a material breach of any provision of this Agreement and that money damages may be inadequate to fully remedy the injury. Accordingly, in the event of a material breach or threatened material breach of one or more of the provisions of this Agreement, any Party who may be injured (in addition to any other remedies that may be available to that Party) shall be entitled to seek one or more preliminary or permanent orders (a) restraining and enjoining any act that would constitute a material breach or (b) compelling the performance of any obligation that, if not performed, would constitute a material breach.

7.2 This Agreement constitutes the entire agreement and supersedes all prior agreements and understandings, both written and oral, of the parties with respect to the subject matter hereof. No oral representations or modifications concerning this instrument nor any course of dealing between or among any persons having any interest in this Agreement shall be

of any force or effect unless contained in a subsequent written modification signed by the party to be charged. This Agreement may be amended, modified or waived only by a written instrument executed by the Parties. The Members hereby agree not to amend, modify or supplement the Second Amended and Restated LLCA in a manner that would adversely affect EFS Desert Sun's rights under this Agreement.

7.3 This Agreement shall be governed by and construed in accordance with the laws of the State of New York. The Parties hereto agree that any action by or against any party with respect to or arising out of this Agreement shall be brought exclusively in the State or Federal Courts located in the borough of Manhattan, State of New York, as the party instituting such action may elect, except that actions to enforce an interim or final arbitration award may be filed in any court having jurisdiction. By execution and delivery of this Agreement, each Party irrevocably and unconditionally consents and submits to the exclusive jurisdiction of such courts and the appellate courts therefrom, and waives any right it may have to assert the doctrine of forum non conveniens or similar doctrine or to object to venue with respect to any proceeding. The Parties hereto irrevocably consent to the service of process in any such action or proceeding by the mailing of copies thereof by registered or certified mail, first class postage prepaid to the addresses set forth in Section 7.1, or in any other manner permitted by law. In all cases, to the extent permitted by applicable law, each of the Parties hereto irrevocably waives its right to a jury trial with respect to any and all actions, claims and disputes in connection with this Agreement or the transactions contemplated hereby or thereby.

7.4 This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original and all of which, when taken together, constitute one and the same document. Any counterparts delivered by facsimile machine or electronic transmission in portable document format (pdf) shall have the same binding legal effect as if it were the original signed version thereof delivered in person.

7.5 This Agreement is binding upon and inures to the benefit of, the Parties hereto and their respective heirs, executors, administrators, personal and legal representatives, successors, and assigns (including, without limitation, as Members under the Second Amended and Restated LLCA). In the event that any Member shall assign or otherwise Transfer (used in this Agreement as such term is defined in the Second Amended and Restated LLCA) all or any part of its Membership Interests it shall simultaneously therewith cause the assignee or transferee thereof to become a Party to this Agreement (and each of the other Parties agree to enter into such agreement or instrument of joinder as shall be necessary to cause such person to be a party hereto). Purchaser shall not Transfer any of its Membership Interests without the prior written consent of EFS Desert Sun and GECC if any Amended and Restated Seller Cash Grant Guaranty (as such term is defined in the Purchase and Sale Agreement, dated as of June 17, 2015, between Purchaser and EFS Desert Sun) is to remain in effect and will not be terminated and released in connection with such Transfer. Any attempted Transfer in violation of this Section 7.5 shall be null and void and of no effect whatsoever.

(*Signature pages follow*)

Please confirm your agreement with the foregoing by signing and returning one copy of this Agreement to each of the undersigned, whereupon it shall become a binding agreement and the Parties agree that this Agreement shall be treated as incorporated in Section 2.2 of the Second Amended and Restated LLCA as a source of the relationship among the Company's Members and EFS Desert Sun.

Sincerely,

EFS DESERT SUN

EFS DESERT SUN, LLC,
a Delaware limited liability company
By: EFS Desert Sun Holdings, LLC,
its managing member
By: EFS Renewables Holdings, LLC,
its managing member

By:
Name:
Title:

ACCEPTED and AGREED:

COMPANY

DESERT SUNLIGHT INVESTMENT HOLDINGS, LLC,
a Delaware limited liability company

By:
Name:
Title:

[Cash Grant Letter Agreement]

ACCEPTED and AGREED:

NEXTERA MEMBER

NEXTERA DESERT SUNLIGHT HOLDINGS, LLC,
a Delaware limited liability company

By:
Name:
Title:

[Cash Grant Letter Agreement]

ACCEPTED and AGREED:

SUMITOMO MEMBER

SUMMIT SOLAR DESERT SUNLIGHT HOLDINGS, LLC,
a Delaware limited liability company

By:
Name:
Title:

ACCEPTED and AGREED:

PURCHASER

NRG YIELD OPERATING LLC,
a Delaware limited liability company

By:
Name:
Title:

Exhibit H to the Purchase and Sale Agreement

Form of Company LLCA Amendment

SECOND AMENDED AND RESTATED

LIMITED LIABILITY COMPANY AGREEMENT

FOR

DESERT SUNLIGHT INVESTMENT HOLDINGS, LLC,

A DELAWARE LIMITED LIABILITY COMPANY

Dated as of June ___, 2015

THE MEMBERSHIP INTERESTS OF THE COMPANY UNDER THIS AGREEMENT HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR UNDER ANY APPLICABLE STATE SECURITIES LAWS. THESE MEMBERSHIP INTERESTS MAY NOT BE SOLD, ASSIGNED, PLEDGED OR OTHERWISE DISPOSED OF AT ANY TIME WITHOUT EFFECTIVE REGISTRATION UNDER SUCH ACT AND LAWS OR EXEMPTION THEREFROM, AND COMPLIANCE WITH THE OTHER SUBSTANTIAL RESTRICTIONS ON TRANSFERABILITY SET FORTH IN ARTICLE 7 OF THIS AGREEMENT.

TABLE OF CONTENTS

List of Exhibits

List of Schedules

Portions of this Exhibit, indicated by the mark "[***]," were omitted and have been filed separately with the Secretary of the Commission pursuant to the Registrant's application requesting confidential treatment pursuant to Rule 24b-2 of the Securities Exchange Act of 1934.

SECOND AMENDED AND RESTATED

LIMITED LIABILITY COMPANY AGREEMENT

FOR

DESERT SUNLIGHT INVESTMENT HOLDINGS, LLC

A DELAWARE LIMITED LIABILITY COMPANY

This SECOND AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT (this "**Agreement**") is dated as of June ___, 2015 (the "**Second Amendment Date**") and made and entered into by and among NextEra Desert Sunlight Holdings, LLC, a Delaware limited liability company (the "**NextEra Member**"), as the current Class A Member and the current Managing Member; NRG Yield Operating LLC, a Delaware limited liability company (the "**NRG Member**"), as a Class B Member; and Summit Solar Desert Sunlight, LLC, a Delaware limited liability company (the "**Sumitomo Member**"), as a Class B Member. This Agreement amends and restates the Amended and Restated Limited Liability Company Agreement (the "**First Amended Agreement**"), dated as of September 27, 2012 (the "**First Amendment Date**"), by and among the NextEra Member, EFS Desert Sun, LLC ("**EFS Desert Sun**") and the Sumitomo Member.

RECITALS

1. On September 8, 2011 (the "**Formation Date**"), the Certificate of Formation for Desert Sunlight Investment Holdings, LLC (the "**Company**"), a limited liability company organized under the Delaware Limited Liability Company Act, 6 Del. C. § 18-101, et seq., was filed with the Delaware Secretary of State by Cherie A. Hanley as an authorized person under the Act (the "**Authorized Person**"). The NextEra Member and EFS Desert Sun entered into the Limited Liability Company Agreement (the "**Original Agreement**"), dated as of September 29, 2011 (the "**Original Effective Date**").

2. First Solar Development, Inc., a Delaware corporation ("**FS Development**"), the NextEra Member and EFS Desert Sun entered into that certain Membership Interest Purchase and Sale Agreement, dated as of September 29, 2011 (the "**Original MIPSA**"), pursuant to which the NextEra Member and EFS Desert Sun purchased from FS Development fifty percent (50%) of the Membership Interests in Desert Sunlight Holdings, LLC ("**DS Holdings**"). The Original MIPSA was updated by the Desert Sunlight MIPSA Purchase Price Adjustment Letter, dated as of April 27, 2012 (the "**Adjustment Letter**"), from FS Development and accepted and agreed by EFS Desert Sun and the NextEra Member. EFS Desert Sun and the Sumitomo Member entered into that certain Transfer Agreement, dated as of the First Amendment Date (the "**Transfer Agreement**"), whereby EFS Desert Sun assigned to the Sumitomo Member one-half of certain of its rights and obligations under the MIPSA. Concurrently herewith, EFS Desert Sun and the NRG Member are entering into that certain Assignment and Assumption Agreement dated as of the Second Amendment Date (the "**Assignment Agreement**") pursuant to which EFS Desert Sun will assign to the NRG Member all of its remaining rights and obligations under the Original MIPSA but solely to the extent arising on or after the Effective Date (the Original MIPSA, as so modified by the Adjustment Letter, the Transfer Agreement, and the Assignment

Agreement, the "**MIPSA**"), and EFS Desert Sun will retain the Retained Rights and Obligations (as defined in the Assignment Agreement).

3. The Guarantor of the NextEra Member, the NextEra Member, General Electric Capital Corporation, a Delaware corporation ("**GECC**") and EFS Desert Sun entered into that certain Investment Agreement, dated as of September 29, 2011 (the "**Original Investment Agreement**"), as amended by that certain First Amendment to Investment Agreement, dated as of April 25, 2012, as further amended by that certain Second Amendment to Investment Agreement and Joinder, dated as of the First Amendment Date, whereby the Guarantor of the Sumitomo Member and the Sumitomo Member became a party to the Investment Agreement (the "**Amended Investment Agreement**"), and as further amended by that certain Third Amendment and Joinder to the Investment Agreement, dated as of the Second Amendment Date, whereby the NRG Member became a party to the Investment Agreement (the Amended Investment Agreement, as so amended, the "**Investment Agreement**").

4. Pursuant to the Original Investment Agreement, immediately following the Closing (a) the NextEra Member entered into the NextEra Member Contribution Agreement pursuant to which the NextEra Member contributed its fifty percent (50%) share of the membership interests in DS Holdings to the Company in exchange for a fifty percent (50%) share of the Membership Interests in the Company and became the Class A Member of Company holding 7,222,803 Class A Units and (b) EFS Desert Sun entered into the EFS Desert Sun Contribution Agreement pursuant to which EFS Desert Sun contributed its fifty percent (50%) share of the membership interests in DS Holdings to the Company in exchange for a fifty percent (50%) share of the Membership Interests in the Company and became the Class B Member of the Company holding 7,222,803 Class B Units. Prior to the First Amendment Date, (i) the amount of such Class A Units held by the NextEra Member was adjusted to 8,251,051.97 Class A Units and the amount of such Class B Units held by EFS Desert Sun was adjusted to 8,251,051.97 Class B Units, in each case pursuant to Sections 2.2(h) and 5.8 of the MIPSA, and (ii) the NextEra Member made Required Additional Capital Contributions in the aggregate amount of $94,012,414.47 that resulted in the acquisition by the NextEra Member of an additional 94,012,414.47 Class A Units and EFS Desert Sun made Required Additional Capital Contributions in the aggregate amount of $94,012,414.47 that resulted in the acquisition by EFS Desert Sun of an additional 94,012,414.47 Class B Units. Accordingly, as of immediately prior to the First Amendment Date, the NextEra Member held 102,263,466.44 Class A Units and EFS Desert Sun held 102,263,466.44 Class B Units.

5. Pursuant to the Transfer Agreement, EFS Desert Sun sold and transferred 51,131,733.22 Class B Units, equaling 50% of the Class B Units outstanding as of the First Amendment Date and 25% of the total Membership Interests in the Company outstanding as of the First Amendment Date, to the Sumitomo Member. As of the First Amendment Date, the NextEra Member held 102,263,466.44 Class A Units, EFS Desert Sun held 51,131,733.22 Class B Units and the Sumitomo Member held 51,131,733.22 Class B Units, and the NextEra Member, EFS Desert Sun and the Sumitomo Member were the sole Members of the Company.

6. Prior to the execution of the Original Agreement, (a) the NextEra Member entered into the NextEra Equity Contribution Agreements, pursuant to which the NextEra Member made Pre-Approved Additional Capital Contributions to the Company on and after the First

Amendment Date that resulted in the acquisition by the NextEra Member of certain additional Class A Units in the aggregate as of immediately prior to the Second Amendment Date, and (b) EFS Desert Sun entered into the EFS Desert Sun Equity Contribution Agreements, pursuant to which EFS Desert Sun made Pre-Approved Additional Capital Contributions to the Company on and after the First Amendment Date that resulted in the acquisition by EFS Desert Sun of certain additional Class B Units in the aggregate as of immediately prior to the Second Amendment Date.

7. On the First Amendment Date, the Sumitomo Member entered into the Sumitomo Equity Contribution Agreements, pursuant to which the Sumitomo Member made Pre-Approved Additional Capital Contributions to the Company that resulted in the acquisition by the Sumitomo Member of certain additional Class B Units in the aggregate as of immediately prior to the Second Amendment Date.

8. Accordingly, as of immediately prior to the Second Amendment Date, the NextEra Member held [_____] Class A Units, EFS Desert Sun held [_____] Class B Units and the Sumitomo Member held [_____] Class B Units, and the NextEra Member, EFS Desert Sun and the Sumitomo Member were the sole Members of the Company. Pursuant to the Assignment Agreement, EFS Desert Sun sold and transferred [_____] Class B Units, 50% of the Class B Units outstanding as of the Second Amendment Date and 25% of the total Membership Interests in the Company outstanding as of the Second Amendment Date, to the NRG Member. As of the Second Amendment Date, the NextEra Member held [_____] Class A Units, the NRG Member held [_____] Class B Units and the Sumitomo Member held [_____] Class B Units, and the NextEra Member, the NRG Member and the Sumitomo Member were the sole Members of the Company.

9. The NextEra Member, the Sumitomo Member, EFS Desert Sun, the Company and the NRG Member have entered into the Cash Grant Letter Agreement as, pursuant to which the parties thereto agree to the allocation of certain rights and obligations with respect to the Excluded Cash Grant Interests (as such term is defined therein).

10. The NextEra Member, EFS Desert Sun and the Sumitomo Member entered into the First Amended Agreement on the First Amendment Date. Pursuant to the Assignment Agreement, EFS Desert Sun is transferring all of its Class B Units (and all of the rights and obligations associated therewith arising from and after the date of the Assignment Agreement other than the Retained Rights and Obligations (as defined in the Assignment Agreement)) and the NRG Member is acquiring all of such Class B Units (and the rights and obligations associated therewith arising from and after the date of the Assignment Agreement other than the Retained Rights and Obligations (as defined in the Assignment Agreement)), and the NRG Member wishes to be admitted as a Member of the Company. The NextEra Member and the Sumitomo Member now wish to amend and restate the First Amended Agreement in its entirety and the NextEra Member, the Sumitomo Member and the NRG Member wish to enter into this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which

are hereby acknowledged, the parties hereto agree, effective as of the Second Amendment Date, that:

A. the NextEra Member shall continue as a Member of the Company and shall be the holder of the Class A Membership Interests as of the Second Amendment Date in the total amount of Class A Units set forth on Schedule I, which constitute all of the outstanding Class A Membership Interests as of the Second Amendment Date;

B. the Sumitomo Member shall continue as a Member of the Company and shall be the holder of the Class B Membership Interests as of the Second Amendment Date in the total amount of Class B Units set forth on Schedule I, which constitute fifty percent (50%) of the outstanding Class B Membership Interests as of the Second Amendment Date; and

C. the NRG Member shall be admitted as a Member of the Company and shall be the holder of the Class B Membership Interests as of the Second Amendment Date in the total amount of Class B Units set forth on Schedule I, which constitute fifty percent (50%) of the outstanding Class B Membership Interests as of the Second Amendment Date;

D. EFS Desert Sun shall no longer be a Member of the Company, all of the Membership Interests previously held by EFS Desert Sun shall have been previously Transferred by the transactions described in Recitals hereto, and, except as otherwise provided herein or in the Cash Grant Letter Agreement, EFS Desert Sun shall have no rights, obligations, duties, obligations, responsibilities, claims, demands or other commitments under this Agreement or in connection with membership in the Company; and

E. the NextEra Member, the Sumitomo Member and the NRG Member are the sole Members of the Company as of the Second Amendment Date.

ARTICLE 1
DEFINITIONS

1.1 Defined Terms. Except as otherwise specified, when used in this Agreement, capitalized terms shall have the meanings set forth in Exhibit A or if not defined in this Agreement, the meaning specified in the Act.

1.2 Construction. Unless the context clearly requires otherwise: (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 and Sections refer to Articles and Sections of this Agreement; (d) references to Exhibits and Schedules refer to the Exhibits and Schedules attached to this Agreement, each of which is made a part hereof for all purposes; (e) references to Laws refer to such Laws as they may be amended from time to time, and references to particular provisions of a Law include any corresponding provisions of any succeeding Law and any rules and regulations promulgated thereunder; (f) terms defined in this Agreement are used throughout this Agreement and in any Exhibits and Schedules hereto as so defined; (g) references to money refer to legal currency of

the United States of America; (h) the words "includes" or "including" shall mean "including without limitation;" (i) the words "hereof," "hereby," "herein," "hereunder" and similar terms in this Agreement shall refer to this Agreement as a whole and not any particular Article or Section in which such words appear unless otherwise specified; (j) all references to a particular entity shall include a reference to such entity's successors and permitted assigns but, if applicable, only if such successors and assigns are permitted by this Agreement; (k) references to any agreement, document or instrument shall mean a reference to such agreement, document or instrument as the same may be amended, modified, supplemented or replaced from time to time; (l) the word "or" will have the inclusive meaning represented by the phrase "and/or;" (m) "shall" and "will" mean "must", and shall and will have equal force and effect and express an obligation; and (n) "writing," "written" and comparable terms refer to printing, typing, and other means of reproducing in a visible form.

1.3 Accounting Terms. As used in this Agreement and in any certificate or other documents made or delivered pursuant hereto or thereto, accounting terms not defined in this Agreement or in any such certificate or other document, and accounting terms partly defined in this Agreement or in any such certificate or other document to the extent not defined, will have the respective meanings given to them under GAAP. To the extent that the definitions of accounting terms in this Agreement or in any such certificate or other document are inconsistent with the meanings of such terms under GAAP, the definitions contained in this Agreement or in any such certificate or other document will control.

ARTICLE 2

THE COMPANY

2.1 Formation of Limited Liability Company. The Authorized Person filed the Certificate of Formation with the Delaware Secretary of State on the Formation Date and formed the Company as a limited liability company pursuant to the Act. Upon execution of the Original Agreement by the NextEra Member and EFS Desert Sun, the powers of the Authorized Person ceased and the NextEra Member and EFS Desert Sun became the sole Members of the Company as of the Original Effective Date. Upon execution of the First Amended Agreement by the NextEra Member, EFS Desert Sun and the Sumitomo Member, the Sumitomo Member became a Member of the Company such that, as of the First Amendment Date, the sole Members or holders of any equity interest in the Company were the NextEra Member, EFS Desert Sun and the Sumitomo Member. Upon execution of the Assignment Agreement, EFS Desert Sun assigned to the NRG Member all of its remaining Class B Membership Interests, including all rights and obligations associated therewith arising from and after the date of the Assignment Agreement except the Retained Rights and Obligations (as defined in the Assignment Agreement), and EFS Desert Sun has retained the Retained Rights and Obligations (as defined in the Assignment Agreement) and all rights and obligations under this Agreement prior to the date of the Assignment Agreement. Upon execution of this Agreement by the NextEra Member, the Sumitomo Member and the NRG Member, the NRG Member shall become a Member of the Company such that, as of the Second Amendment Date, the sole Members or holders of all of the equity interest in the Company are the NextEra Member, the Sumitomo Member and the NRG Member. The rights and obligations of the Members will be as provided in the Act, except as otherwise expressly provided herein. The Managing Member will from time to time execute or cause to be executed all such certificates, instruments and other documents, or, subject to Section

5.6.2, cause to be done all such filings as the Managing Member or the requisite Members may deem necessary or appropriate to operate, continue, or terminate the Company as a limited liability company under the laws of the State of Delaware and such other states where such qualification is necessary or desirable.

2.2 Agreement, Effect of Inconsistencies with Act. The Members agree to the terms and conditions of this Agreement, as such terms and conditions may from time to time be amended, supplemented or restated in accordance with its terms. The Members intend that this Agreement, the MIPSA, the Investment Agreement, the Cash Grant Letter Agreement and the Cash Grant Recapture Indemnity Agreements shall be the sole source of the relationship among the Members (in their capacity as Members), and, except to the extent a provision of this Agreement expressly incorporates federal income tax rules by reference to sections of the Code or Treasury Regulations or rules pertaining to the Cash Grant or is expressly prohibited or ineffective under the Act, this Agreement shall govern, even when inconsistent with, or different from, the provisions of the Act or any other applicable Law. For clarification, the prior sentence is not meant to encompass any rights that the Members may have under the MIPSA, the Transfer Agreement, the Assignment Agreement and the agreements related thereto, all of which shall survive in accordance with their terms. To the extent any provision of this Agreement is prohibited or ineffective under the Act, this Agreement shall be considered amended to the smallest degree possible in order to make such provision effective under the Act. If the Act is subsequently amended or interpreted in such a way as to validate a provision of this Agreement that was formerly invalid, such provision shall be considered to be valid from the effective date of such interpretation or amendment.

2.3 Name. The name of the Company is "Desert Sunlight Investment Holdings, LLC." The business of the Company may be conducted under that name or, upon compliance with applicable Laws, any other name that the Managing Member, with the Consent of the Class A Majority and Class B Majority as provided in Section 5.6.2.1(k), deems appropriate or advisable. The Managing Member shall cause to be filed any fictitious name certificates and similar filings, and any amendments thereto, that the Managing Member considers appropriate or advisable in connection with its conduct of business under another name pursuant to the preceding sentence.

2.4 Term. The Company shall have perpetual existence until it is dissolved and its affairs wound up in accordance with this Agreement and the Act.

2.5 Office and Agent. The address of the registered office of Company required by the Act to be maintained in the State of Delaware shall be c/o The Corporation Trust Company, 1209 Orange Street, Wilmington, New Castle County, DE 19801, or such other office (which need not be a place of business of Company) as the Managing Member may designate in the manner provided by Law. The name of Company's registered agent for service of process in the State of Delaware shall be The Corporation Trust Company at the aforementioned address, or such other Person as the Managing Member may from time to time hereafter designate in the manner provided by Law.

2.6 Addresses of the Members. The respective addresses of the Members are set forth in Section 15.2. For purposes of Section 15.2, a Member may change its address by giving Notice thereof to the Managing Member in accordance with Section 15.2.

2.7 Purpose and Business of the Company. The purpose of the Company is to acquire, construct, install, hold, own, protect, finance, manage, operate and maintain the Projects and to engage in such other activities reasonably related to and in furtherance of the foregoing business as (subject to Section 5.6.2) in the reasonable opinion of the Managing Member may be necessary, advisable, or appropriate. In order to carry out its purpose, the Company shall have and may exercise all powers now or hereafter conferred on limited liability companies by the Act and other Laws of the State of Delaware, and shall have the authority to do any and all things necessary, appropriate, proper, advisable, incidental to or convenient for the furtherance and accomplishment of its purpose, and for the protection and benefit of the Company and its Members.

2.8 No State Law Partnership. The Members intend that the Company not be a partnership (including a limited partnership) or joint venture, and that no Member be a partner or joint venturer of any other Member, for any purposes other than tax purposes under the Code and any state, municipal or other income tax law or regulation, and this Agreement may not be construed to suggest otherwise.

2.9 Units; Certificates of Membership Interest; Applicability of Article 8 of UCC. Membership Interests shall be represented by Units, divided into Class A Units (in the case of Class A Membership Interests) and Class B Units (in the case of Class B Membership Interests). Each whole Unit shall represent a Capital Contribution in the amount of one dollar ($1), and fractional Units shall represent Capital Contributions in the amount of the corresponding fraction of one dollar ($1). The Membership Interests represented by Class A Units and Class B Units shall have the respective rights, powers and preferences ascribed to Class A Units and Class B Units in this Agreement. The class of Membership Interest of the Members and the number of Units held or to be held by each Member as of the Second Amendment Date is as provided in Schedule I. The Members hereby specify, acknowledge and agree that all Units (and the Membership Interests represented thereby) are securities governed by Article 8 and all other provisions of the Uniform Commercial Code, and pursuant to the terms of Section 8-103(c) of the Uniform Commercial Code, such interests shall be "securities" for all purposes under such Article 8 and under all other provisions of the Uniform Commercial Code. Such Membership Interests are not evidenced by certificates, and will remain not evidenced by certificates. The Company is not authorized to issue certificated interests. The Company will keep a register of the Membership Interests of the Members, in which it will record all Transfers of such Membership Interests.

ARTICLE 3
CAPITAL CONTRIBUTIONS

3.1 Initial Capital Contributions; Cash Grant Indemnity Capital Contributions.

3.1.1 On the Original Effective Date, the NextEra Member and EFS Desert Sun each made Capital Contributions to the Company equal to the fair market value of their

respective membership interests in DS Holdings pursuant to their respective Contribution Agreements. The fair market value of the Capital Contributions was equal to each of the Members' respective payments to FS Development under the MIPSA (*i.e.*, the NextEra Member of the NextEra Purchase Price, as defined in the MIPSA, and EFS Desert Sun of the GE Purchase Price, as defined in the MIPSA). The NextEra Member received one Class A Unit for each one dollar ($1) of the NextEra Purchase Price paid and EFS Desert Sun received one Class B Unit for each one dollar ($1) of the GE Purchase Price paid. The full amount of all such payments that were made in accordance with the MIPSA are referred to as the "**Initial Capital Contributions**". The NextEra Member and EFS Desert Sun each received a credit to its Capital Account in the amount equal to the number of Units received by it in connection with its Initial Capital Contributions and in connection with its Additional Capital Contributions made on and after the Original Effective Date up to the First Amendment Date, in each case multiplied by one dollar ($1). On the First Amendment Date, EFS Desert Sun transferred, assigned and sold 50% of its Class B Membership Interests to the Sumitomo Member, and 50% of the balance in the capital account that was at the time EFS Desert Sun's Capital Account was transferred to the Sumitomo Member. The NextEra Member, EFS Desert Sun and the Sumitomo Member each received a credit to its Capital Account in the amount equal to the Additional Capital Contributions made on and after the First Amendment Date up to the Second Amendment Date. On the Second Amendment Date, EFS Desert Sun shall have transferred, assigned and sold the entirety of its remaining Class B Membership Interests to the NRG Member, and the entire remaining balance in the capital account that was EFS Desert Sun's Capital Account immediately prior to the Second Amendment Date shall have been transferred to the NRG Member.

3.1.2 Payments made by or on behalf of a Member to the Beneficiaries (as defined in the Cash Grant Recapture Indemnity Agreements) pursuant to the terms of the Cash Grant Recapture Indemnity Agreements (including pursuant to any related Cash Grant Recapture Support Agreement) with respect to Cash Grant Recapture Indemnity Agreements Qualifying Losses shall be deemed to be Additional Capital Contributions made to the Company by such Member, a further contribution by the Company to DS Holdings, and a further contribution by DS Holdings to the Subsidiaries in the applicable amounts and, in the case of 1603 Grant Recapture Liabilities included in such Cash Grant Recapture Indemnity Agreements Qualifying Losses, a payment by the applicable Subsidiary or Subsidiaries to the Treasury; *provided*, that if any demand for payment of Cash Grant Recapture Indemnity Agreements Qualifying Losses is made pursuant to the Cash Grant Recapture Indemnity Agreements, unless and until all the Members have paid (including payments made by any Guarantor of a Member pursuant to any related Cash Grant Recapture Support Agreement) a pro rata share (based upon the relative Percentage Interests of such Members) of such Cash Grant Recapture Indemnity Agreements Qualifying Losses, the payments made by the Members (or such Guarantors) shall be deemed loans that have been made by the applicable Members whose obligations are being funded pursuant to the Cash Grant Recapture Indemnity Agreements on the same terms and conditions as loans are or were made in lieu of Pre-Approved Required Additional Capital Contributions or Mandatory Additional Capital Contributions pursuant to Section 3.2.4. As a result of such contributions, the Capital Account of such Member shall be adjusted in the same manner as applies for other Additional Capital Contributions in accordance with Section 3.2.5 and, if such Member is a Class A Member, such Member will receive Class A Units based upon the amount of the payments made or deemed made by such Class A Member and, if such Member is a Class

B Member, such Member will receive Class B Units based upon the amount of the payments made or deemed made by such Class B Member. For the avoidance of doubt, any payment made by a Member pursuant to the Cash Grant Recapture Indemnity Agreements that is not a payment for Cash Grant Recapture Indemnity Agreements Qualifying Losses shall not be considered an Additional Capital Contribution for purposes of this Agreement and shall be treated as an indemnity payment applicable to losses of the Company, DS Holdings and the Subsidiaries, as the case may be, arising from the event giving rise to such payment.

3.2 Additional Capital Contribution.

3.2.1 No Member shall be required to make any Additional Capital Contributions except as provided in Section 3.2.2 and in Section 3.2.3.

3.2.2 The Members shall be required to make additional Capital Contributions in an amount equal to the Pre-Approved Additional Capital Contributions for each Member. Such Pre-Approved Additional Capital Contributions shall be made in the manner, in the amounts and at the times set forth in the applicable Equity Contribution Agreements to which each such Member is a party. The Managing Member is authorized to issue on behalf of the Company and each Subsidiary the Contribution Requests (as defined in the Equity Contribution Agreements) at the times and in the manner required by Section 2.01(a)(ii) of the Equity Contribution Agreements. Payments made under any of the Residual Sponsor Equity Guaranty Agreements shall be deemed to be Pre-Approved Additional Capital Contributions made to the Company by the applicable Member that is Affiliated with the Guarantor that made such payment. If a payment is due and made under a Residual Sponsor Equity Guaranty Agreement by a Guarantor that is Affiliated with a Member and any of the other Members has not also had payments made in a proportionate amount (based on such Member's Percentage Interest) under a Residual Sponsor Equity Guaranty Agreement from such other Member's Affiliated Guarantor, then each of such other Members shall be obligated within three (3) Business Days after Notice from the Managing Member to either (a) cause its Affiliated Guarantor to make such payment or (b) fund a Pre-Approved Additional Capital Contribution in either case in the proportionate amount (based on such Member's Percentage Interest) to the deemed Pre-Approved Additional Capital Contributions made to the Company by such other Member(s). The amount of any Pre-Approved Additional Capital Contribution may not, when aggregated with all prior Pre-Approved Additional Capital Contributions (including those made pursuant to the Equity Contribution Agreements to which each such Member is a party and those deemed made by a Member pursuant to the Residual Sponsor Equity Guaranty Agreement to which the Guarantor of such Member is a party), exceed the committed amount of the Pre-Approved Additional Capital Contributions for each such Member pursuant to the first sentence of this Section 3.2.2. The proceeds of the Pre-Approved Additional Capital Contributions will be advanced by the Company to DS Holdings and by DS Holdings to the Subsidiaries as provided in the applicable Equity Contribution Agreements or as otherwise provided in the Residual Sponsor Equity Guaranty Agreements. Such Pre-Approved Additional Capital Contributions will be funded or deemed funded as an equity contribution (or loan as provided in Section 3.2.4) to the Company, then by the Company as an equity contribution to DS Holdings, then by DS Holdings as equity contributions to the Subsidiaries. If a Pre-Approved Additional Capital Contribution is required to be made by a Class A Member, except as otherwise provided in Section 3.2.4, when such Pre-Approved Additional Capital Contribution is made or deemed made the Class A Member shall

receive additional Class A Units based upon the amount of the Pre-Approved Additional Capital Contributions made or deemed made by such Class A Member, at the rate of one (1) Class A Unit (or fractions thereof) for each one dollar ($1) of Pre-Approved Additional Capital Contributions (or fractions thereof) made or deemed made. If a Pre-Approved Additional Capital Contribution is required to be made by a Class B Member, except as otherwise provided in Section 3.2.4, when such Pre-Approved Additional Capital Contribution is made or deemed made the Class B Member shall receive additional Class B Units based upon the amount of the Pre-Approved Additional Capital Contributions made or deemed made by such Class B Member, at the rate of one (1) Class B Unit (or fractions thereof) for each one dollar ($1) of Pre-Approved Additional Capital Contributions (or fractions thereof) made or deemed made.

3.2.3 In the event that the Company, DS Holdings or any Subsidiary has incurred any of the obligations of the type that are described in Schedule III that cannot be paid from the Company's, DS Holdings' or such Subsidiary's revenues, the Members shall, subject to the proviso in the next succeeding sentence, be required to make additional Capital Contributions in an amount equal to the Mandatory Additional Capital Contributions for each Member. The Managing Member shall reasonably determine when any Mandatory Additional Capital Contribution is required and the aggregate amount thereof (which may not, when aggregated with all prior Mandatory Additional Capital Contributions, exceed the aggregate amount set forth in the definition thereof); *provided*, that the Managing Member shall not be entitled to issue a Notice requesting a Mandatory Additional Capital Contribution after the date that is sixty (60) days following the Operations Commencement Date. Such Mandatory Additional Capital Contributions shall be made by each Member within ten (10) Business Days after receipt by the Members of a Notice from the Managing Member (together with reasonable documentation supporting the need for such Mandatory Additional Capital Contributions) in an amount that is equal to the amount of the total applicable Mandatory Additional Capital Contribution reasonably determined to be required by the Managing Member multiplied by such Member's Percentage Interest as of the date of delivery of the Notice of the Mandatory Additional Capital Contribution. The Mandatory Additional Capital Contribution shall be funded in the manner specified in such Notice from the Managing Member. The proceeds of any Mandatory Additional Capital Contribution will be funded as an equity contribution (or loan as provided in Section 3.2.4) to the Company, and if required to pay obligations of DS Holdings, then by the Company as an equity contribution to DS Holdings, and if required to pay obligations of any of the Subsidiaries, then by DS Holdings as equity contributions to the Subsidiaries in such amounts as the Managing Member reasonably determines is required for such Subsidiaries to satisfy the obligations for which such Mandatory Additional Capital Contributions were contributed. If a Mandatory Additional Capital Contribution is required to be made by a Class A Member, except as otherwise provided in Section 3.2.4 when such Mandatory Additional Capital Contribution is made the Class A Member shall receive additional Class A Units based upon the amount of the Mandatory Additional Capital Contributions made by such Class A Member, at the rate of one (1) Class A Unit (or fractions thereof) for each one dollar ($1) of Mandatory Additional Capital Contributions (or fractions thereof) made. If a Mandatory Additional Capital Contribution is required to be made by a Class B Member, except as otherwise provided in Section 3.2.4 when such Mandatory Additional Capital Contribution is made the Class B Member shall receive additional Class B Units based upon the amount of the Mandatory Additional Capital Contributions made by such Class B Member, at the rate of one (1) Class B

Unit (or fractions thereof) for each one dollar ($1) of Mandatory Additional Capital Contributions (or fractions thereof) made.

3.2.4 Notwithstanding any provision of Section 3.2.2 or Section 3.2.3 to the contrary, if any Pre-Approved Additional Capital Contribution or Mandatory Additional Capital Contribution is made or deemed made, unless and until all Members have fully made or are deemed to have made their respective allocable shares of such Pre-Approved Additional Capital Contributions or Mandatory Additional Capital Contribution, as the case may be, the payments made or deemed made by or on behalf of the funding Members shall be deemed loans that have been made by the applicable funding Members to the Company. Such loans shall bear interest at the Applicable Rate and the principal and accrued and unpaid interest thereon shall be paid solely from Distributable Cash and shall be deemed to have been funded subject to any requirements for subordination set forth in the Financing Documents. Notwithstanding any provision of this Agreement to the contrary, after any loan has been made in lieu of a Pre-Approved Additional Capital Contribution or Mandatory Additional Capital Contribution or if any loan has been deemed to have been made pursuant to Section 3.1.2 as a result of a Member's funding obligations pursuant to the Cash Grant Recapture Indemnity Agreements or pursuant to Section 3.2.2 as a result of Members funding obligations pursuant to the Residual Sponsor Equity Guaranty Agreements, any distributions of Distributable Cash to Members shall be first applied (but subject to prior application to repay any then outstanding Working Capital Loans as provided in Section 3.5), as a payment to each Member that is deemed to have made a loan or loans in lieu of a Pre-Approved Additional Capital Contribution or Mandatory Additional Capital Contribution or a deemed loan pursuant to Section 3.1.2 as a result of Members funding obligations pursuant to the Cash Grant Recapture Indemnity Agreements or pursuant to Section 3.2.2 as a result of Members funding obligations pursuant to the Residual Sponsor Equity Guaranty Agreements, pro-rata based upon the unpaid principal balances of each such Member's loans, before any other distributions of Distributable Cash to the Members may be made.

3.2.5 Except as otherwise provided in Section 3.2.4, each Member shall receive a credit to its Capital Account in the amount of any Additional Capital Contributions that it makes or is deemed to have made.

3.2.6 For federal income tax purposes, the NextEra Member agrees to treat the transactions which occurred on the Original Effective Date as follows: (i) the purchase by EFS Desert Sun and the NextEra Member of an undivided interest in each of the assets, and an assumption by EFS Desert Sun and the NextEra Member of each of the liabilities, of Desert Sunlight 250 and Desert Sunlight 300 and (ii) the contribution by EFS Desert Sun and the NextEra Member of their respective undivided interest in each of the assets of Desert Sunlight 250 and Desert Sunlight 300 to the Company under Section 721 of the Code and an assumption by the Company of each of the liabilities of Desert Sunlight 250 and Desert Sunlight 300.

3.3 Capital Accounts. The Company shall establish and maintain an individual Capital Account for each Member in accordance with Regulations Section 1.704-1(b)(2)(iv). If a Member Transfers all or a part of its Membership Interest in accordance with this Agreement, such Member's Capital Account attributable to the Transferred Membership Interest shall carry over to the new owner of such Membership Interest pursuant to Regulations Section 1.704 1(b)(2)(iv)(1).

3.4 No Interest. No Member shall be entitled to receive any interest on its Capital Contributions.

3.5 Working Capital Loans.

3.5.1 In the event that the Company, DS Holdings or any Subsidiary has any working capital, maintenance, capital expenditure or other needs that are necessary to be addressed in order for the Projects to be operated or maintained in accordance with Prudent Industry Practices and that cannot be paid for from the Company's, DS Holdings' or such Subsidiary's revenues or that are not permitted to be paid for from the Pre-Approved Additional Capital Contributions or from Mandatory Additional Capital Contributions because the Thirty Million Dollars ($30,000,000) limit thereof has been reached or because the Operations Commencement Date has occurred, each Member may make (but will have no obligation to make), and any third party lender or lenders may make (subject to the first right of the Members to make such Working Capital Loans as hereinafter provided), loans to the Company, DS Holdings or any of the Subsidiaries when and as needed (as reasonably determined by the Managing Member and without any requirement for Consent or other action by any other Members except when required pursuant to Section 5.6.2.1(b)), for such needs of the Company, DS Holdings or any of the Subsidiaries ("**Working Capital Loans**"), in each case solely in accordance with the provisions of this Section 3.5.1. If the Managing Member reasonably determines that a Working Capital Loan should be made, the Managing Member shall give Notice to the Members of the aggregate amount of the Working Capital Loan that is required and the maximum principal amount of such Working Capital Loan that the Managing Member is willing to advance. Each Member shall give Notice to the Managing Member within ten (10) Business Days after receipt of such Notice specifying whether it has elected to make a Working Capital Loan and the maximum principal amount of such Working Capital Loan that it is willing to advance (and any failure to give such Notice within such ten (10) Business Day period shall be deemed to constitute a determination not to make such election). If more than one of the Members chooses to make Working Capital Loans, each such Member shall have a right (but not an obligation) to advance a pro rata share thereof based upon the relative Percentage Interests of such Members choosing to advance such Working Capital Loans. If the Members are not willing to fully fund the required Working Capital Loans, then the Managing Member shall have the right to seek to have the unfunded portion of such Working Capital Loans funded by a third party lender or lenders. No Working Capital Loan made pursuant to this Section 3.5.1 will entitle the funding Member to additional Units or change the allocable shares of Net Profit or Net Loss as provided in Article 6 of this Agreement or distributive shares of Distributable Cash of any Member as provided in Section 6.7 of this Agreement.

3.5.2 All such Working Capital Loans made by the Managing Member will (A) be unsecured loans, (B) be repaid quarterly out of the Distributable Cash available for distributions to Members, pro rata based upon the unpaid principal balances of each such Member's or third party lender's or lenders' loans together with interest accrued thereon at the Working Capital Loan Rate, before any distributions of Distributable Cash to the Members may be made, with such payments to be applied first to accrued and unpaid interest and then to unpaid principal, (C) not contain any events of default, and (D) during the Covered Period shall be subordinate and junior to other indebtedness and obligations of the Company under the Financing Documents to the extent required thereunder. All Working Capital Loans from any

third party lender or lenders shall be subordinate and junior to other indebtedness and obligations of the Company under the Financing Documents to the extent required thereunder and repayable in accordance with their terms as permitted by the terms, conditions or provisions of the documents entered into by the Company, DS Holdings, or the Subsidiaries with respect to any Project Financing.

3.6 Failure to Make Required Additional Capital Contributions. If a Member does not make any Required Additional Capital Contribution when and as required from it pursuant to this Agreement, that Member (the "**Non-Complying Member**") shall be in default under this Agreement. In addition to each Complying Member's (as defined below) right to cease any or all funding obligations that it may have hereunder (except as may otherwise be required under the Equity Contribution Agreements), each of the Complying Members may also pursue their rights under Article 8 and Article 13 and may also elect to exercise any of its rights set forth in Section 3.6.1.

3.6.1 Each Member that has fully funded its Required Additional Capital Contribution (each, a "**Complying Member**") shall have the right, but not the obligation, to advance all or any portion of any such unfunded Required Additional Capital Contribution (the "**Unfunded Portion**") to the Company and to treat the advance made by such Complying Member(s) as loans by the Complying Member(s) to the Non-Complying Member. If more than one of the Complying Member(s) choose to advance the Unfunded Portion to the Company, each such Complying Member shall have a right to advance a pro rata share thereof based upon the relative Percentage Interests of the Complying Member(s) choosing to advance the Unfunded Portion to the Company.

3.6.2 The terms and conditions of any loan made pursuant to Section 3.6.1 shall be as follows:

3.6.2.1 such loan shall bear interest at the Applicable Rate;

3.6.2.2 interest shall be paid to the Complying Member by the Non-Complying Member monthly in arrears on the first day of each month on the unpaid principal balance of such loan;

3.6.2.3 the Complying Member(s) shall have the right to accelerate the maturity of their respective loans if the interest is not paid within ten (10) days after the due date;

3.6.2.4 the principal of, and the accrued but unpaid interest on, such loan shall be due and payable on the next date after the making of such loan on which distributions of Distributable Cash pursuant to Section 6.7 are made or extended by the Complying Member(s), in their respective sole discretion, before maturity;

3.6.2.5 the Non-Complying Member shall pay all costs and expenses, including reasonable attorney's fees, incurred by the Complying Member(s) in collecting the principal of, and interest on, such loan; and

3.6.2.6 until the principal of, and interest on, such loans have been repaid in full, any Distributable Cash and any other distribution or return of capital to the Members which

would otherwise have been made to the Non-Complying Member shall be made pro rata to the Complying Members that have made loans pursuant to Section 3.6.1 based on the principal balances of their respective loans and applied to the payment of such loan, first to accrued and unpaid interest, and then to unpaid principal.

3.6.3 If requested by a Complying Member, a Non-Complying Member will execute and deliver to the Complying Member a promissory note to document the loan described in Section 3.6.1.

3.6.4 The failure of the Non-Complying Member to make such Required Additional Capital Contribution shall constitute an Adverse Act notwithstanding any election by the Complying Member to fulfill the obligations of a Non-Complying Member pursuant to Section 3.6.1.

3.6.5 Notwithstanding anything in this Agreement, the funding Members of any loan shall have the right to consult with California tax counsel, at the Company's expense, to determine if the loans could reasonably be expected to trigger a Change in Ownership. If such Members' receive a written opinion from counsel at a level of "more likely than not" that such loans will trigger a Change in Ownership, then the terms of the loans shall be modified as reasonably necessary to ensure that issuance of the loans will not trigger a Change in Ownership.

ARTICLE 4
MEMBERS

4.1 Limited Liability. Except as otherwise provided by Law, no Member shall be personally liable for any debt, obligation, or liability of the Company, DS Holdings or any Subsidiary, whether that liability or obligation arises in contract, tort, or otherwise. Except as expressly provided in this Agreement, a Member shall not be liable, responsible, or accountable, in damages or otherwise, to any other Member or to the Company, DS Holdings or any Subsidiary for any act performed by the Member (in its capacity as a Member only and not as the Managing Member) with respect to the Company, DS Holdings or any Subsidiary matters unless such act constitutes fraud, willful misconduct, a knowing material violation of Law, a material breach of any representation, warranty or covenant contained in this Agreement, or an Adverse Act.

4.2 Additional Members. The Managing Member may admit to the Company additional Members in accordance with Article 7. Any additional Members shall obtain Membership Interests and will participate in the management (subject to the provisions of Section 5.1 with respect to the Managing Member), Net Profits, Net Losses, and distributions of the Company on the same basis as the Transferor of its Membership Interests in accordance with the Percentage Interests of such Transferor acquired by the applicable additional Member.

4.3 Withdrawals or Resignations. No Member may withdraw or resign from the Company, *provided*, that a Member that Transfers its entire Membership Interest in a Transfer that is permitted under Article 7 shall cease being a Member hereunder upon the effective time of the Transfer.

4.4 Loans and Other Business Transactions. In addition to Working Capital Loans and loans to the Company made pursuant to Section 3.2.4, any Member may, at any time, make a loan to the Company in any amount and on those terms approved in accordance with Section 5.6.2.1(b). Members and their Affiliates may also transact other business with the Company with the approval of the Managing Member (subject to Section 5.7.2) and, in doing so, they shall have the same rights and be subject to the same obligations arising out of any such business transaction as would be enjoyed by and imposed upon any Person not a Member engaged in a similar business transaction with the Company.

4.5 Provision of Services By Members. No Member shall be required to perform services for the Company, DS Holdings or any Subsidiary solely by virtue of being a Member. Except as provided in Section 5.1.4, Section 5.9 and Section 7.1.3.19, unless approved in the Budget or otherwise by the Consent of the Class A Majority and Class B Majority no Member shall be entitled to compensation for services performed for the Company, DS Holdings or any Subsidiary, reimbursement for expenses incurred, or advances of funds made (except as expressly provided hereunder with respect to loans made to the Company pursuant to this Agreement).

4.6 Members Are Not Agents. Pursuant to Section 5.1 and Section 5.2 and subject to Section 5.6.2, the management of the Company, DS Holdings and the Subsidiaries is vested in the Managing Member. The other Members shall have no power to participate in the management of the Company, DS Holdings or any Subsidiary except as expressly authorized by this Agreement or the Certificate and except as expressly provided for by the Act. No Member other than the Managing Member is or shall be deemed to be an agent of the Company, DS Holdings or any Subsidiary nor does any such Member, unless expressly and duly authorized in writing to do so by the Managing Member or, with respect to Major Decisions, Fundamental Decisions or Termination Decisions in accordance with the provisions of Section 5.6.2, have any power or authority to bind or act on behalf of the Company, DS Holdings or any Subsidiary in any way, to pledge its credit, to execute any instrument on its behalf or to render it liable for any purpose.

4.7 Consent Rights. Except as expressly provided in this Agreement or the Act, Members shall have no voting, approval or consent rights. Major Decisions, Fundamental Decisions and Termination Decisions require the Consent of Members and, in the case of Termination Decisions, the Consents of the Independent Managers, in each case as provided in Section 5.6.2. Such Consent may be obtained at a meeting of the Members, or by a consent executed by the requisite Members and, in the case of a Termination Decision, by the Independent Managers. Whenever the Consent of the Members is required for any Major Decision, Fundamental Decision or Termination Decision, prior Notice of the proposed Major Decision, Fundamental Decision or Termination Decision will be sent to each Member, unless Notice is waived by such Member in writing.

4.8 Meetings of the Members.

4.8.1 Date, Time and Place of Meetings of Members. Meetings of Members may be held at such date, time and place within or without the State of Delaware as the

Managing Member or the Class A Majority and Class B Majority may fix from time to time. No annual or regular meetings of the Members are required.

4.8.2 Power to Call Meetings. Meetings of the Members may be called by the Managing Member or a Class A Majority or Class B Majority, for the purpose of addressing any matters on which the Members may consent.

4.8.3 Notice of Meeting. Notice of a meeting of Members shall be sent or otherwise given to each Member in accordance with Section 4.8.4 not less than seven (7) days before the date of the meeting. The Notice shall specify the place, date and hour of the meeting and the general nature of the business to be transacted. No other business may be transacted at this meeting unless agreed to by an affirmative consent of a Class A Majority and a Class B Majority. Upon a request to the Managing Member by any Person(s) entitled to call a meeting of the Members, the Managing Member shall immediately cause Notice to be given to the Members entitled to consent that a meeting will be held at a time requested by the Person(s) calling the meeting, not less than three (3) days after the receipt of the request.

4.8.4 Manner of Giving Notice. Notice of a meeting of Members shall be given in accordance with Section 15.2.

4.8.5 Validity of Action. Except as otherwise provided in this Agreement, including with respect to Major Decisions, Fundamental Decisions and Termination Decisions and with respect to the selection of a replacement Managing Member provided in Section 5.1, all actions and decisions of the Members at any meeting will require the unanimous consent of the Members.

4.8.6 Quorum. At a meeting at which a Major Decision, Fundamental Decision or Termination Decision is to be considered or with respect to the selection of a replacement Managing Member provided in Section 5.1, the presence in person or by proxy of a Class A Majority and a Class B Majority shall constitute a quorum at a meeting of the Members; *provided*, that in the case of the selection of a replacement Managing Member as provided in Section 5.1 the presence of the Members of the class that are not required to Consent to the replacement is not required for a quorum; *provided*, *further*, that the presence of any Member that has had its consent rights suspended pursuant to Section 8.1.1 shall not be required for a quorum.

4.8.7 Adjourned Meeting; Notice. Any Members' meeting, whether or not a quorum is present, may be adjourned to another time or place by the consent of the Members represented at that meeting, either in person or by proxy, but in the absence of a quorum, no other business may be transacted at that meeting. When any meeting of Members is adjourned to another time or place, Notice need not be given of the adjourned meeting if the time and place are announced at the meeting at which the adjournment is taken, unless a new record date for the adjourned meeting is subsequently fixed. At any adjourned meeting, the Company may transact any business that might have been transacted at the original meeting.

4.8.8 Waiver of Notice or Consent. The actions taken at any meeting of Members, however called and Noticed, and wherever held, have the same validity as if taken at a

meeting duly held after regular call and Notice, if a quorum is present either in person or by proxy, and if either before or after the meeting, each of the Members entitled to consent, who was not present in person or by proxy, signs a written waiver of Notice or consents to the holding of the meeting or approves the minutes of the meeting. All such waivers, consents or approvals shall be filed with the Company records or made a part of the meeting. Attendance of a Person at a meeting shall constitute proper Notice of that meeting. Neither the business to be transacted nor the purpose of any meeting of Members need be specified in any written waiver of Notice.

4.8.9 Action by Written Consent without a Meeting. Any action that may be taken at a meeting of Members may be taken without a meeting if a consent in writing setting forth the action so taken is signed and delivered to the Company within sixty (60) days of the record date for that action by Members having not less than the minimum percentage that would be necessary to authorize or take that action at a meeting at which all Members entitled to consent on that action at a meeting were present and consented. All such consents shall be filed with the Managing Member and shall be maintained in the Company records.

4.8.10 Telephone Meetings. Members may participate in any Members' meeting through the use of any means of conference telephones or similar communications equipment as long as all Members participating can hear one another. A Member so participating is deemed to be present in person at the meeting.

4.8.11 Proxies. Every Member entitled to consent on a matter shall have the right to do so either in person or by one or more agents authorized by a written proxy signed by the Person and filed with the Managing Member prior to the time that the consent is taken. The use of proxies in connection with this Article 4 will be governed in the same manner as corporations formed under the General Corporation Law of Delaware.

4.9 Prohibition Against Partition. Each Member irrevocably waives any and all rights the Member may have to maintain an action for partition with respect to any property of the Company.

4.10 No Appraisal Rights. The Members agree that no appraisal rights with respect to its Membership Interests, either express or implied, shall be available to any Member and all Members hereby specifically waive any appraisal rights available under law or equity.

4.11 Cash Grant. Each Member represents to each other Member and the Company that it is not a Cash Grant Disqualified Person and it shall not, and shall cause its Affiliates not to, take any action that results in such Member becoming a Cash Grant Disqualified Person during the Recapture Period. Furthermore, each Member hereby covenants to the Company and each other Member that it shall not claim any tax credit under Section 48 of the Code in respect of either of the Projects unless and until this Agreement is amended to permit the Members to make such election pursuant to Section 10.8.3 hereof.

4.12 Cash Grant Disqualified Person. Each Member hereby covenants to the Company and each other Member that it will not become a Cash Grant Disqualified Person during the Recapture Period.

4.13 Termination Decisions. Notwithstanding any other term or provision of this Agreement, to the extent permitted by applicable Law, during the Covered Period the Members shall not without the Consent of both of the Independent Managers (i) Consent to a Termination Decision or (ii) Consent to the amendment or modification of any of the provisions of this Section 4.13, Section 5.6.2.3 or Article 14.

4.14 Actions With Respect to Financing Documents. The Managing Member will cause the Company, DS Holdings and the Subsidiaries to take the actions, and the Members will take the actions, described in Schedule IV with respect to the Financing Documents.

ARTICLE 5

MANAGEMENT AND CONTROL OF THE COMPANY

5.1 Designation of the Managing Member. Subject to the provisions of Section 5.6.2 hereof and except as otherwise expressly provided in this Agreement, the day-to-day management of the Company's business and responsibility, including the exercise of management responsibilities as the sole member of DS Holdings, the direction of DS Holdings in the exercise of management responsibilities as the sole member of each of the Subsidiaries, and the implementation of the requisite Members' Major Decisions, Fundamental Decisions or Termination Decisions approved in accordance with Section 5.6.2 and the supervision of the performance of the EH&S Program by the Operator with respect to the Projects, shall be vested in a Managing Member designated by the Members as hereinafter provided in this Section 5.1. The Members confirm and ratify the designation of the NextEra Member as the initial Managing Member, and the NextEra Member hereby accepts and agrees to be bound by the terms and conditions of this Agreement. In the event that the NextEra Member (or any successor Managing Member) ceases to be the Managing Member of the Company as provided in this Agreement, a successor Managing Member shall be designated by the Class A Majority and Class B Majority. Each successor Managing Member shall execute an instrument accepting and agreeing to the terms and conditions of this Agreement pertaining to the rights and duties of the Managing Member. Notwithstanding any provisions of this Agreement to the contrary, if after giving effect to any Transfer the NextEra Member ceases to own at least fifty percent (50%) of the Class A Units, then, at the option of the Class A Majority (determined based upon the Class A Units to be held by the Class A Members after giving effect to such Transfer) and Class B Majority, the NextEra Member shall be removed as the Managing Member and a successor Managing Member shall be designated by such Class A Majority and Class B Majority upon such Transfer becoming effective as provided in Section 7.2.

5.1.1 The Managing Member shall have all powers described in this Section 5.1, Section 5.2 and Section 5.3. The Managing Member, to the extent of its powers, is an agent of the Company for the purpose of the Company's business, and the actions of the Managing Member taken in accordance with its powers shall bind the Company, DS Holdings and the Subsidiaries, *provided*, that the Managing Member shall not have the power to take any action to legally bind the Company, or to direct DS Holdings or any Subsidiary to take any action to legally bind DS Holdings or any Subsidiary, with respect to any matter that constitutes a Major Decision, Fundamental Decision or Termination Decision unless such Major Decision, Fundamental Decision or Termination Decision has been approved in accordance with Section 5.6.2 hereof.

5.1.2 The Managing Member shall devote such time to the business and affairs of the Company, DS Holdings and the Subsidiaries as it deems reasonably necessary to carry out the duties of the Managing Member as set forth in this Agreement and the Managing Member may not delegate any of its duties hereunder to any Member or other Person except as expressly permitted by this Agreement without the Consent of the Class A Majority and Class B Majority; *provided*, that the Managing Member shall have the right to have any of the duties of the Managing Member performed by one or more Affiliates of the Managing Member and to contract for the performance of such duties as provided in Section 5.1.3. The Members acknowledge that during the Covered Period certain of the management and administrative responsibilities with respect to the businesses of DS Holdings and the Subsidiaries will be performed by an Affiliate of the Managing Member pursuant to the Administrative Services Agreements and, to the extent that there is any conflict or overlap between this Agreement and such Administrative Services Agreements, the provisions of this Agreement shall be controlling. Any such delegation of performance obligations shall not relieve the Managing Member of its obligation to carry out the services to be performed by the Managing Member under this Agreement.

5.1.3 The Managing Member may not enter into any contract for services to be performed by it as Managing Member unless it has obtained the Consent of the Class A Majority and Class B Majority and payment for the applicable costs and expenses to be incurred under such contract have been approved as part of the Budget that has been approved by the Class A Majority and Class B Majority pursuant to Section 5.6.1; *provided*, that without obtaining the Consent of the Class A Majority and Class B Majority the Managing Member (i) subject to Section 5.7.2, shall have the right to enter into any contract for services to be performed by it as Managing Member with one or more Affiliates of the Managing Member if the applicable costs and expenses to be incurred under such contract have been approved as part of the Budget and (ii) may contract with any Approved Accounting Firm to provide services. Any such contact entered into shall not relieve the Managing Member of its obligation to carry out the services to be performed by the Managing Member under this Agreement.

5.1.4 With the approval of the Class A Majority and Class B Majority, the Company shall pay quarterly to the Managing Member, as compensation for its services in the management and administration of the Company, DS Holdings and the Subsidiaries a fee (the "**Management Fee**"). The NextEra Member, the Sumitomo Member and the NRG Member, who currently comprise the Class A Majority and Class B Majority, hereby acknowledge and ratify that (a) the current Management Fee is the sum of [Six Hundred Thousand Dollars ($600,000)] for each Fiscal Year (with such fee to be pro-rated for any Fiscal Year that is not a full Fiscal Year), subject to increase as hereinafter provided, and (b) the Management Fee shall as of December 31, 2015 and as of the end of each twelve-month period thereafter be subject to Escalation; *provided*, that the amount of the Management Fee paid hereunder shall be reduced in each quarter by the aggregate amount that has been paid with respect to such quarter (or paid with respect to any prior quarter to the extent not already applied to reduce the Management Fee hereunder) to the Affiliate of the Managing Member as fees (excluding therefrom for purposes of such reduction any amounts received in reimbursement of costs and expenses) pursuant to the Administrative Services Agreements. No increase to the Management Fee shall be made (other than pursuant to the Escalation described above) without the Consent of the Class A Majority and Class B Majority or unless such increased Management Fee (other than pursuant to the

Escalation described above) has been included in the applicable Budget approved pursuant to Section 5.6.1. One-fourth of the annual Management Fee shall be payable to the Managing Member quarterly in advance as of the first day of each quarter. The Management Fee shall be treated as an expense of the Company that shall be deducted in computing the Distributable Cash and shall not be deemed to constitute a distributive share of Net Profit or a distribution or return of capital to the Managing Member.

5.1.5 Unless otherwise approved by the Class A Majority and Class B Majority, the Management Fee shall be the sole compensation payable to the Managing Member for its services as the Managing Member for the Company and for its direction of the management of DS Holdings and the Subsidiaries; *provided*, that the Managing Member shall be entitled to reimbursement for any and all reasonable out-of-pocket expenses in accordance with the approved Budget (and for amounts not exceeding such amount by more than ten percent (10%) of the amount approved in the Budget) that it may incur in the performance of its duties as the Managing Member as provided in Section 5.9.

5.1.6 The Managing Member may be removed with or without cause by the Class A Majority and Class B Majority. In addition, the Members shall have the right to seek to remove the Managing Member for cause in accordance with the following procedures:

5.1.6.1 If the Managing Member is a Class A Member and a Class B Majority has determined in good faith (as evidenced by a Consent of a Class B Majority) that a Removal Event has occurred and is continuing, then a Class B Member acting on behalf of such Class B Majority may give the Managing Member Notice of such determination, which Notice shall describe in reasonable detail the Removal Event that such Member believes has occurred;

5.1.6.2 If the Managing Member is a Class B Member and a Class A Majority has determined in good faith (as evidenced by a Consent of a Class A Majority) that a Removal Event has occurred and is continuing, then a Class A Member acting on behalf of such Class A Majority may give the Managing Member Notice of such determination, which Notice shall describe in reasonable detail the Removal Event that such Member believes has occurred;

5.1.6.3 Within fifteen (15) days following the Managing Member's receipt of a Notice pursuant to Section 5.1.6.1 or Section 5.1.6.2, as applicable, the Managing Member shall give Notice to the Members included in the applicable Class A Majority or the applicable Class B Majority, as the case may be, either (a) that it disagrees with the determination by such Members that a Removal Event has occurred and is continuing, (b) to the extent a cure is permitted by this Section 5.1.6.3, that it is taking action to cure such Removal Event or (c) that it agrees to be removed as Managing Member in accordance with Section 5.1.7 hereof. In the event that the Managing Member has responded in the manner set forth in clause (b) above, the Managing Member shall, subject to the last sentence of this Section 5.1.6.3, have a period of thirty (30) days following the date of the Managing Member's Notice to such Members to seek to cure the Removal Event; *provided*, that subject to the last sentence of this Section 5.1.6.3, if such Removal Event is curable but cannot be cured by the payment by the Managing Member of money and cannot with due diligence be cured within such thirty (30) day period, and the Managing Member has promptly commenced and continues to prosecute with diligence appropriate action designed to cure such Removal Event, such thirty (30) day period shall be

extended for such longer period (not to exceed sixty (60) days following the expiration of the original cure period unless a longer cure period is required and such further extension would not result in a material adverse impact on the Company, DS Holdings and the Subsidiaries, the Members or the Projects; *provided*, that such further extension shall not exceed one hundred twenty (120) days in the aggregate) as shall be reasonably necessary to complete such curative action and, if the event giving rise to such Removal Event has resulted in the occurrence of a Default (as defined in the Master Agreements and regardless whether the Default has become an Event of Default) under any of the Financing Documents the cure periods hereunder shall only apply so long as (x) the Managing Member allows a representative of the class of Units of which the Managing Member is not a party (which representative shall be designated by Notice to the Managing Member by the Class A Majority (if the Managing Member owns Class B Units) or the Class B Majority (if the Managing Member owns Class A Units) to participate in meetings and negotiations with the Master Administrative Agent, the DOE or the Collateral Agent (as such terms are defined in the Master Agreements) and the financing parties represented by the Master Administrative Agent relating to the cure or potential cure of such Default and (y) the Master Administrative Agent, the DOE and the Collateral Agent and the financing parties represented by the Master Administrative Agent, as applicable, are participating in the negotiation or implementation of a cure plan relating to such Default. If the Removal Event has not been timely cured, then the applicable Members that are seeking to remove the Managing Member may remove the Managing Member pursuant to Section 5.1.7 by Notice to the Managing Member given at any time within sixty (60) days following the expiration of any cure period unless, within two (2) Business Days after the Managing Member receives such Notice, the Managing Member notifies the applicable Members that it reasonably believes that such Removal Event has been timely cured and submits the issue to dispute resolution as provided in Section 5.1.6.4. If the applicable Members fail to give such Notice within such sixty (60) day period, then the Managing Member may not be removed based upon the occurrence of the applicable Removal Event. Notwithstanding the foregoing, the Managing Member shall not have a period to cure a Removal Event following the expiration of the initial fifteen (15) day period following Notice to the Managing Member described in this Section 5.1.6.3 in the following circumstances:

(a) If the Removal Event arises from a Transfer by the Managing Member or an Affiliate of the Managing Member to a Cash Grant Disqualified Person except to the extent that such Transfer constitutes a Permitted Transfer pursuant to Section 7.1.4.6;

(b) If the Removal Event arises from a failure of the Managing Member to make a payment (other than a payment that is being disputed in good faith pursuant to the provisions of this Agreement) to the Members that is due pursuant to the provisions of this Agreement or a previously disputed payment within the period ending with the date that is the earlier of (i) five (5) Business Days following the determination pursuant to Article 13 of the amount of the disputed payment that is due or (ii) the date set by any settlement of the dispute or an arbitration award pursuant to Article 13 when such payment should be made; or

(c) If the Removal Event arises from the occurrence of an Adverse Act and the Managing Member is an Adverse Member.

5.1.6.4 If the Managing Member reasonably disagrees with the determination by such Members that a Removal Event has occurred and is continuing as provided in clause (a) of the first sentence of Section 5.1.6.3 or if the Managing Member has sought to effect a cure as provided in clause (b) of the first sentence of Section 5.1.6.3 and reasonably believes that such Removal Event has been timely cured, then the matter shall be submitted to senior management of the Managing Member and the applicable Members that are seeking to remove the Managing Member. If such senior management is unable to resolve whether either to remove or retain the Managing Member within fifteen (15) days (which resolution must be approved by the applicable Class A Majority or Class B Majority that Consented to the removal of the Managing Member pursuant to Section 5.1.6.1 or Section 5.1.6.2, as applicable), the issue of removal of the Managing Member shall be made the subject of arbitration conducted in the manner described in Article 13.

5.1.7 Except as otherwise expressly provided in Section 5.1.6.4, any removal of the Managing Member shall become effective on such date as may be specified by the Member(s) permitted to remove the Managing Member (after giving effect to any applicable cure permitted by Section 5.1.6.3) or as determined pursuant to arbitration conducted in the manner described in Section 13.2, *provided*, that such removal shall not become effective unless consent to the replacement of such Managing Member is obtained if required pursuant to Section 8.26 of the Master Agreements. Should a Managing Member that is removed from that role remain a Member, such Member shall, subject to Article 8, continue to participate in the Company as a Member and shall share in the Net Profits, Net Losses and Distributable Cash in the same ratios, as provided in this Agreement, as were applicable to such Member before its removal as Managing Member.

5.1.8 A Managing Member may not resign from its position as Managing Member unless (i) it has given Notice to all of the Members of such resignation not less than thirty (30) days' prior to the proposed effective date of such resignation, (ii) consent to the replacement of such Managing Member is obtained if required pursuant to Section 8.26 of the Master Agreements, and (iii) if, at the time of such Notice the Managing Member is the holder of the majority of Units of the class of which it is a Member, such resignation has been approved by the unanimous Consent of the other Members, which Consent shall not be unreasonably withheld, conditioned or delayed.

5.1.9 Except as provided in Section 5.1.9.2, neither the Managing Member nor any officer, member, manager, employee or agent of the Managing Member shall be liable, responsible, or accountable, in damages or otherwise, to any Member or to the Company, DS Holdings or any of the Subsidiaries for any act performed by the Managing Member or any such officer, member, manager, employee or agent with respect to matters of the Company, DS Holdings or any of the Subsidiaries.

5.1.9.1 The Company shall indemnify the Managing Member and its officers, members, managers, employees and agents for all any and all Claims arising or resulting from any act performed by the Managing Member or any such officer, employee or agent with respect

to matters of the Company, DS Holdings or any of the Subsidiaries; *provided*, that the Company shall not be obligated to indemnify such persons with respect to Claims arising out of the Managing Member's fraud, willful misconduct or gross negligence except, to the extent that such Claims are covered by insurance, from the proceeds of such insurance.

5.1.9.2 Notwithstanding any provision of this Agreement to the contrary, the sole remedies of the Members for a breach by the Managing Member of its duties as Managing Member (and not in its capacity as a Member) hereunder (including a failure of the Managing Member to comply with the standards of conduct set forth in Section 5.7) shall be as follows:

(a) If a Removal Event has occurred and is continuing, the Managing Member may be removed as the Managing Member as provided in Section 5.1.6; and

(b) The Managing Member shall also be responsible for and subject to liability to the Members, the Company, DS Holdings and the Subsidiaries as follows:

(i) for any and all Claims that any of them have incurred or are subject to as a result of the occurrence of any Removal Event after giving effect to any applicable cure and dispute rights of the Managing Member under Section 5.1.6.3 and Section 5.1.6.4 (other than a Removal Event described in clause (iii) of the definition of Removal Event); *provided*, that except for Claims incurred as a result of the occurrence of a Removal Event (other than a Removal Event described in clause (iii) of the definition of Removal Event) arising from the fraud or willful misconduct of the Managing Member, the amount of Claims for which the Managing Member may be responsible or liable for under this Agreement shall not exceed the aggregate sum of Five Million Dollars ($5,000,000); *provided*, *further*, that the foregoing limitation on liability of the Managing Member shall not relieve the Managing Member of its obligations to make payments to the Members that are not disputed in good faith (or to make payments that have been disputed to the extent such payments are thereafter determined to be due to the Members pursuant to the provisions of Article 13) when and as the same become due to the Members pursuant to the provisions of this Agreement; and

(ii) for any and all Claims that any or all of them have incurred or are subject to as a result of the Managing Member taking any action (other than, for the avoidance of doubt, an action that is described in the penultimate sentence of the definition of Removal Event) that is grossly negligent after Claims resulting from such gross negligence in an aggregate amount of Four Million Dollars ($4,000,000) have been incurred by any of them; *provided*, that when the amount of such Claims has reached such amount,

Managing Member shall be responsible and subject to liability pursuant to this Section 5.1.9.2(b)(ii) for the amounts in excess of Four Million Dollars ($4,000,000) but not for any amounts of incurred Claims at or below such amount.

5.2 General Powers of the Managing Member. Except as otherwise specifically provided in this Agreement, including in Section 5.6.2, the Managing Member shall have full, exclusive and complete discretion, right, power, and authority to manage, control and make or direct all decisions affecting the business and affairs of the Company, DS Holdings and the Subsidiaries and to do or cause to be done any and all acts, at the expense of the Company in accordance with the approved Budget (and as otherwise permitted for amounts in excess thereof pursuant to Section 5.6.1 or Section 5.6.2.1(a)) or from the proceeds of Mandatory Additional Capital Contributions or Working Capital Loans, in each case on the terms provided herein, reasonably deemed by the Managing Member to be necessary or appropriate to effectuate the purposes and objectives of the Company as set forth in this Agreement or as determined by the requisite Members hereunder, *provided*, that the Managing Member shall not have the power to take any action to legally bind the Company, DS Holdings or any Subsidiary with respect to any matter that constitutes a Major Decision, Fundamental Decision or Termination Decision unless such Major Decision, Fundamental Decision or Termination Decision has been approved in accordance with Section 5.6.2 hereof.

Without limiting the foregoing, subject to Section 5.6.2, the Managing Member shall have the authority to exercise any and all of the powers and authority on behalf of the Company as the sole member of DS Holdings and of each of the sole members of each of the Subsidiaries, either directly or acting through the Company or any such member.

5.3 Additional Powers of the Managing Member. Except as limited by the Act, applicable Law and this Agreement, with respect to all of its obligations, powers and responsibilities under this Agreement, the Managing Member is authorized to execute and deliver, for and on behalf of the Company, DS Holdings or any of the Subsidiaries, such notes and other evidences of indebtedness, contracts, agreements, deeds of trust and other security instruments and agreements as it reasonably deems proper, all on such terms and conditions as it reasonably deems proper.

5.4 Duties of the Managing Member.

5.4.1 Devotion of Time. The Managing Member shall devote such time to the business and affairs of the Company, DS Holdings and the Subsidiaries as is reasonably necessary to carry out the duties of the Managing Member as set forth in this Agreement; *provided*, that neither the Managing Member nor any of its members, managers, officers or employees shall be expected to devote their full time to the performance of such duties unless necessary from time to time for the proper performance of the Managing Member's duties hereunder.

5.4.2 Preparation of Budget. On an annual basis, commencing during the first Fiscal Year following the Operations Commencement Date, the Managing Member shall cause an annual capital and operating budget, as well as an operating plan, for the Company, DS

Holdings and the Subsidiaries to be prepared by the date that is sixty (60) days prior to the beginning of each Fiscal Year (if such date is a Business Day, or if not then the following Business Day) for which the budget shall be applied and shall deliver a copy of such budget to the Members by such date for approval by the Class A Majority and Class B Majority as provided in Section 5.6.2.1(a). The proposed annual budget and operating plan for the Company, DS Holdings and the Subsidiaries shall include all items as are required from time to time by the Class A Majority and Class B Majority. The Members agree that the capital budget for the construction, installation and placing in service of the Projects and the operating budget for the period from the Original Effective Date through the first Fiscal Year following the Operations Commencement Date are attached hereto as Exhibit B and shall be controlling until the next annual capital and operating budget and operating plan have been approved by the Class A Majority and Class B Majority as provided in Section 5.6.2.1(a).

5.5 Tax Matters Member. The Managing Member shall be the Tax Matters Member and shall, subject to the limitations on the authority of the Tax Matters Member as provided herein, have all the powers and duties expressly conferred on the tax matters partner by the Code, as well as those powers and duties as are necessary and proper for the exercise of the tax matters partner's powers and duties under the Code and applicable Law.

5.6 Budget; Limitations on the Managing Member.

5.6.1 Budget. On an annual basis, commencing with respect to the second Fiscal Year following the Operations Commencement Date, pursuant to Section 5.4.2 the Managing Member is required to cause an annual capital and operating budget, as well as an operating plan, for the Company, DS Holdings, and the Subsidiaries to be prepared prior to October 1 of each year preceding the Fiscal Year for which the budget shall be applied and shall deliver a copy of such budget to the Members by October 1 of each year for approval by the Class A Majority and Class B Majority as provided in Section 5.6.2.1(a). If an annual capital and operating budget and all items in a budget (each a "**Budget Item**") have not been approved in accordance with Section 5.6.2.1(a) on or before the commencement of the Fiscal Year for which such Budget pertains (any such Budget Item that has not been approved in accordance with Section 5.6.2.1 (a) is hereinafter referred to as a "**Disputed Item**"), then until such Disputed Item is resolved and approved in accordance with Section 5.6.2.1(a) the Managing Member shall be specifically authorized to make expenditures for items covered by such Disputed Item in an amount that does not exceed the amount of the Disputed Item as in the approved budget for the preceding Fiscal Year, plus an increased amount that reflects any increase in the GDP-IPD for the period from the first day of the preceding Fiscal Year to the first day of the current Fiscal Year; *provided*, that the Managing Member shall be authorized to make expenditures for items covered by such Disputed Item in excess of such amounts necessary to prevent or mitigate an emergency situation or if such expenditures are not for items included in the Budget and are made from the proceeds of Working Capital Loans. The foregoing shall not be deemed to restrict the Managing Member's authority to make expenditures for other Budget Items that have been approved previously in accordance with Section 5.6.2.1(a) for the next Fiscal Year

5.6.2 Limitations on the Managing Member.

5.6.2.1 Notwithstanding any other provision of this Agreement other than Section 13.4 (but subject, where applicable, to Section 14.2), the Managing Member shall not have the authority to cause, and shall not take or omit to take any action that would permit the Company, DS Holdings, or any Subsidiary to take, any of the following actions without the Consent of the Class A Majority and Class B Majority (each such action, a "**Major Decision**"):

(a) approve any capital or operating budgets or plans of the Company, DS Holdings, or any of the Subsidiaries (including amendments thereto) or permit any such entity to make or incur any expenditures exceeding the then current approved Budget by more than ten percent (10%) in the aggregate, without taking into account any expenditures paid for with Working Capital Loans except to the extent such expenditures are included in the approved Budget;

(b) except for the loans and other extensions of credit pursuant to the Financing Documents, Working Capital Loans in an amount at any one time outstanding equal to or less than the Working Capital Loan Limit and loans to the Company made pursuant to Section 3.1.2 or Section 3.2.4, borrow money or otherwise incur any indebtedness in an aggregate amount in excess of Five Hundred Thousand Dollars ($500,000);

(c) except as required by the Financing Documents, transfer, assign, pledge, mortgage or grant a security interest or other lien or encumbrance in any of the assets of the Company, DS Holdings or any of the Subsidiaries including membership interests of any of the Subsidiaries;

(d) commence, settle, compromise, waive or abandon any claim, action or proceeding to which the Company, DS Holdings or any Subsidiary is a party, confess a judgment against the Company, DS Holdings or any Subsidiary, or initiate any legal proceedings or arbitration on behalf of the Company, DS Holdings or any Subsidiary, in any case involving an amount in controversy in excess of One Million Dollars ($1,000,000) (or in the case of a claim, action or proceeding against an Affiliate of a Member of the Company, in any amount), or involving any remedy or relief other than the payment of monetary damages;

(e) (i) agree to any material amendment, modification or extension of any of the Transactions Documents, Additional Project Documents or Permits, (ii) cancel, suspend, renew, replace or terminate any Transactions Documents, Additional Project Documents or Permits, (iii) assign, release or relinquish the rights or obligations of any party to any Transaction Document or Additional Project Document, or (iv) enter into any Additional Project Document; *provided*, that Managing Member may terminate the O&M Agreements as of any of the dates set forth in the O&M Agreements that permit termination by the applicable Subsidiary for its convenience without the Consent of the Class A Majority and Class B Majority and enter into replacement O&M Agreements with an Affiliate of the Managing Member; *provided*, *further*, that such termination may only occur if upon such termination the Managing Member will cause the Subsidiaries to enter into replacement O&M Agreements that have been approved by the prior

Consent of the Class A Majority and Class B Majority and of any Person required to approve such replacement O&M Agreements under the Financing Documents, and such termination for convenience without the approval of the Class A Majority and Class B Majority may only occur one time;

(f) establish any operating, capital or other reserves for the Company, DS Holdings, or any Subsidiary in the aggregate at any time held up to Two Million Dollars ($2,000,000) in addition (but without duplication) to those (1) expressly included in the approved Budget or required pursuant to the terms, conditions or provisions of the Financing Documents or such other documents, or (2) necessary to prevent or mitigate an emergency situation;

(g) make any material changes to the Required Insurance Coverage;

(h) make any repayment (except pursuant to scheduled maturities), voluntary prepayment or redemption of, or any refinancing or other related material modification of the terms of, any indebtedness of the Company, DS Holdings or any of the Subsidiaries except for loans described in Section 3.2.4, Working Capital Loans and indebtedness incurred with the Consent of the Class A Majority and Class B Majority pursuant to Section 5.6.2.1 (b);

(i) knowingly and voluntarily take any action that would result in a material breach of any of the Project Agreements or an event of default under any of the Financing Documents;

(j) allow any Member to directly Transfer all or any part of its Membership Interests, or knowingly and voluntarily allow all or any portion of any ownership interest in a Member to be Transferred by such Member's Owners, that is not expressly authorized by this Agreement or admit a new Member to the Company or any Subsidiary except as expressly authorized by this Agreement;

(k) conduct business under any name other than as set forth in Section 2.3; or

(l) select or replace the independent auditor or accountants for the Company, DS Holdings or any of the Subsidiaries with any firm that is not an Approved Accounting Firm.

5.6.2.2 Notwithstanding any other provision of this Agreement (but subject, where applicable, to Section 14.2), the Managing Member shall not have the authority to cause, and shall not take or omit to take any action that would permit the Company, DS Holdings, or any Subsidiary to take, any of the following actions without the Consent of the Class A Supermajority and the Class B Supermajority (each such action, a "**Fundamental Decision**"):

(a) merge or consolidate the Company, DS Holdings, or any Subsidiary with any other Person, convert the Company, DS Holdings or any Subsidiary to any other form of business organization permitted by the Act, or acquire any ownership interest in any Person;

(b) sell, lease or otherwise dispose of to any Person, in a transaction or series of transactions, (i) any of the membership interests in DS Holdings or any Subsidiary or (ii) any assets of the Company, DS Holdings or any Subsidiary having an aggregate value that is in excess of Two Million Dollars ($2,000,000) in any transaction or related series of transactions (or assets of any value that are not obsolete, not worn out or are used or useful in the operation or maintenance of the Projects), other than pursuant to any mortgage, pledge, or grant of a security interest under the Financing Documents;

(c) change the purpose of the Company, DS Holdings or any Subsidiary to or engage in any business or action that is other than as set forth in the first sentence of Section 2.7 or acquire any assets related to any business that is not consistent with such purpose;

(d) guarantee any indebtedness or obligation of any Person other than permitted indebtedness or obligations of a Subsidiary;

(e) allow any Member to possess any assets of the Company, DS Holdings or any of the Subsidiaries, or assign rights in specific assets of the Company, DS Holdings or any of the Subsidiaries to any Member;

(f) issue, create, authorize, designate or sell or cause to be issued, created, authorized, designated or sold any additional Membership Interests, other ownership or security interests, or any rights, options, warrants or other securities convertible or exchangeable for any ownership interest in the Company, DS Holdings, or any Subsidiary, except as otherwise specifically set forth in this Agreement (including the issuance of additional Units with respect to the Initial Capital Contributions and the Required Additional Capital Contributions);

(g) take any action that would require that any Member increase its Capital Contribution to an amount in excess of the aggregate amount of such Member's Initial Capital Contribution and the Required Additional Capital Contributions;

(h) alter or modify any of the terms, powers or other special rights of the Members, the Company, DS Holdings or any of the Subsidiaries except as otherwise specifically set forth in this Agreement;

(i) cause the Company, DS Holdings, or any Subsidiary to purchase or redeem any Membership Interest or other ownership interest except as otherwise specifically set forth in this Agreement;

(j) amend the Certificate or this Agreement or any of the organizational documents of DS Holdings or any Subsidiary except for corrective amendments fixing immaterial errors, including the transposition of numbers and the like, or as may be required to effect the admission of any Person entitled to be admitted to the Company as a Member pursuant to the provisions of this Agreement or to effect any Transfers of Membership Interests that are allowed or

provided for in this Agreement, including pursuant to Section 7.1.3 or Section 7.1.4 hereof;

(k) make or take any election or action that would adversely affect the eligibility of any Project for the accelerated depreciation contemplated in the Closing Date Model, including the receipt, transfer or acceptance of any government grants, tax-exempt financing, subsidized energy financing or other federal tax credits within the meaning of Section 45 (b)(3) of the Code;

(l) allocate insurance proceeds received by the Company, DS Holdings or any Subsidiary after the obligations incurred under the Financing Documents are repaid in full;

(m) except as expressly provided in this Agreement, make any distribution to any Member;

(n) elect that the Company be treated as other than a partnership for federal income tax purposes;

(o) engage in any act that, if taken, could reasonably be expected to cause a recapture or disallowance of all or any portion of the Cash Grant;

(p) voluntarily remove any portion of any Project from service if such action would reasonably be expected to result in a 1603 Grant Recapture Liability;

(q) make any material amendment to any filed Cash Grant Application;

(r) change its methods of accounting as in effect on the Original Effective Date;

(s) permit the Company, DS Holdings or any Subsidiary to enter into any agreement to sell power which is a financially settled contract without the physical delivery of power produced by the Projects or any agreement to sell power that is classified as a SFAS 133 Derivative (ASC815); or

(t) at any time during the Recapture Period, cause the Company, DS Holdings or any Subsidiary to become a Cash Grant Disqualified Person.

5.6.2.3 Notwithstanding any other provision of this Agreement, the Managing Member shall not have the authority to cause the Company, DS Holdings or any Subsidiary to take any of the following actions without the Consent of the Class A Supermajority and Class B Supermajority and, during the Covered Period, the Consent of each of the Independent Managers (each such action, a "**Termination Decision**"):

(a) elect to terminate or dissolve or wind up the Company, DS Holdings or any Subsidiary; or

(b) institute proceedings for the Company, DS Holdings or any Subsidiary to be adjudicated as bankrupt or insolvent, or consent to the institution of bankruptcy or insolvency proceedings against the Company, DS Holdings or any Subsidiary, or file a petition or cause a Subsidiary to file a petition with respect to the Company, DS Holdings or any such Subsidiary or consent to a petition with respect to the Company, DS Holdings or any Subsidiary seeking reorganization or relief under any applicable Federal or state laws relating to bankruptcy or insolvency, or appoint or consent to the appointment of a receiver, liquidator, custodian, assignee, trustee, sequestrator (or other similar official) of the Company, DS Holdings or any Subsidiary or a substantial part of their respective properties, or make any assignment for the benefit of creditors, or except as required by law, admit in writing the inability to pay its debts generally as they become due, or take any action as a limited liability company in furtherance of any such action.

5.7 Standards of Conduct of the Managing Member.

5.7.1 To the fullest extent permitted by the Act, the Managing Member shall not have any duties, including any fiduciary duties, other than those expressly provided in this Agreement. Subject to Section 5.7.4, the Managing Member shall perform its duties hereunder in accordance with the following standards:

5.7.1.1 the Managing Member shall discharge its duties and obligations to the Company, DS Holdings, the Subsidiaries, and the other Members, and exercise any rights under this Agreement, consistently with the obligations of good faith and fair dealing and Prudent Industry Practices; and

5.7.1.2 without limiting the Managing Member's obligations of good faith and fair dealing, in the conduct of the Company's, DS Holding's and the Subsidiaries' business and affairs, the Managing Member shall not engage in fraud, willful misconduct or a knowing violation of Law.

5.7.2 Without limiting the foregoing provisions of Section 5.6.2.1(e) and this Section 5.7, the Managing Member agrees that it will act in a commercially reasonable manner when it enters into contracts (which shall be arm's length) on behalf of the Company, DS Holdings or any Subsidiary with a Member or an Affiliate of a Member for the purchase or sale of services and goods; *provided*, that any contract approved in accordance with Section 5.6.2.1(e) shall be conclusively deemed to have been entered into by the Managing Member in compliance with the requirements of this Section 5.7; *provided*, *further*, that if (i) an Affiliate of the Managing Member is in breach or default of its obligations under any contract with the Company, DS Holdings or any Subsidiary (including any replacement contract for any of the O&M Agreements that an Affiliate may hereafter enter into with one or both of the Subsidiaries) and such Affiliate has failed to correct such breach or default within any applicable cure period that applies to such breach or default such that the Company, DS Holdings or any Subsidiary, as the case may be, has the contractual right to terminate such contract as a result of such uncured breach or default (excluding, for the avoidance of doubt, any contractual right of the Company, DS Holdings or any Subsidiary to terminate for convenience or otherwise without fault by such

Affiliate) and (ii) the Managing Member has not taken the actions required to terminate the contract as hereinafter provided, then upon receipt of a written direction from the Class B Majority (if the Managing Member is a Class A Member) or a written direction from the Class A Majority (if the Managing Member is a Class B Member) and subject to the receipt of any consents or approvals required under the Financing Documents, the Managing Member shall promptly take such actions as are permitted under the contract to terminate the contract with such Affiliate. If any such contract to be terminated is for services required for the operation and maintenance of the Projects or the management of the Company, DS Holdings or any of the Subsidiaries, any such termination made at the direction of the Class A Majority or the Class B Majority shall be implemented in a manner that allows for the replacement of the service provider pursuant to a replacement contract without any material interruption of such services and the receipt of any required approvals for such replacement contract under the Financing Documents and, for purposes of a replacement pursuant to this Section 5.7.2 (notwithstanding the provisions of Section 5.6.2.1(e) to the contrary), only the Consent to the execution of such replacement contract from the Members holding not less than a majority of the Units then outstanding that are not held by Members that are Affiliated with the Person that defaulted under the prior contract shall be required.

5.7.3 Any such affiliated contact entered into shall not relieve the Managing Member of its obligation to carry out the services to be performed by the Managing Member under this Agreement.

5.7.4 Nothing contained in this Section 5.7 shall be deemed to limit or restrict the rights or obligations of the Managing Member or any other Member otherwise set forth in this Agreement.

5.8 Outside Activities. Nothing in this Agreement shall be deemed to restrict in any way the rights of any Member, including the Managing Member, or of any other Person whether or not an Affiliate of any Member, to conduct any other business or activity whatsoever, and no Member shall be accountable to the Company, DS Holdings or any Subsidiary or to any other Member with respect to that business or activity even if the business or activity owns and/or operates property within the same or any other geographic area or competes with the Company's, DS Holding's or any Subsidiary's business. The organization of the Company, DS Holdings and the Subsidiaries shall be without prejudice to the Members' respective rights (or the rights of any other Person whether or not an Affiliate of any Member) to maintain, expand, or diversify such other interests and activities and to receive and enjoy profits or compensation therefrom. Each Member waives any rights the Member might otherwise have to share or participate in such other interests, activities, assets or profits of any other Member or of any other Person in any way affiliated with any Member, whether or not an Affiliate of any Member.

5.9 Reimbursement. The Managing Member shall be entitled to reimbursement for any and all reasonable out-of-pocket expenses approved in the Budget (and for amounts not exceeding such amount by more than ten percent (10%) of the amount approved in the Budget) and incurred by it in connection with the performance of its duties as the Managing Member pursuant to this Agreement, including legal, consultant, accounting and other professional fees so incurred by the Managing Member. Except as provided in Section 5.10, no other Member shall be entitled to reimbursement for any out-of-pocket expenses incurred by it on behalf of the

Company, DS Holdings or any Subsidiary. Any such reimbursements shall be treated as an expense of the Company that shall be deducted in computing the Distributable Cash and shall not be deemed to constitute a distributive share of Net Profits or a distribution or return of capital to the Members.

5.10 Members Participation in Company. Each Member shall devote such time to the business and affairs of the Company as is reasonably necessary to carry out the duties of the Members as set forth in this Agreement. Unless approved in the Budget or otherwise by the Class A Majority and Class B Majority, no Member (other than the Managing Member as provided in Section 5.1.4 and Section 5.9) shall be entitled to compensation hereunder, except that the Members shall be entitled for reimbursement of reasonable travel and other reasonable out-of-pocket expenses incurred in connection with such Member's attendance at meetings.

5.11 Environmental Health & Safety Obligations.

5.11.1 Environmental Health & Safety Program. The Managing Member shall, and shall cause the Company, DS Holdings and the Subsidiaries to, consult and collaborate with the Operator to prepare a formal, comprehensive written environmental health and safety program for the Subsidiaries (the "**EH&S Program**"), as soon as practicable, including regular review and evaluations, aimed at ensuring that the operations of the Subsidiaries and the Projects are conducted in compliance with all applicable Environmental Laws. At a minimum, the EH&S Program shall include: (i) identification of environmental concerns (including material changes in applicable law) associated with all Environmental Laws applicable to the operations of the Subsidiaries and the Projects; (ii) adoption and implementation of an environmental management system to assess and control the environmental impact of the operations of the Subsidiaries and the Projects; and (iii) implementation of periodic environmental health and safety audits conducted either internally or by independent consultants with documented corrective action responding to such audits. The Managing Member shall, and shall cause the Company, DS Holdings and the Subsidiaries to, also seek to have the EH&S Program prepared by the Operator include a requirement that the Operator deliver to the Members the following within forty-five (45) days after the end of each fiscal quarter of the Company and the end of each Fiscal Year a description and the status of (i) any environmental remediation activities then being conducted by any Subsidiary, (ii) any required filings or submittals of reports to any Governmental Entity to address compliance with applicable Environmental Laws by any Subsidiary, (iii) responses to any identified environmental concerns, (iv) any citizen complaints related to any Subsidiary, and (v) any regulatory proceedings related to any Subsidiary.

5.11.2 Managing Member Responsibilities. The Managing Member shall, promptly after the Managing Member receives written notice thereof from the Operator, notify the Members in writing of any inspection by any Governmental Entity, notice of violations issued by any such entities, any pending administrative or judicial proceeding, any third party lawsuit, a material Release of Hazardous Materials (each as defined in the Master Agreements), a material change in Environmental Law or any claim or violation identified by the Operator with respect to any Subsidiary, to the extent any such inspection, notice, proceeding, lawsuit, Release, change in law, claim or violation relate to compliance by any Subsidiary with applicable Environmental Laws and could reasonably be expected to result in a fine, penalty, loss or

damage to the Company, DS Holdings or any Subsidiary of Twenty-Five Thousand Dollars ($25,000) or more.

ARTICLE 6
ALLOCATIONS OF NET PROFITS AND NET LOSSES AND DISTRIBUTIONS

6.1 Allocations of Net Profit and Net Loss.

6.1.1 Net Loss. Net Loss shall be allocated to the Members in proportion to their Percentage Interests. Notwithstanding the previous sentence, loss allocations to a Member shall be made only to the extent that such loss allocations will not create a deficit balance in such Member's Adjusted Capital Account. Any loss not allocated to a Member because of the foregoing provision shall be allocated to the other Members (to the extent the other Members are not limited in respect of the allocation of losses under this Section 6.1.1). Any loss reallocated under this Section 6.1.1 shall be taken into account in computing subsequent allocations of income and losses pursuant to this Article 6, so that the net amount of any item so allocated and the income and losses allocated to each Member pursuant to this Article 6, to the extent possible, shall be equal to the net amount that would have been allocated to each such Member pursuant to this Article 6 if no reallocation of losses had occurred under this Section 6.1.1.

6.1.2 Net Profit. Except as provided in Section 6.1.1, Net Profit shall be allocated to the Members in proportion to their Percentage Interests.

6.1.3 Order of Application. The provisions of this Section 6.1 are to be applied after the application of the provisions of Section 6.2 and Section 6.3.

6.2 Special Allocations. Notwithstanding Section 6.1:

6.2.1 Minimum Gain Chargeback. If there is a net decrease in Company Minimum Gain during any Fiscal Year, each Member shall be specially allocated items of Company income and gain for such Fiscal Year (and, if necessary, in subsequent Fiscal Years) in an amount equal to the portion of such Member's share of the net decrease in Company Minimum Gain in the manner provided in Section 1.704-2 of the Regulations. Allocations pursuant to this Section 6.2.1 shall be made in proportion to the amounts required to be allocated to each Member under this Section 6.2.1. The items to be so allocated shall be determined in accordance with Regulations Section 1.704-2(f). This Section 6.2.1 is intended to comply with the minimum gain chargeback requirement contained in Regulations Section 1.704-2(f) and shall be interpreted consistently therewith.

6.2.2 Chargeback of Minimum Gain Attributable to Member Nonrecourse Debt. If there is a net decrease in Company Minimum Gain attributable to a Member Nonrecourse Debt, during any Fiscal Year, each member who has a share of the Company Minimum Gain attributable to such Member Nonrecourse Debt (which share shall be determined in accordance with Regulations Section 1.704-2(i)(5)) shall be specially allocated items of Company income and gain for such Fiscal Year (and, if necessary, in subsequent Fiscal Years) in an amount equal to that portion of such Member's share of the net decrease in Company Minimum Gain attributable to such Member Nonrecourse Debt in the manner provided in Section 1.704-2 of the Regulations. Allocations pursuant to this Section 6.2.2 shall be made in

proportion to the amounts required to be allocated to each Member under this Section 6.2.2. The items to be so allocated shall be determined in accordance with Regulations Section 1.704-2(i)(4). This Section 6.2.2 is intended to comply with the minimum gain chargeback requirement contained in Regulations Section 1.704-2(i)(4) and shall be interpreted consistently therewith.

6.2.3 Nonrecourse Deductions. Any nonrecourse deductions (as defined in Regulations Section 1.704-2(b)(1)) for any Fiscal Year or other period shall be specially allocated to the Members in proportion to their Percentage Interests.

6.2.4 Member Nonrecourse Deductions. Those items of Company loss, deduction, or Code Section 705(a)(2)(B) expenditures that are attributable to Member Nonrecourse Debt for any Fiscal Year or other period shall be specially allocated to the Member who bears the economic risk of loss with respect to the Member Nonrecourse Debt to which such items are attributable in accordance with Regulations Section 1.704-2(i).

6.2.5 Qualified Income Offset. If a Member unexpectedly receives any adjustments, allocations, or distributions described in Regulations Section 1.704-1(b)(2)(ii)(d)(4), (5) or (6), or any other event creates a deficit balance in such Member's Adjusted Capital Account, items of Company income and gain shall be specially allocated to such Member in an amount and manner sufficient to eliminate such excess deficit balance as quickly as possible. Any special allocations of items of income and gain pursuant to this Section 6.2.5 shall be taken into account in computing subsequent allocations of income and gain pursuant to this Article 6 so that the net amount of any item so allocated and the income, gain, and losses allocated to each Member pursuant to this Article 6, to the extent possible, shall be equal to the net amount that would have been allocated to each such Member pursuant to the provisions of this Section 6.2.5 if such unexpected adjustments, allocations, or distributions had not occurred.

6.2.6 Curative Allocations. The allocations set forth in Sections 6.2.1 through 6.2.5 above (the "**Regulatory Allocations**") are intended to comply with certain requirements of Treasury Regulations Section 1.704-1(b) and 1.704-2. The Regulatory Allocations may not be consistent with the manner in which the Members intend to allocate Net Profit and Net Loss or make Company distributions. Accordingly, notwithstanding the other provisions of this Article 6 but subject to the Regulatory Allocations, the Managing Member is hereby directed to reallocate items of income, gain, deduction and loss among the Members so as to eliminate the effect of the Regulatory Allocations and thereby to cause the respective Capital Accounts of the Members to be in the amounts (or as close thereto as possible) they would have been if Net Profit and Net Loss (and such other items of income, gain, deduction and loss) had been allocated without reference to the Regulatory Allocations. In general, the Managing Member anticipates that this will be accomplished if permitted by Law by specially allocating other Net Profit and Net Loss (and such other items on income, gain, deduction and loss) among the Members so that the net amount of the Regulatory Allocations and such special allocations to each such Member is zero. The Managing Member shall have discretion to accomplish this result in any reasonable manner. In addition, if in any Fiscal Year or other period there is a decrease in Company Minimum Gain or in Member Nonrecourse Debt, and application of the minimum gain chargeback requirements contained in Section 6.2.1 or Section 6.2.2 would cause

a distortion in the economic arrangement among the Members, the Managing Member may, if the Managing Member does not expect that the Company will have sufficient other income to correct such distortions and with consent of the Class A Majority and Class B Majority, request the Internal Revenue Service to waive either or both of such minimum gain chargeback requirements. If such request is granted, this Agreement shall be applied in such instance as if it did not contain such minimum gain chargeback requirements.

6.3 Tax Allocations; Code Section 704(c). All allocations of tax items of Company income, gain, deductions and losses for each Fiscal Year will be allocated in the same proportions as the allocations of Book items of Company income, gain, deductions and losses were made for such Fiscal Year pursuant to Section 6.1 and Section 6.2. Notwithstanding the previous sentence, if, as a result of contributions of property by a Member to the Company or an adjustment to the Book Values of Company assets pursuant to this Agreement, there exists a variation between the adjusted basis of an item of Company property for federal income tax purposes and as determined under the definition of Book Value, allocations of income, gain, loss, and deduction will be allocated among the Members so as to take into account any variation between the adjusted basis of such property to the Company for federal income tax purposes and its initial Book Value using the remedial method pursuant to Treasury Regulation Section 1.704-3(d). Allocations pursuant to this Section 6.3 are solely for purposes of federal, state and local taxes and will not affect, or in any way be taken into account in computing, any Member's Capital Account or share of income, gain, deductions or losses or distributions pursuant to any other provision of this Agreement.

6.4 Reserved.

6.5 Reserved.

6.6 Allocation of Net Profits and Losses and Distributions in Respect of a Transferred Interest. If any Economic Interest is transferred, or is increased or decreased by reason of the admission of a new Member or otherwise, during any Fiscal Year of the Company, Net Profit or Net Loss for such Fiscal Year shall be assigned pro rata to each day in the particular period of such Fiscal Year to which such item is attributable (i.e., the day on or during which it is accrued or otherwise incurred) and the amount of each such item so assigned to any such day shall be allocated to the Member or Assignee based upon its respective Economic Interest at the close of such day. For purposes of this Section 6.6, an Economic Interest shall be deemed to be held by the transferor thereof on the day of the transfer.

6.7 Distributions of Distributable Cash by the Company and Grant Proceeds.

6.7.1 Subject to applicable Law and except as provided in Section 3.1.2, Section 3.2.4, Section 3.5.2 and Section 3.6.2.6, the Managing Member shall distribute all Distributable Cash to the Members quarterly, which distributions shall be to the Members in proportion to their Percentage Interests except as otherwise provided in Section 6.7.2 and Section 8.1.2. All such distributions shall be made only to the Persons who, according to the books and records of the Company, are the holders of record of the Economic Interests in respect of which such distributions are made on the actual date of distribution. Subject to applicable Law, neither the Company nor any Member (including the Managing Member) shall incur any liability for

making distributions in accordance with this Section 6.7. The Managing Member shall cause (i) the Subsidiaries to distribute to DS Holdings, (ii) DS Holdings to distribute to the Company and (iii) the Company to distribute to the Members in proportion to their Percentage Interests, all 1603 Grant Proceeds (as defined in the Master Agreements) that are permitted to be distributed by the Subsidiaries pursuant to Section 4.8.5 (b)(ii) of each of the 250 Depositary Agreement and the 300 Depositary Agreement (each as defined in the Master Agreements) promptly following satisfaction of the requirements for such distribution thereunder.

6.7.2 If, and to the extent that, the Financing Documents permit the use of letters of credit in lieu of cash to fund all or any portion of any of the reserve accounts created thereunder, each Member shall have the right to provide a letter of credit to replace a portion of the cash required to be maintained in any such reserve account and permitted to be so replaced, which portion may be up to the amount determined by multiplying the total amount required to be maintained in such reserve account and permitted to be so replaced by such Member's Percentage Interest. To the extent that the deposit by a Member of a letter of credit is made to replace cash in any such reserve account, the depositing Member shall be entitled to receive a distribution from the cash returned to the applicable Subsidiary as a result of the delivery of its letter of credit when, and to the extent that, such cash becomes available to the Managing Member for distribution as part of Distributable Cash, and such amount shall not be subject to the requirements for proportionate distributions set forth in Section 6.7.1. Any Transferee of all or a portion of such Member's Membership Interests shall not be permitted to replace all or any portion of the cash required in the applicable reserve account with respect to which the Transferor provided a letter of credit. If the applicable letter of credit expires without being fully drawn, the Member that provided such letter of credit shall promptly issue a new letter of credit that satisfies the requirements under the Financing Documents or deposit cash into the applicable reserve account in an amount equal to the stated amount of the expired letter of credit.

6.8 Form of Distribution. A Member, regardless of the nature of the Member's Capital Contribution, has no right to demand and receive any distribution from the Company in any form other than money. Except as provided in Section 9.4, no Member may be compelled to accept from the Company a distribution of any asset in kind in lieu of a proportionate distribution of money being made to other Members and no Member may be compelled to accept a distribution of any asset in kind.

6.9 Reserved

6.10 Amounts Withheld. All amounts required to be withheld pursuant to the Code or any provision of any state or local tax Law with respect to any payment, distribution or allocation to the Company or the Members shall be treated as amounts distributed to the Members pursuant to this Article 6 for all purposes under this Agreement. The Tax Matters Member is authorized, after first notifying the affected Member and permitting the Member to contest the applicability of such taxes, to withhold from distributions, or, with respect to allocations, to allocate to the Members and to pay over to any federal, state or local government any amounts required to be so withheld pursuant to Code or any provision of any other federal, state or local Law, and shall allocate any such amounts to the Members with respect to which such amount was withheld. Each Member agrees to furnish the Company with any

representations and forms as shall reasonably be requested by the Company to assist it in determining the extent of any withholding obligation it may have.

ARTICLE 7
TRANSFERS

7.1 Transfers.

7.1.1 Transfers of Membership Interests may be effected only in strict compliance with this Article 7. To the fullest extent permitted by applicable Law, any attempted Transfer in violation of this Article 7 shall be null and void and of no effect whatsoever and neither the Managing Member nor the Company will recognize such attempted Transfer. If a transferring Member ("**Transferor**") of a Membership Interest does not comply with the requirements of this Article 7, the transferee thereof (the "**Purported Transferee**") will not be recognized as a Member by the Company or the Managing Member, will have no right to act as a Member (and no purported rights or interest of such Purported Transferee will be considered in the determination of any Consent required of any of the Members) and such Purported Transferee will not be entitled to receive from the Company the distributions or allocations to which the transferring Member would have been entitled with respect to such Membership Interest pursuant to this Agreement.

7.1.2 Except as provided in Section 7.1.3 and Section 7.1.4, no Member shall Transfer all or any portion of that Member's Membership Interests or rights and obligations as such hereunder, or allow all or any portion of any Interest in Member to be Transferred by Member's Owners, unless such Transfer has been approved by the Consent of the Class A Majority and the Consent of the Class B Majority.

7.1.3 Except as provided in Section 7.1.4 or unless such Transfer has been approved by the Consent of the Class A Majority and the Consent of the Class B Majority, and subject in all instances to the limitations set forth in Section 7.1.5, Members may Transfer their respective Membership Interests or rights and obligations as such hereunder only if, at the time such Transfer is to take effect:

7.1.3.1 all consents, approvals and filings required to be obtained or made in connection with the Transfer have been obtained or made and are in full force and effect;

7.1.3.2 unless the proposed Transferee is a Transferee pursuant to Section 7.1.4.1 below, the proposed Transferee (i) has met the requirements under the applicable Equity Contribution Agreements to become a Qualifying Transferee Member (as defined in the Equity Contribution Agreements) upon consummation of the Transfer, (ii) has entered into the required Additional Equity Contribution Agreement (s) pursuant to which such proposed Transferee will be obligated to make Pre-Approved Additional Capital Contributions in an amount equal to a pro rata share of the Transferor's obligation to make such Pre-Approved Additional Capital Contributions based upon the Percentage Interest to be acquired by the proposed Transferee, (iii) has provided the credit support required under such Additional Equity Contribution Agreement(s) in the form of Acceptable Member Credit Support (as defined in the Equity Contribution Agreements), (iv) has provided a Residual Sponsor Equity Guaranty Agreement

from a Creditworthy Person with respect to its Pre-Approved Additional Capital Contributions in an amount equal to a pro rata share of the Transferor's obligation to make such Pre-Approved Additional Capital Contributions based upon the Percentage Interest to be acquired by the proposed Transferee and which shall be in form and substance substantially similar to the Residual Sponsor Equity Guaranty Agreement executed by the Transferor, and (v) has caused a Creditworthy Person to assume the obligations of the Sponsor (as defined in the Investment Agreement) that is Affiliated with the Transferor as required under Section 6.8 of the Investment Agreement;

7.1.3.3 the Transfer does not violate any material agreement binding on the Transferor, the proposed Transferee or their respective assets;

7.1.3.4 such Transfer does not cause the Company (i) to terminate for federal income tax purposes under Code Section 708(b)(1)(B) or (ii) to be liable for documentary transfer taxes, in each case, unless the Transferor indemnifies the remaining Members against any adverse tax consequences (including documentary transfer taxes) in accordance with Section 7.1.7;

7.1.3.5 such Transfer will not result in the Company being treated as a publicly traded partnership taxable as a corporation;

7.1.3.6 such Transfer will not affect the eligibility of the Company, DS Holdings or the Subsidiaries for the Cash Grants or otherwise result in a reduction of the projected amounts of the Cash Grants;

7.1.3.7 such Transfer will not cause the Company to be classified as an entity other than a partnership or disregarded entity for tax purposes;

7.1.3.8 such Transfer will not cause any portion of the Project to be subject to alternative depreciation under Section 168(g) of the Code or to be "tax-exempt use property";

7.1.3.9 the Transferor and the proposed Transferee execute such instruments of transfer and assignment and such other instruments as are reasonably satisfactory in form and substance to the Managing Member to effectuate the Transfer;

7.1.3.10 the Transferor is in compliance with all of its obligations under this Agreement (including Section 7.1.7 below), the Equity Contribution Agreements to which it is a party and the Cash Grant Recapture Indemnity Agreement to which it is a party and the Guarantor that has entered into the related Cash Grant Recapture Support Agreement with respect to the obligations of the Transferor under its Cash Grant Recapture Indemnity Agreement is in compliance with its obligations thereunder;

7.1.3.11 the Transferor delivers at its own cost a legal opinion or certification (in form and substance reasonably acceptable to the Managing Member) opining or certifying that such Transfer does not violate any federal or state securities laws or other applicable federal or state laws or any applicable court order;

7.1.3.12 the proposed Transferee is a "United States person" within the meaning of Code Section 7701(a)(30);

7.1.3.13 if such Transfer occurs during the Recapture Period, the proposed Transferee (A) is not a Cash Grant Disqualified Person, (B) has provided a Cash Grant Recapture Indemnity Agreement in form and substance substantially similar to the Cash Grant Recapture Indemnity Agreement executed by the Transferor and (C) is a Creditworthy Person (or has its obligations under the Cash Grant Recapture Indemnity Agreement supported by a Creditworthy Person pursuant to a Cash Grant Recapture Support Agreement, that with respect to such obligations, is substantially similar to the Cash Grant Recapture Support Agreement executed by the Transferor) or shall otherwise be reasonably acceptable to each non-transferring party that is party to a Cash Grant Recapture Indemnity Agreement; *provided,* that clauses (B) and (C) shall not apply to a Transfer by a Member if the Guarantor of such Member remains obligated under the Cash Grant Recapture Support Agreement entered into by such Guarantor;

7.1.3.14 such Transfer does not result in a Change in Ownership, Change of Control (regardless of whether the Master Agreements are then in effect; *provided*, that if the Master Agreements are not in effect any consent that would have otherwise been required had the Master Agreements been in effect shall instead be required from the Class A Majority and the Class B Majority, such consent not to be unreasonably withheld, conditioned or delayed), PPA Change in Control, a Cash Grant Loss or 1603 Grant Recapture Liability;

7.1.3.15 [Reserved];

7.1.3.16 [Reserved];

7.1.3.17 with respect to a Transfer of either Class A Membership Interests or Class B Membership Interests, the Transfer will not result in there being more than six (6) Class A Members or six (6) Class B Members, as the case may be, or be to a proposed Transferee that, after giving effect to such Transfer, has a Percentage Interest of less than five percent (5%) of the Percentage Interests;

7.1.3.18 with respect to a Transfer of either Class A Membership Interests or Class B Membership Interests, (a) the proposed Transferee shall have delivered to the Managing Member (i) a certificate from an authorized representative of the proposed Transferee which certifies as to itself only that the Transfer to the proposed Transferee will not on the effective date thereof violate any of the restrictions set forth in Section 7.1.3 or in Section 7.1.5 and confirming the statement in paragraph 4(a) of Schedule IV and (ii) a Compliance Confirmation (as defined in paragraph 4(b) of Schedule IV) and (b) the Transferor shall have delivered to the Managing Member a certificate from an authorized representative of the Transferor which certifies as to itself only that the Transfer to the proposed Transferee will not on the effective date thereof violate any of the restrictions set forth in Section 7.1.3.1, Section 7.1.3.3 or Section 7.1.3.4; and

7.1.3.19 if the Transferor is not then the Managing Member, the Transferor shall have reimbursed the Managing Member for any and all reasonable out-of-pocket expenses that it may have incurred in connection with the Transfer.

7.1.4 Notwithstanding the provisions of Section 7.1.2 or Section 7.1.3, and subject in all instances to the limitations set forth in Section 7.1.5, the following Transfers may be made without the approval or Consent of any Member and the restrictions set forth in Section 7.1.2 and Section 7.1.3, will not apply to the following (each, a "**Permitted Transfer**"); *provided*, that, with respect only to a direct Transfer by a Member of all or a portion of its Membership Interests, to the extent applicable the provisions of Section 7.1.3.1 through Section 7.1.3.13 will apply:

7.1.4.1 (i) the grant of a security interest or interests by a Class A Member or Class B Member in the Class A Membership Interests or the Class B Membership Interests, as the case may be, and any foreclosure pursuant to the Financing Documents upon such security interest or interests in the Class A Membership Interests or the Class B Membership Interests or (ii) the grant of a security interest or interests by a Class A Member or Class B Member in the Class A Membership Interests or the Class B Membership Interests, as the case may be, to a lender of the Class A Member or any Affiliate thereof or to a lender of the Class B Member or any Affiliate thereof, as the case may be, and any foreclosure upon such security interest or interests in the Class A Membership Interests or the Class B Membership Interests by any such lender; *provided*, that the grant of any such security interest or foreclosure thereon does not violate any of the provisions of Section 7.1.3; *provided*, *further,* that during the Covered Period, grants of a security interest or interests in the Class A Membership Interests or the Class B Membership Interests, as the case may be, shall only be allowed if, and to the extent, permitted pursuant to the Financing Documents;

7.1.4.2 subject to compliance with Section 7.1.3.4 through Section 7.1.3.8 and Section 7.1.3.13, Transfers of Class A Membership Interests of the NextEra Member (or an Affiliate of the NextEra Member in the case of a Transfer of an indirect interest in the NextEra Member) between the NextEra Member (or an Affiliate of the NextEra Member in the case of a Transfer of an indirect interest in the NextEra Member) and any Affiliate of the NextEra Member;

7.1.4.3 subject to compliance with Section 7.1.3.4 through Section 7.1.3.8 and Section 7.1.3.13, Transfers of Class B Membership Interests of the NRG Member (or an Affiliate of the NRG Member in the case of a Transfer of an indirect interest in the NRG Member) between the NRG Member (or an Affiliate of the NRG Member in the case of a Transfer of an indirect interest in the NRG Member) and any Affiliate of the NRG Member;

7.1.4.4 subject to compliance with Section 7.1.3.4 through Section 7.1.3.8 and Section 7.1.3.13, Transfers of Class B Membership Interests of the Sumitomo Member (or an Affiliate of the Sumitomo Member in the case of a Transfer of an indirect interest in the Sumitomo Member) between the Sumitomo Member (or an Affiliate of the Sumitomo Member in the case of a Transfer of an indirect interest in Sumitomo Member) and any Affiliate of the Sumitomo Member;

7.1.4.5 Transfers to any liquidating trust established in connection with the liquidation, dissolution and winding up of such Member or Member's Owners for purposes of holding the assets of such Member or Member's Owners for the benefit of the former partners, members or equity holders thereof; and

7.1.4.6 subject to compliance with Section 7.1.3.4 through Section 7.1.3.8, Section 7.1.3.13 and Section 7.1.5, any change of control, merger or consolidation by a Member's ultimate parent or by any direct or indirect subsidiary of a Member's ultimate parent (other than a subsidiary that has as its only significant assets a direct or indirect interest in the Company).

7.1.5 Notwithstanding any provision of this Article 7 to the contrary, no Transfer of a Member's Membership Interest or any portion thereof, any Interest in Member by such Member's Owners, or rights and obligations under this Agreement will be allowed (and any such purported Transfer shall be null and void) if such Transfer or the actions to be taken in connection with that Transfer would:

7.1.5.1 result in a violation of any applicable Law by the Company, DS Holdings, any Subsidiary, a Transferor or a proposed Transferee;

7.1.5.2 cause the termination or dissolution of the Company, DS Holdings, or any Subsidiary;

7.1.5.3 cause the Company, DS Holdings, or any Subsidiary to be classified as a "publicly traded partnership" within the meaning of Section 7704 of the Code or cause any such Membership Interests to be marketed on or through an "established securities market" within the meaning of Section 7704 (b)(1) of the Code or a "secondary market (or the substantial equivalent thereof)" within the meaning of Section 7704(b)(2) of the Code, including an over-the-counter market or an interdealer quotation system that regularly disseminates firm buy or sell quotations;

7.1.5.4 result in a default under, breach of any material obligation contained in, or cause the failure of a material condition contained in, Section 8.26 of the Master Agreements or in any term or provision of any amendment or modification of any Transaction Document or of any Additional Project Document that is entered into after the Original Effective Date with the Consent of the Class A Majority and the Class B Majority;

7.1.5.5 result in a violation by the Company, DS Holdings or any Subsidiary of the Securities Act or any other applicable securities Laws;

7.1.5.6 require the Company, DS Holdings or any Subsidiary to register as an investment company under the Investment Company Act;

7.1.5.7 require the Company, DS Holdings, or any Subsidiary to register as an investment adviser under the Investment Advisers Act;

7.1.5.8 result in a Change in Ownership, Change of Control, PPA Change in Control, Cash Grant Loss or 1603 Grant Recapture Liability, except for a Permitted Transfer described in Section 7.1.4.6; *provided*, that if any Permitted Transfer described in Section 7.1.4.6 results in a Change in Ownership, Change of Control, PPA Change in Control, Cash Grant Loss, 1603 Grant Recapture Liability or the occurrence of any of the circumstances described in Section 7.1.3.4, then each Member that had an Affiliate involved in such Permitted Transfer shall indemnify and hold the other Members harmless from any Losses arising from such Change in

Ownership, Change of Control, PPA Change in Control, Cash Grant Loss, 1603 Grant Recapture Liability or the occurrence of any of the circumstances described in Section 7.1.3.4, as provided in Section 7.1.6; or

7.1.5.9 with respect only to a direct Transfer by a Member of all or a portion of its Membership Interests, result in a Transfer to any Person who has been convicted of any money-laundering or other corrupt or illegal activity in any jurisdiction.

7.1.6 Each Member shall defend and indemnify (on an After-Tax Basis) the Company, DS Holdings, each of the Subsidiaries, the Managing Member, the other Members, and any Affiliate thereof and their respective officers, directors, employees, accountants, counsel, consultants, advisors, agents, trustees, and other representatives, successors and permitted assigns against, and shall hold them harmless from, any and all losses, damages, claims (including third-party claims), charges, liabilities (whether accrued, absolute, contingent, asserted, matured, unmatured, secured or unsecured), actions, suits, proceedings, interest, penalties, taxes, costs and expenses (including reasonable legal, consultant, accounting and other professional fees, and reasonable fees and costs incurred in enforcing its rights under this Section 7.1.6) (collectively, "**Losses**") resulting from, arising out of, or incurred by any such Person in connection with, or otherwise with respect to or by reason of, (i) any Transfer of any Interest in Member by any of such Member's Owners that results in a Change in Ownership, Change of Control, PPA Change in Control, Cash Grant Loss, 1603 Grant Recapture Liability or the occurrence of any of the circumstances described in Section 7.1.3.4 or (ii) any breach by such Member of Section 4.11 or Section 4.12.

This Section 7.1.6 shall survive any amendment or termination of this Agreement with respect to any event occurring prior to such amendment or termination.

7.1.7 In each instance of a Transfer (including a Permitted Transfer) that requires the Transferor to indemnify the Persons described in Section 7.1.3.4 or Section 7.1.6, prior to and at the time the proposed Transfer is effective, the indemnitor shall be a Creditworthy Person or shall provide (i) a guaranty in form and substance reasonably acceptable to the other Members from a Person that is a Creditworthy Person, (ii) an irrevocable standby letter of credit issued by a bank having a Required Rating and in form and substance reasonably acceptable to the Managing Member (or, if the indemnitor is the Managing Member or an Affiliate thereof, the Members of the other class holding more than fifty percent (50%) of the Units of such class), or (iii) cash collateral; *provided,* that, in the case of either clause (ii) or clause (iii) of this Section 7.1.7, the letter of credit or cash collateral, as the case may be, shall be in an amount equal to the anticipated amount of such indemnity in such amount as may be determined in good faith by the Managing Member (or, if the indemnitor is the Managing Member or an Affiliate thereof, the Members of the other class holding more than fifty percent (50%) of the Units of such class).

7.2 Effective Date of Transfers. Any Transfer of a Membership Interest by a Member permitted by Section 7.1 shall be effective as of the date following the date upon which the requirements of Section 7.1 have been met; *provided*, *however*, that the Transfers provided for in the Transfer Agreement were effective on the First Amendment Date; and *provided*, *further*, that the Transfers provided for in the Assignment Agreement shall be effective on the Second Amendment Date. The Managing Member shall provide the Members with Notice of such

Transfer as promptly as possible after the requirements of Section 7.1 have been met. Any Transferee shall take subject to the restrictions on Transfer imposed by this Agreement.

ARTICLE 8
ADVERSE ACTS

8.1 Remedies. Upon receipt of Notice from a non-Adverse Member that an Adverse Act has occurred, an Adverse Member shall have (a) five (5) days (or such shorter period, if any, that is the cure period applicable to an Event of Default (as defined in the Financing Documents) arising from the occurrence of an Adverse Act described in clause (iii) of the definition thereof) to cure an Adverse Act described in clause (iii) of the definition thereof and (b) thirty (30) days to cure an Adverse Act described in clause (iv) of the definition thereof. No cure period shall apply for an Adverse Act described in clause (i) or (ii) of the definition thereof. After the expiration of any applicable cure period, the non-Adverse Member(s) may, in its or their sole discretion, by Notice given to the Adverse Member (with a copy to the Managing Member) elect one or more of the following remedies:

8.1.1 during the continuance of the Adverse Act the Adverse Member will have all of its consent rights under this Agreement and applicable Law, in its capacity as a Member or otherwise, suspended and, if the Adverse Member is the Managing Member, the non-Adverse Member or one of the non-Adverse Members will become the Managing Member at the election of the Class B Majority if a Class A Member is the Managing Member or the Class A Majority if a Class B Member is the Managing Member;

8.1.2 during the continuance of the Adverse Act, the Adverse Member shall not be entitled to receive any Distributable Cash or distributions of property from the Company, DS Holdings or any Subsidiary and, subject to the first priority rights pursuant to Section 3.6.2.6 of any Complying Member (s) that have made loans to the Adverse Member to fund any unfunded Required Additional Capital Contributions to receive distributions of Distributable Cash that otherwise would have been made to the Adverse Member in order to repay the principal and accrued interest on such loans, the non-Adverse Member (s) will be entitled to receive and retain all Distributable Cash or distributions of property that otherwise would have been made to the Adverse Member, but the Adverse Member shall continue to be liable for its obligations as a Member under this Agreement; or

8.1.3 the non-Adverse Member(s) shall have the right, exercisable in its or their sole and absolute discretion for the period that the Adverse Act continues, to purchase all (or if more than one of the non-Adverse Member(s) choose to purchase such Adverse Member's Membership Interest in the Company, a pro rata share thereof based upon the Percentage Interests of the non-Adverse Member(s) choosing to purchase such Adverse Member's Membership Interest in the Company) of the Adverse Member's Membership Interest in the Company (a "**Buyout Option**") subject to the first priority rights pursuant to Section 3.6.2.6 of any Complying Member(s) that have made loans to the Adverse Member to fund any unfunded Required Additional Capital Contributions to receive distributions of Distributable Cash that otherwise would have been made to the Adverse Member in order to repay the principal and accrued interest on such loans; *provided*, that if a non-Adverse Member cannot satisfy the requirements of Article 7 in order to permit the Transfer of such Adverse Member's Membership

Interest in the Company to such non-Adverse Member, then such non-Adverse Member shall have the right to designate another Person to acquire such Adverse Member's Membership Interest in the Company which can satisfy such requirements and, *provided*, *further*, that the Buyout Option may not be exercised in a manner that would result in a Change in Ownership or a Change of Control or a Cash Grant Loss or 1603 Grant Recapture Liability. The purchase price for the Adverse Member's Membership Interest in the Company (the "**Buyout Purchase Price**") shall be equal to (i) seventy-five percent (75%) (except that the Buyout Purchase Price shall be one-hundred percent (100%) with respect to any Adverse Act that occurs as a result of a Bankruptcy of the Adverse Member) of the aggregate fair market value of the Units held by the Adverse Member, determined as follows, less (ii) the unpaid principal balance and any accrued and unpaid interest of any indebtedness secured by a security interest in such Units as of the time of the payment of the Buyout Purchase Price, and less (iii) the costs incurred by the Company in obtaining the appraisal from the Approved Accounting Firm as described below:

(a) one of the Approved Accounting Firms shall be selected with the Consent of the Class A Majority and the Class B Majority (determined in each case without the participation of the Adverse Member as provided in Section 8.1.1) to conduct an appraisal of the Units held by the Adverse Member to determine the fair market value thereof; *provided*, that if the Class A Majority and the Class B Majority are unable to agree upon the firm to conduct the appraisal from among the Approved Accounting Firms within thirty (30) days after a Notice from the Member then acting as the Managing Member as provided in Section 8.1.1, the Member then acting as the Managing Member as provided in Section 8.1.1 shall request that the Approved Accounting Firm that performs the auditing services for the Company, DS Holdings and the Subsidiaries select the Approved Accounting Firm to conduct the appraisal;

(b) the Approved Accounting Firm selected to conduct the appraisal shall complete the appraisal of the Units at the expense of the Company within sixty (60) days following its selection and shall provide a written appraisal report to each of the Members stating as of the date of such report the fair market value of each of the Units held by the Adverse Member and the aggregate fair market value of such Units; and

(c) each Member agrees that such determination of the fair market value of each of the Units held by the Adverse Member and the aggregate fair market value of such Units shall be conclusive and binding on each of the Members, including the Adverse Member.

8.2 Adverse Member Buyout Closing. The closing of such transaction (the "**Adverse Member Buyout Closing**") shall occur at a time and place designated by the non-Adverse Member(s) (or any designee thereof) on a date that is at least thirty (30) days after the date on which the Buyout Option is exercised.

8.2.1 At the Adverse Member Buyout Closing the non-Adverse Member(s) (or any designee thereof) shall deliver to the Adverse Member:

8.2.1.1 the amount of its share of the Buyout Purchase Price in immediately available funds; and

8.2.1.2 a release(s) and indemnity(ies) of the Adverse Member from the non-Adverse Member(s) (or any designee thereof) allocable share of any and all guaranty(ies) with respect to which the Adverse Member may have guaranteed debts, obligations or liabilities of the Company.

8.2.2 At the Adverse Member Buyout Closing the Adverse Member shall deliver to the non-Adverse Member(s) (or any designee thereof):

8.2.2.1 a duly exercised assignment of the share of the Adverse Member's Membership Interest in the Company to be acquired by each non-Adverse Member(s) (or any designee thereof);

8.2.2.2 a certificate, dated as of the date of the Adverse Member Buyout Closing, containing a representation and warranty that on the date of the Adverse Member Buyout Closing the Adverse Member has transferred, or caused to be transferred, to the non-Adverse Member(s) good and marketable title to such Membership Interest, free and clear of all claims, equities, liens, charges and encumbrances; and

8.2.2.3 any other documents or agreements required by this Agreement or necessary to effectuate the transfer.

8.2.3 Upon the occurrence of an Adverse Member Buyout Closing the following provisions shall apply to the Adverse Member (now a "**Terminated Member**"):

8.2.3.1 The Terminated Member shall cease to be a Member immediately upon the occurrence of the Adverse Member Buyout Closing;

8.2.3.2 The Terminated Member shall no longer be entitled to receive any distributions (including liquidating distributions) or allocations from the Company except as directed in Section 6.5, and it shall not be entitled to exercise any consent rights or to receive any further information (or access to information) from the Company (other than any required tax information);

8.2.3.3 The Terminated Member must pay to the Company all amounts owed to the Company by such Terminated Member and the Terminated Member shall remain obligated for all liabilities it may have under this Agreement or otherwise with respect to the Company that accrue prior to the Adverse Member Buyout Closing and such Terminated Member shall be obligated to repay pursuant to Section 3.6.2 any loans made by the Complying Member(s) pursuant to Section 3.6.1 to the Terminated Member to fund any unfunded Required Additional Capital Contributions.

8.2.3.4 The Membership Interest, including the Capital Account balance attributable thereto, of the Terminated Member shall be allocated to the non-Adverse Member(s) that purchased the Terminated Member's Membership Interest pro rata based upon the

Percentage Interests of such non-Adverse Member(s) in the proportion of the total Buyout Purchase Price paid by each non-Adverse Member.

8.3 Remedies Not Exclusive. Notwithstanding the foregoing, the remedies provided in this Article 8 are cumulative and are not exclusive, and the Company and the non-Adverse Member(s) shall be entitled to all other remedies available at law or equity.

ARTICLE 9
DISSOLUTION AND WINDING UP

9.1 Right to Cause Dissolution; Events of Dissolution.

9.1.1 Notwithstanding any agreement herein to the contrary, except as provided in Section 9.1.2, no Member shall have the right, and each Member hereby agrees not, to cause the winding up of, or to dissolve, terminate or liquidate the Company, or to petition a court for the winding up, dissolution, termination or liquidation of the Company. The Company shall not be dissolved by the admission of additional Members or substitute Members in accordance with the terms of this Agreement. To the extent permitted by Law, neither the withdrawal nor the termination of a Member (other than the last remaining Member) shall cause the dissolution or winding up of the Company.

9.1.2 The Company shall be dissolved, its assets shall be disposed of, and its affairs wound up on the first to occur of the following: (a) the happening of an event of dissolution specified in the Certificate, (b) the Consent of all of the Members, (c) the occurrence of a Dissolution Event and the failure of the remaining Members to consent to continue the business of the Company within ninety (90) days after the occurrence of such an event or (d) the entry of a decree of judicial dissolution pursuant to § 18-802 of the Act; *provided*, that during the Covered Period, the Company shall not be dissolved without the Consent of the Independent Managers. Notwithstanding any other provision of this Agreement, the occurrence or continuation of a Bankruptcy of a Member shall not cause such Member to cease to be a member of the Company and, upon the occurrence of such an event, the business of the Company shall continue without dissolution.

9.2 Certificate of Cancellation. As soon as possible following the occurrence of any of the events specified in Section 9.1.2, the Managing Member shall promptly execute a Certificate of Cancellation in such form as shall be prescribed by the Delaware Secretary of State and file the Certificate of Cancellation as required by the Act.

9.3 Winding Up. If the Company is dissolved, the Managing Member shall wind up the Company's affairs. On winding up of the Company, the assets of the Company shall be distributed, first to creditors of the Company, including Interest Holders who are creditors, in satisfaction of the liabilities of the Company, and then to the Interest Holders in accordance with Section 9.5 below.

9.4 Distributions in Kind. Prior to distributing any non-cash asset to one or more Members, such asset shall first be valued at its fair market value to determine the Net Profit or Net Loss that would have resulted if such asset were sold for such value, such Net Profit or Net Loss shall then be allocated pursuant to Article 6, and the Members' Capital Accounts shall be

adjusted to reflect such allocations. The amount distributed and charged to the Capital Account of each Member receiving an interest in such distributed asset shall be the fair market value of such interest (net of any liability secured by such asset that such Member assumes or takes subject to). The fair market value of such asset shall be determined by the Managing Member or, if any Member objects, by an independent appraiser recognized as an expert in valuing the type of asset involved, which expert shall be selected by the Managing Member or liquidating trustee and approved by the Members.

9.5 Order of Payment Upon Dissolution. After determining that all known debts and liabilities of the Company, including debts and liabilities to Members who are creditors of the Company, have been paid or adequately provided for in accordance with the Act, the remaining assets shall be distributed to the Members in accordance with their positive Capital Account balances after taking into account income and loss allocations for the Company's taxable year during which liquidation occurs (including Net Profit or Net Loss on any non-cash asset distributed), and thereafter pro rata in accordance with their Percentage Interests. Such liquidating distributions shall be made by the end of the Company's taxable year in which the Company is liquidated or, if later, within ninety (90) days after the date of such liquidation.

9.6 No Deficit Restoration Requirement. At no time shall a Member with a negative balance in its Capital Account have any obligation to the Company or to any other Member to restore the negative balance.

9.7 Limitations on Payments Made in Dissolution. Except as otherwise specifically provided in this Agreement, each Member shall only be entitled to look solely to the assets of the Company for the return of his or her positive Capital Account balance and shall have no recourse for his or her Capital Contribution and/or share of Net Profits (upon dissolution or otherwise) against the Managing Member or any other Member.

9.8 Certificate of Cancellation. The Managing Member shall cause to be filed in the office of, and on a form prescribed by, the Delaware Secretary of State, a Certificate of Cancellation of the Certificate upon the completion of the winding up of the affairs of the Company.

ARTICLE 10
ACCOUNTING, RECORDS, REPORTING BY MANAGING MEMBER

10.1 Books and Records. The Managing Member shall maintain the books and records of the Company, DS Holdings and the Subsidiaries in which shall be entered all income, expenditures, assets, and liabilities of the Company, DS Holdings and the Subsidiaries. The books of account of the Company, DS Holdings and the Subsidiaries shall be (i) maintained on the basis of a Fiscal Year, (ii) maintained on an accrual basis in accordance with GAAP, and when the application of GAAP involves the election of equally acceptable alternatives the Managing Member shall submit the alternatives to the Members for review and, if the Class A Supermajority and Class B Supermajority is able to approve an alternative, the Managing Member shall apply the alternative approved by the Class A Supermajority and Class B Supermajority, (iii) audited by the Approved Accounting Firm at the end of each Fiscal Year and (iv) with respect to material accounting matter decisions, including book depreciable life,

construction capitalization policy and the allocation methodology for GAAP net income among the Members, maintained in conformity with those methodologies set forth in the Closing Date Model. Notwithstanding the preceding sentence, all GAAP items of the Company, DS Holdings and the Subsidiaries gain or loss (determined in accordance with GAAP) resulting from mark-to-market effects and changes in fair value due to not electing cash flow hedge accounting or failing to meet such annual or quarterly requirements for cash flow hedge accounting as provided in the Statement of Financial Accounting Standards No. 133 issued by the Financial Accounting Standards Board with respect to derivatives contracts to which the Company, DS Holdings or any Subsidiary is a party shall be allocated equally to the Members. The Managing Member shall keep at its principal office all of the following:

10.1.1 a current list of the full name and last known business or residence address of each Member and Assignee set forth in alphabetical order, together with the Capital Contributions, Capital Account and Percentage Interest of each Member and Assignee;

10.1.2 a copy of the Certificate and any and all amendments thereto together with executed copies of any powers of attorney pursuant to which the Certificate or any amendments thereto have been executed;

10.1.3 copies of the Company's federal, state, and local income tax or information returns and reports, if any, for the six (6) most recent taxable years;

10.1.4 a copy of this Agreement and any and all amendments hereto together with executed copies of any powers of attorney pursuant to which this Agreement or any amendments hereto have been executed;

10.1.5 copies of the financial statements of the Company, if any, for the six (6) most recent Fiscal Years; and

10.1.6 the Company's books and records for at least the current and past six (6) Fiscal Years.

10.2 Delivery to Members and Inspection.

10.2.1 Upon the request of any Member or Assignee for purposes reasonably related to the interest of that Person as a Member or Assignee, the Managing Member shall promptly deliver to the requesting Member or Assignee, at the expense of the Company, a copy of the information required to be maintained under Section 10.1.1, Section 10.1.2 and Section 10.1.3, and a copy of this Agreement.

10.2.2 Each Member and each Assignee, at its own expense (except that copies of the information required to be maintained under Section 10.1.1, Section 10.1.2 and Section 10.1.3 shall be provided at the Company's expense), has the right, upon reasonable request for purposes reasonably related to the interest of the Person as Member or Assignee, as the case may be, to:

10.2.2.1 inspect and copy during normal business hours any of the Company records described in Section 10.1.1 through Section 10.1.6; and

10.2.2.2 obtain from the Managing Member, promptly after their becoming available, a copy of the Company's federal, state, and local income tax or information returns for each Fiscal Year.

10.2.3 Any request, inspection or copying by a Member or Assignee under this Section 10.2 may be made by that Person or that Person's agent or attorney.

10.2.4 The Managing Member shall promptly furnish to a Member a copy of any amendment to the Certificate or this Agreement executed by the Managing Member pursuant to a power of attorney from the Members.

10.2.5 The Managing Member shall (a) if requested by a Notice from a Member to the Managing Member prior to the Substantial Completion Date under an EPC Contract, to the extent permitted by the applicable EPC Contract, appoint any individual or individuals designated by the Member in such Notice to be a representative or representatives of Desert Sunlight 250 and Desert Sunlight 300 for purposes of Section 7.4, Article 11 and Section 12.4.2 of each EPC Contract and instruct the Owner Representative under the applicable EPC Contract to forward to such representative or representatives notices of commissioning related activities and tests to be performed by the Contractor received by the Owner Representative pursuant to each EPC Contract, including Block Capacity Tests, Capacity Tests, Adjusted Energy Performance Tests and Monthly Demonstrations, and shall give consideration to such representative's or representatives' schedule(s) to the extent reasonably practicable; and (b) from and after the Substantial Completion Date under an EPC Contract, allow representatives of the Member identified to the Managing Member in a Notice from such Member to reasonably inspect and observe the ongoing operations at the applicable Project, in each case with such observations and inspections to be arranged at reasonable times and with reasonable advance notice and subject to compliance with any safety requirements that would apply to a Subsidiary for such an observation or inspection under any applicable Project Agreement and entry into any confidentiality undertakings required to protect confidential information at the same level as a Subsidiary is required to under any applicable Project Agreement; *provided*, that in each case described in clauses (a) and (b) above (i) any individual designated by a Member to be a representative shall in no event be considered an "Owner Representative" under an EPC Contract, (ii) such Member and the Guarantor for such Member have each certified in writing to the Managing Member that each of the individuals to be so designated pursuant to clause (a) above or that is so identified pursuant to clause (b) above is not a Representative of a First Solar Competitor or of a Vendor Competitor (as defined in the O&M Agreements) or, if such individual is a Representative of a First Solar Competitor or of a Vendor Competitor, such First Solar Competitor or Vendor Competitor has satisfied each of the requirements to be an Eligible First Solar Competitor or an Eligible Vendor Competitor (as defined in the O&M Agreements), as the case may be, (iii) such Member and the Guarantor for such Member have agreed in the applicable Notice or otherwise to jointly and severally indemnify and hold each Subsidiary harmless from any liability to the Contractor arising from the certification described in clause (ii) of this proviso being untrue or any liability that is described in Section 23.2(c)(1) or Section 23.2(d) of each of the EPC Contracts or in Section 13.01(d)(1) or Section 13.01(e) of each of the O&M Agreements, as applicable, arising from the actions or inactions of any of such individuals, (iv) neither the Managing Member nor the Owner Representative shall be obligated to schedule any test or meeting in order to accommodate the schedule of a representative designated by a

Member, and (v) neither the Managing Member nor the Owner Representative shall be liable to a Member for any delay or failure to provide a notice referenced in clause (a) above, so long as such delay or failure was not willful and in bad faith. Terms used in this paragraph and not otherwise defined herein shall have their meaning as given in each EPC Contract.

10.3 Financial Statements and Reports. The Managing Member, at the Company's expense in accordance with the approved Budget, shall provide or cause to be provided the following to the Members:

10.3.1 as soon as available but no later than fifty-five (55) days after the close of the first, second and third quarterly periods of its Fiscal Year and seventy-five (75) days after the end of each Fiscal Year, quarterly (and year-to-date) financial statements of the Company, DS Holdings and the Subsidiaries prepared by or at the direction of the Managing Member to include a balance sheet, statement of equity, statement of changes in members' capital, an income and expense statement and a statement of cash flows, all prepared in accordance with GAAP, setting forth, in each case, in comparative form the corresponding figures for the corresponding period in the preceding Fiscal Year, if any;

10.3.2 as soon as available but no later than April 15th following the end of the previous Fiscal Year, audited financial reports, including the detailed balance sheet of the Company, DS Holdings and the Subsidiaries as of the end of the preceding Fiscal Year and related statements of income, cash flow and Members' capital, accompanied by an opinion of the Company's independent public accountants stating that the financial statements for the Company, DS Holdings and the Subsidiaries have been prepared according to GAAP;

10.3.3 as soon as practicable after the end of each Fiscal Year but in all cases by each May 1st, reports containing at least the following information: Form K-1 or any similar form as may be required by the Code or the Internal Revenue Service, as well as any similar form that may be required by any state or local taxing authority, and such other information regarding the business of the Company, DS Holdings and the Subsidiaries as may be necessary to enable the Company and each Member to prepare its federal, state and local tax returns;

10.3.4 as soon as practicable after the end of each Fiscal Year but in all cases by each February 28th, an estimate of the income and loss to be reported on the Form K-1 described in Section 10.3.3;

10.3.5 within forty-five (45) days after the end of each calendar month, deliver to the Company, for the Company to promptly deliver to the Members, a report in form acceptable to the Members that shows system availability and net production during such month and budgeted versus actual revenues and expenditures on a monthly basis and a year-to-date basis;

10.3.6 upon request of any Member, the Managing Member shall deliver to that Member copies of all material documents and contracts held by the Managing Member and related to the Company, DS Holdings or any Subsidiary as such Member shall have reasonably requested;

10.3.7 without duplication, on the date required to be delivered pursuant to the Master Agreements, all reports, statements and other information required to be provided pursuant to Section 5.1 of the Master Agreements (whether or not such Master Agreements are in effect, but if the Master Agreements are no longer in effect, only to the extent such requirements continue to be applicable); and

10.3.8 without duplication, if requested by a Notice from a Member to the Managing Member the Managing Member shall promptly furnish to a designated individual Representative of each Member any and all material Notices, reports, statements and other information delivered to Desert Sunlight 250 and Desert Sunlight 300 by the Contractor, the Operator, or the Administrative Services Provider, as applicable, pursuant to the terms of the EPC Contracts, the O&M Agreements, or the Administrative Services Agreements, as applicable; *provided*, that (a) neither the Managing Member nor the Owner Representative shall be liable to a Member for any delay or failure to provide a notice referenced above, so long as such delay or failure was not willful and in bad faith, and (b) prior to furnishing any such information pursuant to the terms of the EPC Contracts or the O&M Agreements (i) such Member and the Guarantor for such Member have each certified in writing to the Managing Member that each of the individuals to be furnished such information is not a Representative of a First Solar Competitor or of a Vendor Competitor (as defined in the O&M Agreements), as applicable, or, if such individual is a Representative of a First Solar Competitor or of a Vendor Competitor, as applicable, such First Solar Competitor or Vendor Competitor has satisfied each of the requirements to be an Eligible First Solar Competitor (as defined in the EPC Contracts) or an Eligible Vendor Competitor (as defined in the O&M Agreements), as the case may be, and (ii) such Member and the Guarantor for such Member have agreed in the applicable Notice or otherwise to jointly and severally indemnify and hold each Subsidiary harmless from any liability to the Contractor arising from the certification described in clause (i) of this proviso being untrue or any liability that is described in Section 23.2(c)(1) or Section 23.2(d) of each of the EPC Contracts or in Section 13.01(d)(1) or Section 13.01(e) of each of the O&M Agreements, as applicable, arising from the actions or inactions of any of such individual. Terms used in this paragraph and not otherwise defined herein shall have their meaning as given in each EPC Contract.

10.4 Filing. At the Company's expense, the Tax Matters Member shall cause the Company to retain an Approved Accounting Firm to prepare the necessary federal and state income Tax Returns for the Company. Each Member shall provide such information, if any, as may be required by the Company for purposes of preparing such Tax Returns. The Tax Matters Member, at the Company's expense, shall cause the income Tax Returns for the Company to be prepared consistently with the assumptions in the Closing Date Model, unless the Tax Matters Member determines based on the advice of a nationally recognized law firm or the Approved Accounting Firm engaged to prepare such income Tax Return that such income Tax Return would not be "more likely than not" correct; *provided*, *however*, that Section 10.8.9 shall apply unless there is not substantial authority to take such position as determined by the Approved Accounting Firm engaged to prepare such income Tax Return; *provided further* that if a Member provides an opinion from a nationally recognized law firm or an Approved Accounting Firm that such income Tax Return would be "more likely than not correct", or in the case of Section 10.8.9 that there is substantial authority, then such income Tax Return shall be prepared consistently with the Closing Date Model and Section 10.8.9, as applicable. At least forty five (45) days

prior to the date on which the federal and state Tax Returns are due to be filed (taking into account any applicable extension periods), the Tax Matters Member shall deliver to the other Members for their review a copy of the Company's federal and state Tax Returns in the form proposed to be filed for each Fiscal Year. The other Members shall provide comments to the Tax Matters Member within fifteen (15) Business Days after any such Tax Return has been delivered to the Members. If no comments are received by the Tax Matters Member within such fifteen (15) Business Day period, the Tax Matters Member may file such Tax Return in the form previously delivered to the Members. If the Tax Matters Member disagrees with any of the comments received, then the Tax Matters Member shall consult in good faith with each of the Members holding a majority of the Class A Membership Interests or Class B Membership Interests, as applicable, to resolve such dispute. If such Members cannot agree, such dispute shall be resolved pursuant to the procedures outlined in Article 13. If the Tax Matters Member is not permitted to further extend the filing deadline for a Tax Return and is waiting for final resolution of a dispute pursuant to the preceding sentence, then the Tax Matters Member may file such Tax Return in the form proposed by the Tax Matters Member; *provided*, *however*, that such Tax Matters Member must cause such Tax Return to be amended in accordance with the final resolution received pursuant to Article 13. The Tax Matters Member, in Consultation with the other Members, may extend the time for filing any such Tax Returns as provided for under applicable statutes. Any Form 1065 or Schedule K-1 will not be filed any later than the due date with one extension. If the Tax Matters Member is required by any applicable Laws to execute or file any document and fails, after demand, to do so within a reasonable period of time or refuses to do so, any other Member may prepare, execute and file such document appropriately. If a Member notifies the Tax Matters Member that any real property Taxes with respect to the Project were assessed against or invoiced to such Member, then the Tax Matters Member will cause the Company to pay such Taxes in full and in a timely manner. The Tax Matters Member, at the Company's expense and in Consultation with the other Members, shall cause to be prepared and timely filed, with appropriate federal and state regulatory and administrative bodies, amendments to, or restatements of, the Certificate and all reports required to be filed by the Company with those entities under the Act or then current applicable Laws.

10.5 Bank Accounts. The Managing Member shall maintain the funds of the Company in one or more separate bank accounts in the name of the Company, and shall not permit the funds of the Company to be commingled in any fashion with the funds of any other Person.

10.6 Accounting Decisions and Reliance on Others. All decisions as to accounting matters, except as otherwise specifically set forth herein, shall be made by the Managing Member.

10.7 Tax Matters for the Company Handled by the Managing Member and the Tax Matters Member.

10.7.1 Each other Member may provide the Secretary of Treasury with notice that it is a "notice partner" under Section 6223 of the Code, and the Tax Matters Member shall notify the Internal Revenue Service that each of the NRG Member and the Sumitomo Member (and, if the NextEra Member is not then the Tax Matters Member, the NextEra Member) is a notice partner within the meaning of Code Section 6231. The NextEra Member shall remain as the Tax Matters Member so long as it remains the Managing Member. If for any reason the Tax

Matters Member can no longer serve in that capacity, a new Tax Matters Member shall be designated by the Managing Member with the Consent of the Class A Majority and the Class B Majority. The Tax Matters Member is subject to removal if a Class A Supermajority (if the Tax Matters Member is a Class B Member) or Class B Supermajority (if the Tax Matters Member is a Class A Member) elect to remove the Tax Matters Member for fraud or willful misconduct and appoint a replacement.

10.7.2 The Tax Matters Member shall, in the overall best interest of the Company, at the Company's expense and in Consultation with the other Members, represent the Company in connection with all tax examinations of the Company's affairs by tax authorities, including resulting judicial and administrative proceedings, and shall direct the defense of any such claims to the extent that such claims relate to the adjustment of Company items at the Company level, except that the strategy to be taken in connection with any such defense and the selection of counsel shall be approved by Consent of the Class A Majority and Consent of the Class B Majority. The Tax Matters Member shall cause the Company to retain and to pay the fees and expenses of counsel approved as described in the preceding sentence and to pay the fees and expenses of other advisors chosen by the Tax Matters Member in Consultation with the other Members. The Tax Matters Member shall promptly deliver to each Member a copy of all notices, communications, reports and writings received by the Company from the Internal Revenue Service or other Government Entity that could reasonably be expected to result in an adjustment of Company items, shall promptly advise each Member of the substance of any conversations with the Internal Revenue Service or other Government Entity in connection therewith and shall keep the Members advised of all developments with respect to any proposed adjustments that come to its attention. In addition, the Tax Matters Member shall provide each Member with a draft copy of any correspondence or filing to be submitted by the Company in connection with any administrative or judicial proceedings relating to the determination of Company items at the Company level reasonably in advance of such submission; *provided*, *however*, that the Tax Matters Member shall not be required to obtain consent (*i.e.*, pursuant to the comment procedure below) of the other Members with respect to matters that in the judgment of the Tax Matters Member are not substantial or not material. The other Members shall provide comments to the Tax Matters Member within ten (10) Business Days after any such correspondence or filing has been delivered to the Members. If no comments are received by the Tax Matters Member within such period then the Tax Matters Member may submit such correspondence or filing previously delivered to the Members. If the Tax Matters Member disagrees with any of the comments received, then the Tax Matters Member shall consult in good faith with each of the Members holding a majority of the Class A Membership Interests or Class B Membership Interests, as applicable, to resolve such dispute. If such Members cannot agree, such dispute shall be resolved pursuant to the procedures outlined in Article 13. The Tax Matters Member will provide each Member with notice reasonably in advance of any meetings or conferences with respect to any administrative or judicial proceedings relating to the determination of Company items at the Company level (including any meetings or conferences with counsel or advisors to the Company with respect to such proceedings) and each Member shall have the right to participate, at its sole cost and expense, in any such meetings or conferences; *provided*, *however*, that any Member owning a majority of the Class A Membership Interests or the Class B Membership Interests shall have the right to participate at the Company's expense.

10.7.3 The Tax Matters Member shall not, without the consent of the Class A Majority and Class B Majority, such consent not to be unreasonably withheld, conditioned or delayed, (i) commence a judicial action (including filing a petition as contemplated in Section 6226(a) or Section 6228 of the Code) with respect to a federal income tax matter or appeal any adverse determination of a judicial tribunal; (ii) intervene in any action as contemplated by Section 6226(b) of the Code; (iii) file any request contemplated in Section 6227(b) of the Code; (iv) enter into an agreement extending the period of limitations as contemplated in Section 6229(b)(1)(B) of Code; or (v) enter into a settlement agreement with the Internal Revenue Service which purports to bind the Members. Any cost or expense incurred by the Tax Matters Member in connection with its duties as the Tax Matters Member shall be paid by the Company.

10.7.4 If for any reason the Internal Revenue Service disregards the elections made by the Company pursuant to Section 10.8 and commences any audit or proceeding in which it makes a claim, or proposes to make a claim, against any Member that could reasonably be expected to result in the disallowance or adjustment of any items of income, gain, loss, deduction or credit allocated to such Member by the Company, then such Member shall promptly advise the other Members of the same, and such Member, in Consultation with the other Members, shall use commercially reasonable efforts to convert the portion of such audit or proceeding that relates to such items into a Company level proceeding consistent with the Company's election pursuant to Section 10.8.

10.7.5 If any Member intends to file, pursuant to Section 6227 of the Code, a request for an administrative adjustment of any such partnership item of the Company, or to file a petition under Sections 6226, 6228 or other sections of the Code with respect to any such partnership item or any other tax matter involving the Company, such Member shall, at least thirty (30) days prior to any such filing, notify the other Members of such intent, which notification must include a reasonable description of the contemplated action and the reasons for such action; *provided*, *however*, that this Section 10.7.5 shall not relieve such Member's obligation to use all commercially reasonable efforts to convert a Member level proceeding into a Company level proceeding as provided in Section 10.7.4.

10.7.6 In the event that any of the Members notifies the Tax Matters Member of its intention to represent itself, or to obtain independent counsel and other advisors to represent it, in connection with any examination, proposed adjustment or proceeding, the Tax Matters Member agrees (i) to supply such other Member and its counsel and other advisors, as the case may be, with copies of all written communication received by the Tax Matters Member with respect thereto, together with such other information as they may reasonably request in connection therewith, and (ii) to cooperate with such other Member and its counsel and other advisors, as the case may be, in connection with such other Member's separate representation, to the extent reasonably practicable and at the sole cost and expense of such other Member.

10.7.7 Unless otherwise expressly provided herein, wherever in this Agreement the Tax Matters Member is empowered to make a decision or determination, take an action, consent, vote, or provide any approval, in doing so, the Tax Matters Member shall use its reasonable discretion and shall take into account the tax objectives of such other Member(s), if known.

10.8 Tax Elections.

10.8.1 Section 754 Election. In the event of a distribution of Company property or a transfer of all or any part of the interests of any Member, the Company shall elect, where applicable, pursuant to Section 754 of the Code, to adjust the basis of the Company property. Each Member will furnish the Company all information necessary to give effect to such election.

10.8.2 Partnership Election. The Members intend that the Company will be taxed as a partnership for United States federal, state and local income tax purposes. The Tax Matters Member will accordingly not elect to classify the Company as other than a partnership for federal income tax purposes under Section 7701 of the Code and the applicable Regulations. The Members agree not to elect to be excluded from the application of Subchapter K of Chapter 1 of Subtitle A of the Code or any similar state statute and agree not to elect for the Company to be treated as a corporation, or an association taxable as a corporation, under the Code or any similar state statute.

10.8.3 Cash Grant. In the event the Cash Grant is denied or is not otherwise available, the Members agree to cause the Company to elect to receive the investment tax credit under Code Section 48 in lieu of the Cash Grant. In connection with an election to receive the investment tax credit, the Members agree to negotiate in good faith and execute appropriate amendments to this Agreement, enter into any additional agreements and take all such additional actions as may be reasonably necessary to give effect to such election.

10.8.4 Calendar Year. The Company shall, to the extent permitted under Section 706 of the Code, adopt the calendar year as the Company's fiscal year.

10.8.5 Accrual Method. The Company shall adopt the accrual method of accounting.

10.8.6 Depreciation Election. The Company shall make no election to forego any available bonus depreciation available to the Company and otherwise elect to depreciate the Project using the most accelerated method of depreciation currently available under the Code.

10.8.7 Amortization. The Company shall elect to amortize the expenses incurred in organizing the Company ratably over a 60-month period as provided in Section 709 of the Code.

10.8.8 Capitalization of all Expenses. With respect to the portion of the facilities included in the Projects that have not been placed in service for purposes of Section 168 of the Code and the Cash Grant, and for which an application for a Cash Grant has not been filed, the Company shall elect to capitalize all expenses eligible for capitalization pursuant to Section 266 of the Code.

10.8.9 Domestic Production Gross Receipts. The receipt or accrual of the Cash Grant will be treated as "domestic production gross receipts" in accordance with Treasury Regulation Section 1.199-3(i)(1)(iii).

10.8.10 Other Elections. The Company shall, if approved in writing by Members representing a Class A Majority and a Class B Majority, make any other election the Tax Matters Member may deem appropriate.

10.9 Cash Grant Procedures.

10.9.1 Cash Grant Application. The Tax Matters Member shall:

10.9.1.1 (i) file a Preliminary Cash Grant Application no later than September 30, 2012, or such later date permitted by the Cash Grant Guidance (the "**Cash Grant Filing Deadline**"), for each Project Segment for which an application has not yet been submitted pursuant to (ii) as of the Cash Grant Filing Deadline and (ii) as soon as practicable following the applicable placed-in service date of each of the Project Segments, prepare an application, in Consultation with the other Members, for the Cash Grant for such Project Segment in a manner consistent with the Cash Grant Guidance (such applications and Preliminary Cash Grant Applications are hereinafter referred to as the "**Cash Grant Application**"); *provided* that, no later than twenty (20) Business Days in advance of submitting the Cash Grant Application to the Treasury, the Tax Matters Member shall provide copies of such draft Cash Grant Application to each other Member for its review. The other Members shall provide comments to the Tax Matters Member within ten (10) Business Days after any such draft Cash Grant Application has been delivered to the Members. If no comments are received by the Tax Matters Member within such ten (10) Business Day period, the Tax Matters Member may file such Cash Grant Application in the form previously delivered to the Members. If the Tax Matters Member disagrees with any of the comments received, then the Tax Matters Member shall consult in good faith with each of the Members holding a majority of the Class A Membership Interests or Class B Membership Interests, as applicable, to resolve such dispute. If such Members cannot agree, such dispute shall be resolved pursuant to the procedures outlined in Article 13;

10.9.1.2 As soon as practicable following the receipt of each Member's comments to the draft Cash Grant Application and the application of Section 10.9.1.1, the Tax Matters Member shall prepare and deliver to each other Member for its review and comment an updated draft Cash Grant Application for the Project in a manner consistent with the Cash Grant Guidance. Each Member shall promptly provide the Tax Matters Member with any comments to such updated draft Cash Grant Application and each Member shall cooperate to resolve any disagreements with respect to the Cash Grant Application pursuant to Section 10.9.1.1. Each Member shall keep each other Member reasonably informed of changes made to the draft Cash Grant Application following the submission of any comments pursuant to this Section 10.9.1.2;

10.9.1.3 within two (2) Business Days after the other Members approve the Cash Grant Application, file the approved Cash Grant Application with Treasury; *provided*, that the factual information and statements contained in the filed Cash Grant Application including amounts relating to the costs incurred with respect to the Project shall be true, correct and complete in all material respects; and

10.9.1.4 timely make each filing required with respect to the Cash Grant after the date of receipt thereof in accordance with the Cash Grant Guidance (including the annual report to the Treasury in connection therewith) and respond to all requests for information and

make any related filings deemed necessary or advisable in connection with the Grant; *provided,* that with respect to any material filing the Tax Matters Member shall first provide a draft of the filing to each other Member for its review and shall take into consideration any comments provided by each Member within five (5) Business Days of the date on which the draft filing was provided to such Member, and *provided*, *further*, if any Member does not approve of the form of such filing, the remedies stated in Section 10.9.1.1 above are applicable.

10.9.2 Contact with Treasury. Each of the Members shall, as soon as practicable, provide to the Tax Matters Member all written responses, requests and other information it receives from Treasury relating to the Cash Grant Applications or a Cash Grant, including any requests for supplemental information and any notice of award, including the amount thereof. Each Member shall, as soon as practicable, advise each other Member of any oral contact it receives from Treasury relating to the Cash Grant. Each Member shall not initiate any discussion or conferences with or have any substantive conversations with Treasury regarding a Cash Grant, any Cash Grant Application or any Cash Grant reporting requirements, including in connection with any disputes regarding the amount of the Cash Grant or repayment of the Cash Grant, without first offering the other Members the right to participate in such discussions, conferences or conversations.

10.9.3 Cooperation. The Members shall provide reasonable assistance to the Tax Matters Member in the filing of the Cash Grant Applications, the submission of any supplemental information and other reasonable efforts by the Tax Matters Member to obtain the Cash Grant for each Project Segment and to comply with the Cash Grant reporting requirements, including the provision of any requested information about the Members and their Affiliates, if and to the extent required.

10.9.4 Litigation of Disputes. Upon the occurrence of a Recapture Event, the Tax Matters Member shall have the right to appeal or contest such Recapture Event in any administrative proceeding or other forum for litigation before Treasury or such other Governmental Entity or court, subject to the consent of the Class A Majority and Class B Majority, such consent not be unreasonably withheld, conditioned or delayed. If the Tax Matters Member elects to so appeal or contest a Recapture Event, the Tax Matters Members shall conduct such appeal or contest, cooperate in good faith with the other Members and take all such actions as the other Members holding a majority of the Class A Membership Interests or Class B Membership Interest shall reasonably request in connection with the Tax Matters Member's efforts to appeal such Recapture Event. If the Members holding a majority of the Class A Membership Interests or a majority of the Class B Membership Interests disagree with any submission or otherwise with the manner in which the Tax Matters Member intends to conduct such appeal or contest in an administrative proceeding or other forum for litigation, such Members will consult in good faith with the Tax Matters Member to resolve their differences pursuant to Article 13, and the Tax Matters Member will not proceed with such submission or conduct of the appeal or contest without the consent of the Class A Majority and the Class B Majority, such consent not to be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, the Tax Matters Member shall have no right to execute a closing agreement or other settlement agreement adjudicating or delaying resolution of any matter that relates to the Cash Grant Application or an appeal without the prior written consent the Class A Majority and Class B Majority, not to be unreasonably withheld, conditioned or delayed.

ARTICLE 11
INDEMNIFICATION AND INSURANCE

11.1 Indemnification of Agents. The Company shall defend and indemnify (on an After-Tax Basis) the Managing Member and the Independent Managers, if any, and may indemnify any other Person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding by reason of the fact that such Person is or was the Managing Member, an Independent Manager or an officer, employee or other agent of the Company or that, being or having been such Managing Member, Member, Affiliate of a Member, officer, employee or agent of the Company, such Person is or was serving at the request of the Company as a manager or other agent of a Subsidiary (all such persons being referred to hereinafter as an "**Agent**"), to the fullest extent permitted by applicable Law in effect on the date hereof and to such greater extent as applicable Law may hereafter from time to time permit. The Managing Member shall be authorized, on behalf of the Company, to enter into indemnity agreements from time to time with any Person entitled to be indemnified by the Company hereunder, upon such terms and conditions as the Managing Member reasonably deems appropriate in its business judgment.

11.2 Insurance. The Company shall have the power to purchase and maintain insurance on behalf of any Person who is an Agent of the Company against any liability asserted against such Person and incurred by such Person in any such capacity, or arising out of such Person's status as an Agent, whether or not the Company would have the power to indemnify such Person against such liability under the provisions of Section 11.1 of this Agreement or under applicable Law. Unless otherwise approved pursuant to Section 5.6.2.1(g), the Managing Member agrees to cause the Company, DS Holdings and the Subsidiaries to maintain the Required Insurance Coverage. If any of the Required Insurance Coverage or other policies or insurance obtained by the Managing Member for any or all of the Members, the Company, DS Holdings or any Subsidiary under a Sponsor Insurance Program and, notwithstanding any provision of this Agreement to the contrary, the Managing Member shall be entitled to reimburse its Affiliates for the reasonable costs and expenses relating to the procurement and maintenance of such policies to the extent coverage is provided thereunder to any or all of the Members, the Company, DS Holdings or any Subsidiary in accordance with the approved Budget.

ARTICLE 12
REPRESENTATIONS, WARRANTIES AND COVENANTS

12.1 Representations and Warranties of the NextEra Member. The NextEra Member hereby represents and warrants that:

12.1.1 it is duly formed, validly existing and in good standing under the jurisdiction of its formation, with full power and authority to enter into and perform its obligations under this Agreement, and it has duly authorized the execution, delivery and performance of this Agreement;

12.1.2 it has validly executed this Agreement, and upon delivery this Agreement shall be a binding obligation of it, enforceable against it in accordance with its terms; and

12.1.3 its entry into this Agreement and the performance of its obligations hereunder will not require the approval of any governmental body or regulatory authority and will not violate, conflict with, or cause a default under any of its organizational documents, any contractual covenant or restriction by which it is bound, or any applicable Law.

12.2 Representations and Warranties of the NRG Member. The NRG Member hereby represents and warrants that:

12.2.1 it is duly formed, validly existing and in good standing under the jurisdiction of its formation, with full power and authority to enter into and perform its obligations under this Agreement, and it has duly authorized the execution, delivery and performance of this Agreement;

12.2.2 it has validly executed this Agreement, and upon delivery this Agreement shall be a binding obligation of it, enforceable against it in accordance with its terms; and

12.2.3 its entry into this Agreement and the performance of its obligations hereunder will not require the approval of any governmental body or regulatory authority and will not violate, conflict with, or cause a default under any of its organizational documents, any contractual covenant or restriction by which it is bound, or any applicable Law.

12.3 Representations and Warranties of the Sumitomo Member. The Sumitomo Member hereby represents and warrants that:

12.3.1 it is duly formed, validly existing and in good standing under the jurisdiction of its formation, with full power and authority to enter into and perform its obligations under this Agreement, and it has duly authorized the execution, delivery and performance of this Agreement;

12.3.2 it has validly executed this Agreement, and upon delivery this Agreement shall be a binding obligation of it, enforceable against it in accordance with its terms; and

12.3.3 its entry into this Agreement and the performance of its obligations hereunder will not require the approval of any governmental body or regulatory authority and will not violate, conflict with, or cause a default under any of its organizational documents, any contractual covenant or restriction by which it is bound, or any applicable Law.

ARTICLE 13
DISPUTE RESOLUTION

13.1 Senior Management Negotiations. Any dispute between the parties under this Agreement shall be referred to senior representatives of each of the parties designated by such party, for resolution on an informal basis as promptly as practicable. In the event the designated senior representatives of the parties are unable to resolve the dispute within thirty (30) days of the date Notice of the dispute is received by one of the parties from the other, or such other

period as the parties may jointly agree upon, such dispute shall be submitted to arbitration and resolved in accordance with the arbitration procedure set forth herein.

13.2 Arbitration.

13.2.1 Any dispute between or among the Members arising under this Agreement that has not been resolved pursuant to Section 13.1 shall be resolved exclusively by binding arbitration among the Members pursuant to the Commercial Arbitration Rules of the American Arbitration Association (the "**Arbitration Rules**"). Arbitration shall be administered by the American Arbitration Association ("**AAA**"). Any Member (the "**Initiating Party**") may institute arbitration proceedings at any time by delivering Notice demanding arbitration to the other Members in the manner described in Section 15.2. Such Notice shall designate an independent Person whom the Initiating Party selects to act as an arbitrator. Within fifteen (15) days after receipt of a Notice demanding arbitration containing the name of an arbitrator, the other Members shall designate a second Person to serve as an independent arbitrator. Within fifteen (15) days thereafter, the two appointed arbitrators shall select a third arbitrator (who shall be experienced in advising third parties with respect to the area in dispute). If the other Members shall fail to make such appointment within the initial fifteen (15) day period after the demand for arbitration is received, the first designated arbitrator shall request that the AAA designate the second arbitrator, and within fifteen (15) days thereafter, the two appointed arbitrators shall select such third arbitrator. If the two designated arbitrators shall fail to select a third arbitrator within the fifteen (15) day period, the third arbitrator shall be designated by the AAA. In the event that the non-Initiating Party is comprised of more than one Member, the designation of an arbitrator for such non-Initiating Party shall require the consent of the majority of Members constituting such non-Initiating Party. Persons selected as arbitrators shall be experienced in the area of dispute and shall not be, or have previously been, an employee, officer, director, member partner, representative, consultant or relative of the Member making the designation. The parties shall use prudent business judgment when selecting an arbitrator, taking into account such factors as cost, availability and experience.

13.2.2 The arbitrators shall afford each of the disputing parties an opportunity to be heard and, except as otherwise provided herein, the arbitration shall be conducted in accordance with the procedures set forth in the Arbitration Rules. In determining any question, matter or dispute before them, the arbitrators shall apply the provisions of this Agreement without varying therefrom in any respect. They shall not have the power to add to, modify or change any of the provisions of this Agreement. Except as may be agreed upon by the Members or ordered by the arbitrators, discovery shall be limited to the depositions of a designated representative for each Member ("**Designated Representative**") with the most knowledge of the matter in dispute and any experts that will provide testimony, reports and/or opinions at the hearing. The Initiating Party shall provide the name(s) of its Designated Representative(s) and any experts within forty-five (45) days after the last arbitrator has been selected and make them available for deposition no later than thirty (30) days prior to the hearing. Each non-Initiating Party shall provide the name(s) of its Designated Representative(s) and any experts within sixty (60) days after the last arbitrator has been selected and make them available for deposition no later than fifteen (15) days prior to the hearing. Such depositions shall be limited to one day of not more than 7 hours on the record per deposition. The Members shall exchange witness lists and copies of any exhibits that they intend to utilize in their direct presentations at any hearing

before the arbitrators at least five (5) days prior to such hearing, along with any other information or documents specifically requested by the arbitrators prior to the hearing. The respective Members shall exercise all commercially reasonable efforts in good faith to cause a hearing to be held within ninety (90) days after the date upon which the last arbitrator is appointed and to conclude all hearings within thirty (30) days after the first hearing date. The arbitrators shall only grant any such Member's request for postponement of the hearing upon a showing of good cause as determined by the arbitrators. Within thirty (30) days of the last hearing date, the arbitrators shall issue a written decision setting forth their analysis and ruling. The arbitrators shall determine in what proportion such Members shall bear the fees and expenses of the arbitrators or whether one Member is responsible for all such fees and expenses. Each such Member shall bear the fees and expenses of its own counsel, expert witnesses and other consultants. All arbitration proceedings shall be held in New York, New York and shall be subject to the choice of law provisions set forth in Section 15.5.

13.2.3 If the dispute involves a Major Decision (other than a Major Decision described in Section 5.6.2.1(c), Section 5.6.2.1(e) (but only with respect to Material Transaction Document Decisions), Section 5.6.2.1(i), Section 5.6.2.1(j) or Section 5.6.2.1(k)) as provided in Section 13.4, the following additional procedures shall be followed in conducting the arbitration hearings. At least ten (10) Business Days before the arbitration hearing, (i) the Managing Member and the Class B Majority shall each designate a representative to act during the arbitration hearings on their behalf and (ii) the representatives of the Managing Member and the Class B Majority shall exchange and provide to the arbitrators a written statement of their respective positions on the Major Decision and the outcome that they believe to be appropriate with respect to the Major Decision. At any time prior to the close of the arbitration hearing, each representative remains free to provide to the other representative and the arbitrators revised written position statements, which shall supersede all prior position statements of the applicable representative. Within one (1) Business Day after the close of the arbitration hearing, the representatives shall exchange a final written position statement with respect to the applicable Major Decision. In rendering the arbitration award, the arbitrators will select between the representatives' last position statement, choosing the position that the arbitrators find to be in the best interests of (a) the Projects and (b) the Company, DS Holdings and the Subsidiaries (taken as a whole) and which position is without bias against any of the Members.

13.2.4 The Members acknowledge and agree that any arbitral award shall be final, binding and conclusive upon the Members and may be confirmed or embodied in any order of any court having jurisdiction.

13.2.5 Service of any matters referenced in this Article 13 shall be given in the manner described in Section 15.2 or as permitted by the rules of the American Arbitration Association.

13.2.6 Notwithstanding anything to the contrary contained in this Article 13, if, due to a material breach or threatened material breach or default or threatened default or the occurrence of a Removal Event, a Member is suffering irreparable harm for which monetary damages are inadequate, such Member may petition a court of competent jurisdiction for injunctive relief or specific performance in order to maintain the status quo during the pendency of any arbitration proceeding.

13.3 Continued Performance. During the continuation of any dispute arising under this Agreement, so long as the dispute resolution procedure for resolution of such dispute is continued by both parties in good faith, the parties shall continue to perform their respective obligations under this Agreement including prompt and timely payment of all amounts due hereunder other than specific payments or portions thereof subject to the dispute, until a final non-appealable resolution is reached.

13.4 Major Decisions, Fundamental Decisions or Termination Decisions. For the avoidance of doubt, except as provided in the next sentence, a failure of the appropriate Members to Consent to any matter that is the subject of a Major Decision, Fundamental Decision or Termination Decision shall not be subject to the provisions of this Article 13. At any time when (a) the NextEra Member is the Managing Member and (b) neither the Sumitomo Member nor the NRG Member hold Class B Units that are at least equal to the Class B Majority, if the Managing Member has requested by Notice to the Members the Consent to a Major Decision and the Managing Member has received the Consent of the Class A Majority for such Major Decision but has not received the Consent of the Class B Majority within a period of ten (10) Business Days after the date of such Notice, then the Managing Member shall have the right to seek a determination of the Major Decision as a dispute that is subject to the provisions of this Article 13; *provided*, that the Major Decisions described in Section 5.6.2.1(c), Section 5.6.2.1(e) (but only with respect to Material Transaction Document Decisions), Section 5.6.2.1(i), Section 5.6.2.1(j) and Section 5.6.2.1(k), shall not be subject to the requirements of this sentence. If such dispute is not resolved prior to the initiation of arbitration in accordance with Section 13.2.1, in addition to the procedures provided for in Section 13.2.2, the special procedures for dispute resolution described in Section 13.2.3 shall be utilized in the arbitration proceedings. If a determination is made with respect to a Major Decision in an arbitration award pursuant to Section 13.2 then, notwithstanding any term or provision of this Agreement to the contrary, the Managing Member shall be entitled to take any actions provided for in the arbitration award with respect to the applicable Major Decision without any further Consent of the Class A Majority or the Class B Majority.

ARTICLE 14
SEPARATENESS REQUIREMENTS; INDEPENDENT MANAGERS

14.1 Separateness Requirements. Notwithstanding anything to the contrary contained herein, except as contemplated or permitted by the Financing Documents, during the Covered Period each Member agrees that the Company shall do all things necessary to maintain its existence as a limited liability company separate and apart from the Members, DS Holdings and the Subsidiaries and their respective Affiliates (each, a "**Related Party**"), including the following:

14.1.1 maintain at least two Independent Managers;

14.1.2 have stationery and other business forms separate from those of any other Related Party;

14.1.3 be at all times adequately capitalized in light of its contemplated business;

14.1.4 provide at all times for its own operating expenses and liabilities from its own funds;

14.1.5 maintain its assets, funds and transactions separate from those of any other Related Party, reflecting such assets and transactions in financial statements separate and distinct from those of any such other Related Party (except that the Company's, DS Holdings and the Subsidiaries' financial statements may be consolidated with the financial statements of any Member, any Sponsor or any other direct or indirect equity owner of the Company, DS Holdings or any of the Subsidiaries), and evidencing such assets and transactions by appropriate entries in books and records separate and distinct from those of any other Related Party;

14.1.6 hold itself out to the public under its own name as a legal entity separate and distinct from any such other Related Party and any other Person and shall correct any misunderstanding regarding its separate entity status of which it has knowledge;

14.1.7 hold regular duly noticed meetings, or obtain appropriate consents, of Members or other analogous governing body, and make and retain minutes of such meetings, as are necessary or appropriate to authorize all of Company's actions required by law to be authorized by its governing body;

14.1.8 not engage in any transaction with any other Related Party, except as permitted by the Financing Documents or this Agreement;

14.1.9 not maintain any joint account with any other Related Party or become liable as a guarantor or otherwise with respect to any debt or contractual obligation of any other Related Party;

14.1.10 not direct or participate in the management of any other Related Party (other than in the case of DS Holdings and the Subsidiaries;

14.1.11 not make any payment or distribution of assets with respect to any obligation of any other Related Party (other than as contemplated by the DS Holdings Depositary Agreement (as defined in the Master Agreements or any other Financing Document) or grant an adverse claim on any of its assets to secure any obligation of any such other Related Party (other than to DS Holdings or to any of the Subsidiaries);

14.1.12 not make loans or advances or otherwise extend credit to any such other Related Party (other than to DS Holdings or to any of the Subsidiaries);

14.1.13 not hold itself out as having agreed to pay, or as being liable (primarily or secondarily) for, any obligations of any such other Related Party, except with respect to the Common Facilities (as defined in the EPC Contracts) joint purchasing of supplies;

14.1.14 have all business transactions that are entered into by it with any of its Affiliates be on arms-length, commercially reasonable terms and have such business transactions approved in accordance with this Agreement; and

14.1.15 not acquire obligations or securities of its Members, except as provided in the Transaction Documents.

14.2 Independent Managers. During the Covered Period: (i) the Company shall have two Independent Managers; (ii) an Independent Manager may not be removed other than by the Managing Member for cause; and (iii) if an Independent Manager should resign or be removed, the Managing Member shall appoint another Person as Independent Manager as promptly as possible; *provided* that, during any interim period when the Company does not have (but is required under this Section 14.2 to have) an Independent Manager the Company shall not take any action expressly requiring the Consent of the Independent Managers under Section 5.6.2.3 of this Agreement or under this Section 14.2. The Company shall not, during the Covered Period, without the Consent of each of the Independent Managers (i) merge, consolidate or sell substantially all of the assets of the Company, except as permitted under the Financing Documents, (ii) enter into any contract (including any indemnification agreement) or transaction with any Member or any Affiliate of any Member other than as expressly provided for or contemplated by this Agreement, including pursuant to Section 3.5, Section 4.4, Section 4.5, Section 5.1.2, Section 5.1.3, Section 5.1.4, Section 5.6.2.1(e) and Section 5.10), (iii) amend or modify the Certificate or the provisions of Section 2.7 of this Agreement, (iv) permit DS Holdings or any Subsidiary to incur, assume or otherwise become obligated for any indebtedness except as permitted by the Financing Documents, or (v) create or permitting to exist any Lien on any property of DS Holdings or any Subsidiary except pursuant to or as permitted under the Financing Documents. To the extent permitted by applicable Law, an Independent Manager shall not be allowed to voluntarily resign until such time as a replacement has been selected and taken office. In connection with any consent or other act or omission to consent or other act by an Independent Manager under this Agreement or otherwise, the Independent Managers shall each owe a fiduciary duty to the Members solely to the extent required by the Act and other applicable Law and shall also owe a fiduciary duty to the Company as whole, including the creditors of the Company. All right, power and authority of the Independent Managers shall be limited to the extent necessary to exercise the rights specifically set forth in this Agreement. To the extent permitted by Law, the Independent Managers shall not be liable, responsible or accountable for damages or otherwise to the Company or the Members for any act or omission in a manner reasonably believed by the Independent Managers to be within the scope of the authority granted to them by this Agreement. No Independent Member shall at any time serve as trustee in bankruptcy for any Affiliate of the Company. The current Independent Managers are [Victor A. Duva and Jennifer A. Schwartz].

ARTICLE 15
GENERAL PROVISIONS

15.1 Further Assurances. Each Member shall execute all certificates and other documents and shall do all such filing, recording, publishing, and other acts as the Managing

Member deems appropriate to comply with the requirements of Law for the formation and operation of the Company and to comply with any Laws relating to the acquisition, operation, or holding of the property of the Company or the Subsidiaries.

15.2 Notifications. Any notice, demand, consent, authorization, election, offer, approval, request, or other communication (each such action, a "**Notice**") required or permitted under this Agreement must be in writing and shall be deemed to have been duly given and received (i) on the date of service, if a Business Day, when served personally or sent by facsimile transmission to the party to whom Notice is to be given, otherwise on the next Business Day, or (ii) on the fourth (4th) day after mailing, if mailed by first class registered or certified mail if mailed nationally, or by registered airmail if mailed internationally, postage prepaid, and addressed to the party to whom Notice is to be given at the address set forth below or at the most recent address specified by Notice given to the other party hereto, or (iii) on the next Business Day if sent by a nationally or internationally recognized courier for next day service and so addressed and if there is evidence of acceptance by receipt:

To NextEra Member:	NextEra Desert Sunlight Holdings, LLC c/o NextEra Energy Resources, LLC 700 Universe Boulevard Juno Beach, Florida 33408 Attention: Vice President of Development- Matthew Handel Facsimile: (561) 691-7307
with a copy to:	NextEra Energy Resources, LLC 700 Universe Boulevard Juno Beach, Florida 33408 Attention: Vice President and General Counsel Facsimile: (561) 691-2988
To Sumitomo Member:	Summit Solar Desert Sunlight, LLC c/o Summit Solar Americas, Inc. 600 Third Avenue New York, NY 10016 Attention: Teruyuki Miyazaki Facsimile: 212-207-0820
with a copy to:	Lewis Farberman, Esq. Sumitomo Corp of America 600 Third Avenue New York, NY 10016 Facsimile: 212-207-0823

To NRG Member: NRG Yield Operating LLC
211 Carnegie Center
Princeton, New Jersey 08540
Attention: Office of the General Counsel
Facsimile: 609-524-4589
Email: ogc@nrgyield.com

15.3 Specific Performance. The parties recognize that irreparable injury will result from a material breach of any provision of this Agreement and that money damages may be inadequate to fully remedy the injury. Accordingly, in the event of a material breach or threatened material breach of one or more of the provisions of this Agreement, any party who may be injured (in addition to any other remedies that may be available to that party) shall be entitled to seek one or more preliminary or permanent orders (i) restraining and enjoining any act that would constitute a material breach or (ii) compelling the performance of any obligation that, if not performed, would constitute a material breach.

15.4 Complete Agreement; Amendments. This Agreement, the MIPSA, the Investment Agreement, the Cash Grant Recapture Indemnity Agreements, the Cash Grant Letter Agreement and the Equity Contribution Agreements constitute the complete and exclusive statement of the agreement among the Members as of the date hereof relating to their rights as a Member. Such agreements supersede all prior written and oral statements, including any prior representation, statement, condition, or warranty relating to their rights as a Member. For clarification, this Section 15.4 is not meant to encompass any rights that the Members may have under the MIPSA, the Transfer Agreement, the Assignment Agreement and the agreements related thereto, all of which shall survive in accordance with their terms. Subject to the requirements of Section 4.13, this Agreement may not be amended except as provided in Section 5.6.2.2(j); *provided*, that no amendment shall be permitted without the unanimous consent of all of the Members to (i) Article 7, (ii) Section 6.7.1 or (iii) the definition of Distributable Cash.

15.5 Governing Law. This Agreement shall be governed by and construed in accordance with the Laws of the State of Delaware.

15.6 Section Titles. The headings herein are inserted as a matter of convenience only and do not define, limit, or describe the scope of this Agreement or the intent of the provisions hereof.

15.7 Binding Provisions. This Agreement is binding upon, and to the limited extent specifically provided herein, inures to the benefit of, the parties hereto and their respective heirs, executors, administrators, personal and legal representatives, successors, and assigns.

15.8 Separability of Provisions. Each provision of this Agreement shall be considered separable; if, for any reason, any provision or provisions herein are determined to be invalid and contrary to any existing or future Law, such invalidity shall not impair the operation of or affect those portions of this Agreement that are valid.

15.9 Counterparts. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original and all of which, when taken together,

constitute one and the same document. The signature of any party to any counterpart shall be deemed a signature to, and may be appended to, any other counter-part.

15.10 Non-Disclosure.

15.10.1 Each Member hereto agrees that it will, and will cause its officers, managers, other personnel and authorized representatives to, hold in strict confidence all Confidential Information disclosed by the other Members and will ensure that such other Persons do not disclose such information to others without the prior consent of the Members hereto to which such Confidential Information relates (the "**Affected Party**"); *provided*, that each Member hereto may disclose such data and information (i) to its counsel and public accountants or any Governmental Entity, (ii) to its outside lenders, consultants, accountants, investors and advisers; *provided*, that such parties agree to be or otherwise are legally obligated (by contract or otherwise) to maintain the confidentiality of such information, (iii) in response to legal process or applicable government regulations, but only that portion of the data and information that, in the written opinion of counsel for such Member, is legally required to be furnished; *provided*, *further*, that such party notifies the Affected Party to protect the confidentiality of such data and information pursuant to applicable Law; *provided*, *further*, that any such Member and its outside lenders, consultants, accountants, investors and advisers may disclose any such information, and make such filings, as may be required by this Agreement, the Project Agreements or the Financing Documents.

15.10.2 Notwithstanding anything to the contrary, the foregoing obligations shall not apply to disclosures required in connection with the Cash Grant or the tax treatment or tax structure of the transactions contemplated by this Agreement and each party hereto (and any employee, representative, or agent of any party) may disclose to any and all persons, without limitation of any kind (except as noted in the next sentence), the tax treatment and tax structure of the transactions contemplated by this Agreement and all other materials of any kind (including opinions or other tax analyses) that are provided to any party hereto to the extent relating to such tax treatment and tax structure. However, any such information relating to such tax treatment and tax structure is required to be kept confidential to the extent necessary to comply with any applicable securities laws. The preceding sentences are intended to cause the transactions contemplated by this Agreement not to be treated as having been offered under conditions of confidentiality for purposes of Section 1.6011-4(b)(3) of the Regulations and shall be construed in a manner consistent with such purpose.

15.10.3 Nothing in this Section 15.10 shall be construed as prohibiting a Party hereunder from using the confidential information described in Section 15.10 in connection with (i) any claim against another Member hereunder, (ii) any exercise by a party hereunder of any of its rights hereunder and (iii) in connection with any Transfer or potential Transfer, *provided,* that the potential purchaser(s) shall have entered into a confidentiality agreement with respect to such information on terms and conditions substantially similar to those set forth in this Agreement (and the disclosing party shall be and remain liable for any violations of the requirements of this Section 15.10 by any potential purchaser(s)) unless (1) the confidentiality agreement is executed by any Person who would satisfy the requirements for a Transferee hereunder or, if applicable, any party that is required to satisfy the requirements of creditworthiness in connection with any Transfer hereunder, (2) each of the other Members are expressly made third-party beneficiaries

of such confidentiality agreement with a right to enforce the same against the potential purchaser and (3) a true and complete copy of such confidentiality agreement has been provided to the Managing Member (which confidentiality agreement shall be available for review by any of the other Members upon written request to the Managing Member).

15.11 No Third Party Beneficiary Rights. The provisions of this Agreement are not intended to be for the benefit of any creditor or any other Person (other than a Member in its capacity as such) to whom any debts, liabilities or obligations are owed by (or who otherwise has any claim against) the Company or any of the Members; and no such creditor or other Person shall obtain any right under any of such provisions or shall by reason of any of such provisions make any claim in respect of any debt, liability or obligation (or otherwise) against the Company or any of the Members.

15.12 Waiver. No failure on the part of any Member to exercise, and no delay in exercising, and no course of dealing with respect to, any right, power or privilege under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege under this Agreement preclude any other or further exercise thereof or the exercise of any other right, power or privilege. Any waiver to be effective shall be in writing signed by the waiving Member.

15.13 Amendment and Restatement. This Agreement amends and restates in its entirety the First Amended Agreement. All rights, benefits, duties, liabilities and obligations of the Members under the First Amended Agreement are hereby amended, restated and superseded in their entirety according to the terms and provisions set forth herein.

[*This space has been intentionally left blank. The next page is the signature page.*]

IN WITNESS WHEREOF, the parties have executed, or caused this Agreement to be executed, as of the date set forth herein-above.

NEXTERA DESERT SUNLIGHT HOLDINGS, LLC,

a Delaware limited liability company

By:
Name: Matthew S. Handel
Title: Vice President

SUMMIT SOLAR DESERT SUNLIGHT, LLC,

a Delaware limited liability company

By: _____
Name:
Title:

NRG YIELD OPERATING LLC,

a Delaware limited liability company

By:
Name:
Title:

EXHIBIT A

DEFINED TERMS

"**1603 Grant Recapture Liability**" shall have the meaning set forth in the Cash Grant Recapture Indemnity Agreements.

"**AAA**" shall have the meaning set forth in Section 13.2.1.

"**Act**" shall mean the Delaware Limited Liability Company Act, 6 Del. C. § 18-101, et seq., as the same may be amended from time to time, or any corresponding provision or provisions of any succeeding or successor Law of Delaware; *provided*, that in the event that any amendment to the Act, or any succeeding or successor Law, is applicable to the Company only if the Company has elected to be governed by the Act as so amended or by such succeeding or successor Law, as the case may be, the term "Act" shall refer to the Act as so amended or to such succeeding or successor Law only after the appropriate election by the Company, if made, has become effective.

"**Additional Capital Contributions**" shall mean any Capital Contributions in addition to the Initial Capital Contributions and shall include the Required Additional Capital Contributions.

"**Additional Equity Contribution Agreement**" shall have the meaning set forth in the Equity Contribution Agreements.

"**Additional Project Documents**" shall mean any contract or agreement relating to the development, construction, testing, operation, maintenance, repair, financing or use of any Project entered into by the Company, DS Holdings, or any Subsidiary with any other Person subsequent to the Original Effective Date (a) that replaces or substitutes for any Project Agreement, (b) that has a term greater than two years, (c) if the aggregate cost or value of goods and services to be acquired by the Company, DS Holdings, or any Subsidiary pursuant thereto could reasonably be expected to exceed One Million Dollars ($1,000,000) in any year or Five Million Dollars ($5,000,000) over its term, (d) if the aggregate amount of termination fees or liquidated damages which could be incurred by the Company, DS Holdings, or any Subsidiary in respect of such Additional Project Document over the term thereof could reasonably be expected to exceed One Million Dollars ($1,000,000) or the equivalent or (e) the loss of such contract or agreement could reasonably be expected to have a Material Adverse Effect (as defined in the Master Agreements).

"**Adjusted Capital Account**" shall mean with respect to any Member, such Member's Capital Account as of the end of the relevant Fiscal Year or the date of any relevant Transfer, after:

(i) crediting to such Capital Account any amounts that such Member is obligated to restore to the Company pursuant to Regulations Section 1.704-1(b)(2)(ii)(c) or is deemed to be obligated to restore pursuant to the penultimate sentences of Regulations Sections 1.704-2(g)(1) and 1.704-2(i)(5); and

(ii) debiting from such Capital Account the items described in Regulations Sections 1.704-1(b)(2)(ii)(d)(4), 1.704-1(b)(2)(ii)(d)(5), and 1.704-1(b)(2)(ii)(d)(6).

The foregoing definitions of Adjusted Capital Account is intended to comply with the provisions of Regulations Section 1.704-1(b)(2)(ii)(d) and shall be interpreted consistently therewith.

"**Adjustment Letter**" shall have the meaning set forth in the Recitals of this Agreement.

"**Administrative Services Agreements**" shall have the meaning set forth in the Master Agreements.

"**Administrative Services Provider**" shall mean, as of the Effective Date, NextEra Energy Resources, LLC as the "Manager" under the Administrative Services Agreements, or any successor Person responsible for the administration of the Projects pursuant to the Administrative Services Agreements.

"**Adverse Act**" shall mean, with respect to a particular Member, any of the following:

(i) the occurrence of a Bankruptcy with respect to such Member or the Guarantor for such Member;

(ii) any dissolution of such Member that is a corporation, partnership, limited liability company or other entity, or any dissolution of the Guarantor for such Member, without the prior consent of the Managing Member, *provided,* that if the Member to be dissolved is also the Managing Member or the Guarantor to be dissolved is the Guarantor for the Managing Member, such dissolution shall require the Consent of the Class A Majority and the Consent of the Class B Majority;

(iii) the failure of a Member to make a Required Additional Capital Contribution when due; or

(iv) there occurs an event that makes it unlawful for such Member to continue to be a Member.

Notwithstanding the foregoing, a failure or event described in subparagraph (iii) or (iv) above shall not become an Adverse Act for purposes of determining whether a Removal Event has occurred unless the applicable cure period set forth in Section 8.1 has expired without a cure being effected by or on behalf of the Adverse Member.

"**Adverse Member**" shall mean, with respect to a particular Adverse Act, the Member with respect to which such Adverse Act has occurred.

"**Adverse Member Buyout Closing**" shall have the meaning set forth in Section 8.2.

"**Affected Party**" shall have the meaning set forth in Section 15.10.1.

"**Affiliate**" of a Member shall mean any Person, directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with a Member. The term "control," as used in the immediately preceding sentence, shall mean with respect to a corporation or limited liability company the right to exercise, directly or indirectly, more than

fifty percent (50%) of the voting rights attributable to the controlled corporation or limited liability company and, with respect to any individual, partnership, trust, other entity or association, the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of the controlled entity.

"**After-Tax Basis**" shall mean, with respect to any indemnity payment to be received by any Person, the amount of such payment (the base payment) supplemented by a further payment (the additional payment) to that Person so that the sum of the base payment plus the additional payment shall, after deduction of the amount of all Federal, state and local income taxes, if any, required to be paid by such Person in respect of the receipt or accrual of the base payment and the additional payment (taking into account any reduction in such income taxes resulting from tax benefits realized or to be realized by the recipient as a result of the payment or the event giving rise to the payment), be equal to the amount required to be received. Such calculations shall be made on the basis of the highest applicable Federal, state and local income tax rates then applicable to corporations for all relevant periods in effect for the year of the payment, and shall take into account the deductibility of state and local income taxes for Federal income tax purposes.

"**Agent**" shall have the meaning set forth in Section 11.1.

"**Agreement**" shall have the meaning set forth in the preamble to this Agreement.

"**Applicable Rate**" shall mean a variable per annum rate of interest equal to LIBOR, plus ten percent (10%), but in no event more than the maximum rate permitted by applicable Law.

"**Approved Accounting Firm**" shall mean the Company's primary independent accounting firm, which shall be any of Deloitte, Ernst & Young, KPMG International or PricewaterhouseCoopers or such other firm of certified public accountants as is approved in accordance with Section 5.6.2.1(l).

"**Arbitration Rules**" shall have the meaning set forth in Section 13.2.1.

"**Assignee**" shall mean a Person who is an assignee of a Member but does not become a Member pursuant to Section 7.1.

"**Assignment Agreement**" shall have the meaning set forth in the Recitals to this Agreement.

"**Authorized Person**" shall have the meaning set forth in the Recitals of this Agreement.

"**Bankruptcy**" shall mean: (a) the filing of an application by a Member or Guarantor for such Member for, or its consent to, the appointment of a trustee, receiver, or custodian of its assets; (b) the Member or Guarantor for such Member is adjudicated a bankrupt, or an order for relief with respect to a Member or Guarantor for such Member is entered in proceedings under the United States Bankruptcy Code, as amended or superseded from time to time; (c) the making by a Member or Guarantor for such Member of a general assignment for the benefit of creditors; (d) the entry of an order, judgment, or decree by any court of competent jurisdiction appointing a

trustee, receiver, or custodian of the assets of a Member or Guarantor for such Member unless the proceedings and the Person appointed are dismissed within ninety (90) days; or (e) the filing of a petition or answer by a Member or Guarantor for such Member seeking for itself any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any Law.

"**Book Gain**" or "**Book Loss**" shall mean gain or loss recognized by the Company for book purposes in any Fiscal Year or other period under the principles of Treasury Regulations Section 1.704-1(b)(2)(iv) by reason of a sale or other disposition of any Company asset. Book Gain or Book Loss shall be computed by reference to the Book Value of the asset as of the date of such sale or other disposition rather than by reference to the tax basis of the asset at such date. Every reference in this Agreement to "gain" or "loss" refers to Book Gain or Book Loss, rather than to tax gain or tax loss, unless the context manifestly otherwise requires.

"**Book Value**" shall mean, with respect to any asset of the Company, the asset's adjusted basis as of the relevant date for federal income tax purposes, except as follows:

(i) the initial Book Value of any asset contributed by a Member to the Company after the date hereof shall be the gross fair market value of such asset, as set forth herein or in any amendment or supplement hereto providing for the contribution of such asset;

(ii) the Book Values of all Company assets (including intangible assets such as goodwill) shall be adjusted at the election of the Class A Majority and Class B Majority to equal their respective fair market values (determined on a gross basis) as of the following times:

(A) the acquisition of an additional interest in the Company by any new or existing Member in exchange for more than a *de minimis* capital contribution, within the meaning of Regulations Section 1.704-1(b)(2)(iv)(j)(5);

(B) the distribution by the Company to a Member for more than a *de minimis* amount of money or Company property as consideration for an interest in the Company; and

(C) the liquidation of the Company within the meaning of Regulations Section 1.704-1(b)(2)(ii)(g); and

(iii) the Book Value of all assets of the Company shall be adjusted by the Depreciation taken in account with respect to such asset for purposes of computing Net Profits and Net Losses and other times allocated pursuant to Article 6 hereof.

The foregoing definition of Book Value is intended to comply with the provisions of Regulations Section 1.704-1(b)(2)(iv) and shall be interpreted and applied consistently therewith.

"**Budget**" shall mean, for any calendar year, the annual budget and operating plan of the Company for such year that has been prepared and approved pursuant to Section 5.6.2.1(a).

"**Budget Item**" shall have the meaning set forth in Section 5.6.1.

"**Business Day**" shall mean any day that is not a Saturday, Sunday or other day on which national banking institutions in New York are closed as authorized or required by Law.

"**Buyout Option**" shall have the meaning set forth in Section 8.1.3.

"**Buyout Purchase Price**" shall have the meaning set forth in Section 8.1.3.

"**Capital Account**" shall mean with respect to any Member the capital account that the Company establishes and maintains for such Member pursuant to Section 3.3.

"**Capital Contribution**" shall mean any money, property, or services rendered, or a promissory note or other binding obligation to contribute money or property, or to render services as permitted in this Agreement or by Law, that a Member contributes to the Company as capital in that Member's capacity as a Member pursuant to this Agreement or any other agreement between or among the Members, including an agreement as to value and including the Equity Contribution Agreements.

"**Cash Grant**" shall mean a United States Treasury Department cash grant in lieu of the available renewable energy tax credits pursuant to section 48 of the Code under the terms of Section 1603 of the Recovery Act and the Cash Grant Guidance.

"**Cash Grant Application**" shall have the meaning set forth in Section 10.9.1.1.

"**Cash Grant Disqualified Person**" shall mean at any time during the Recapture Period (a) a federal, state or local government (or political subdivision, agency or instrumentality thereof), (b) an organization described in Section 501(c) of the Code and exempt from tax under Section 501(a) of the Code, (c) an entity described in paragraph (4) of Section 54(j) of the Code, (d) a real estate investment trust, as defined in Section 856(a) of the Code or a person described in Section 50(d)(1) of the Code, (e) a regulated investment company, as defined in Section 851(a) of the Code, (f) any Person who is not a United States person as defined in Section 7701(a)(30) of the Code (other than a foreign partnership or foreign pass-through entity) unless such person is subject to U.S. federal income tax on more than 50% of the gross income derived by such person from the Company, or (g) a partnership or other "pass-through entity" (within the meaning of paragraph (g)(4) of Section 1603 of division B of the Recovery Act, including a single member disregarded entity and a foreign partnership or foreign pass-through entity) any direct or indirect partner (or other holder of an equity or profits interest) of which is an organization described in (a) through (f) above unless such person owns an indirect interest in such partnership or pass-through entity through a "taxable C corporation" (other than a real estate investment trust or regulated investment company), as that term is used in the Cash Grant Guidance; *provided*, that (1) if and to the extent the definition of "Disqualified Person" under Section 1603(g) Division B of the Recovery Act is amended after the Closing Date and such amendment is applicable to the Cash Grant, the definition of "Cash Grant Disqualified Person" provided in this Agreement shall be interpreted to conform to such amendment and any Cash Grant Guidance with respect thereto and (2) a Person shall not be treated as a Cash Grant Disqualified Person if (x) such Person is described within another applicable exception and such Person obtains, as such Person's sole cost and expense, a legal opinion (reasonably satisfactory in form and substance to the other Members from a nationally recognized tax counsel) that no

Cash Grant Loss will result from such Person being a Cash Grant Disqualified Person or (y) such Person fully indemnifies the Company, DS Holdings and the Subsidiaries on an After-Tax Basis and on terms acceptable to the other Members for any Recapture Event resulting from such Person being a Cash Grant Disqualified Person.

"**Cash Grant Filing Deadline**" shall have the meaning set forth in Section 10.9.1.1.

"**Cash Grant Guidance**" shall mean the program guidance publication entitled "Payments for Specific Energy Property in Lieu of Tax Credits under the American Recovery and Reinvestment Act of 2009" dated July 2009 (as revised March 2010 and further revised April 2011), and any other guidance (including frequently asked questions and answers), instructions or terms and conditions published or issued by the Treasury in respect of a Cash Grant or any application therefor and the terms and conditions that the Company must agree to in order to receive a Cash Grant.

"**Cash Grant Letter Agreement**" shall have the meaning set forth in the Recitals to this Agreement.

"**Cash Grant Loss**" shall mean an obligation to repay all or a portion of the Cash Grant back to the United States of America (or any agency or instrumentality thereof) under the Cash Grant Guidance as a result of a recapture or disallowance of all or any portion of the Cash Grant set forth in a final notification from the Treasury, whether as a result of the Project or any interest therein being disposed of, the Project creasing to be specified energy property, or otherwise.

"**Cash Grant Recapture Indemnity Agreements**" shall mean (i) that certain Cash Grant Recapture Indemnity Agreement, dated as of the Financial Closing Date, entered into by the NextEra Member, in favor of Desert Sunlight 250, DS Holdings, the Company, Collateral Agent and the Secured Parties (as defined in the Master Agreements) and that certain Cash Grant Recapture Indemnity Agreement, dated as of the Financial Closing Date, entered into by the NextEra Member, in favor of Desert Sunlight 300, DS Holdings, the Company, Collateral Agent and the Secured Parties; (ii) that certain Cash Grant Recapture Indemnity Agreement, dated as of the First Amendment Date, entered into by the Sumitomo Member, in favor of Desert Sunlight 250, DS Holdings, the Company, the Collateral Agent and the Secured Parties and the Collateral Agent and that certain Cash Grant Recapture Indemnity Agreement, dated as of the First Amendment Date, entered into by the Sumitomo Member, in favor of Desert Sunlight 300, DS Holdings, the Company, the Collateral Agent and the Secured Parties; (iii) that certain Cash Grant Recapture Indemnity Agreement, dated as of the Second Amendment Date, entered into by the NRG Member, in favor of Desert Sunlight 250, DS Holdings, the Company, the Collateral Agent and the Secured Parties and the Collateral Agent and that certain Cash Grant Recapture Indemnity Agreement, dated as of the Second Amendment Date, entered into by the NRG Member, in favor of Desert Sunlight 300, DS Holdings, the Company, the Collateral Agent and the Secured Parties and (iv) each other cash grant recapture indemnity agreement hereafter entered into by any Member in connection with a Transfer of Membership Interests.

"**Cash Grant Recapture Indemnity Agreements Qualifying Losses**" shall mean Losses (as defined in the Cash Grant Recapture Indemnity Agreements) paid by or on behalf of

Members to Beneficiaries pursuant to the Cash Grant Recapture Indemnity Agreements, *provided*, that "Cash Grant Recapture Indemnity Agreement Qualifying Losses" shall not include any such Losses paid by or on behalf of a Member that arise from (i) any direct or indirect transfer by such Member of its equity interests or its profit interests in a Subsidiary to a Cash Grant Disqualified Person, (ii) such Member or any of its Affiliates becoming a Cash Grant Disqualified Person or (iii) any other matter for which such Member's Applicable Percentage (as defined in the Cash Grant Recapture Indemnity Agreements to which such Member is a party) is one hundred percent (100%).

"**Cash Grant Recapture Support Agreements**" shall mean (i) that certain Cash Grant Recapture Liability Agreement, dated as of the Financial Closing Date, entered into by and among the Guarantor for the NextEra Member, the Master Administrative Agent and the Collateral Agent, and the related Confirmation Agreement, dated as of the Financial Closing Date, among NextEra Energy, Inc., a Florida Corporation, the Guarantor for the NextEra Member and Collateral Agent (relating to Desert Sunlight 250) and that certain Cash Grant Recapture Liability Agreement, dated as of the Financial Closing Date, entered into by and among the Guarantor for the NextEra Member, the Master Administrative Agent and the Collateral Agent, and the related Confirmation Agreement, dated as of the Financial Closing Date, among NextEra Energy, Inc., a Florida Corporation, the Guarantor for the NextEra Member and Collateral Agent (relating to Desert Sunlight 300), (ii) that certain Guaranty, dated as of the First Amendment Date, entered into by the Guarantor for the Sumitomo Member in favor of Desert Sunlight 250, Collateral Agent, DS Holdings and the Company and that certain Guaranty, dated as of the First Amendment Date, entered into by the Guarantor for the Sumitomo Member in favor of Desert Sunlight 300, Collateral Agent, DS Holdings and the Company, (iii) that certain Guaranty Agreement, dated as of the Second Amendment Date, entered into by the Guarantor for the NRG Member in favor of Desert Sunlight 250, Collateral Agent, DS Holdings and the Company and that certain Guaranty Agreement, dated as of the Second Amendment Date, entered into by the Guarantor for the NRG Member in favor of Desert Sunlight 300, Collateral Agent, DS Holdings and the Company and (iv) each other guarantee agreement or cash grant recapture liability agreement executed and delivered by any Guarantor in support of any Member's obligations under any Cash Grant Recapture Indemnity Agreement to which such Member is a party that is entered into by any Member in connection with a Transfer of Membership Interests.

"**Certificate**" shall mean the Certificate of Formation for the Company originally filed with the Delaware Secretary of State and as amended from time to time.

"**Change in Ownership**" shall mean a "change in ownership" within the meaning of Chapter 2 of Part 0.5 of Division 1 of the California Revenue and Taxation Code ("**RTC**"), including sections 64(c) and 64(d) of the RTC, or any similar or successor provisions at such time as would cause any "active solar energy system" within the meaning of section 73 of the California Revenue and Taxation Code or any similar or successor provision, to be assessed by a California state or local property tax authority.

"**Change of Control**" shall mean the occurrence of an Event of Default under Section 8.26 of the Master Agreements.

"**Claims"** shall mean any and all losses damages, claims (including third party claims), charges, liabilities (whether accrued, absolute, contingent, asserted, matured, unmatured, secured or unsecured) actions, suits, proceedings, interest, penalties, taxes, costs and expenses (including reasonable legal, consultant, accounting and other professional fees, and reasonable fees and costs incurred).

"**Class A Majority**" shall mean the consent of the Class A Members holding Class A Units that represent more than fifty percent (50%) of the Class A Units of the Company.

"**Class A Member**" shall mean any Person holding a Class A Membership Interest. Currently, the Class A Member is, and since the Original Effective Date has been, the NextEra Member.

"**Class A Membership Interests**" shall mean the Class A membership interests in the Company.

"**Class A Supermajority**" shall mean the consent of the Class A Members holding Class A Units that represent more than seventy five percent (75%) of the Class A Units of the Company.

"**Class A Units**" shall mean the Class A Membership Interests held by the Class A Member (s).

"**Class B Majority**" shall mean the consent of the Class B Members holding Class B Units that represent more than fifty percent (50%) of the Class B Units of the Company.

"**Class B Member**" shall mean any Person holding a Class B Membership Interest. From the Original Effective Date until the First Amendment Date, the Class B Member consisted solely of EFS Desert Sun. From the First Amendment Date until the Second Amendment Date prior to giving effect to the Assignment Agreement, the Class B Members consisted of EFS Desert Sun and the Sumitomo Member. From the Second Amendment Date after giving effect to the Assignment Agreement, the Class B Members consisted of the Sumitomo Member and the NRG Member.

"**Class B Membership Interests**" shall mean the Class B membership interests in the Company.

"**Class B Supermajority**" shall mean the consent of the Class B Members holding Class B Units that represent more than seventy five percent (75%) of the Class B Units of the Company.

"**Class B Units**" shall mean the Class B Membership Interests held by the Class B Members.

"**Closing**" shall have the meaning set forth in the MIPSA.

"**Closing Date**" shall have the meaning set forth in the MIPSA.

"**Closing Date Model**" shall have the meaning set forth in the MIPSA.

"**Code**" shall mean the Internal Revenue Code of 1986, as amended from time to time, the provisions of any succeeding Law, and, to the extent applicable, the Regulations.

"**Collateral Agent**" shall have the meaning set forth in the Master Agreements.

"**Company**" shall have the meaning set forth in the Recitals to this Agreement.

"**Company Minimum Gain**" shall have the meaning ascribed to the term "Partnership Minimum Gain" in the Regulations Section 1.704-2(d).

"**Complying Member**" shall have the meaning set forth in Section 3.6.1.

"**Confidential Information**" shall mean any information, technical data, or know-how of a Member or any Affiliate thereof relating to the Projects or any of the Subsidiaries, including information relating to such Member's or its Affiliate's services, development, marketing or finances, that shall be disclosed by such Member or Affiliate to any other Member or Affiliate in writing or otherwise. The term "Confidential Information" does not include information, technical data, or know-how that at the time such information, technical data, or know-how is disclosed to the receiving Member (for purposes of this definition, the "**Recipient**") by another party hereto or an Affiliate thereof (i) is available to the Recipient from a source other than a party hereto or its Affiliates if the Recipient has no knowledge that such source, by disclosing such information, would be in violation of any confidentiality agreement to which it is a party; (ii) is or becomes published or otherwise available in the public domain without violation of this Agreement; or (iii) is approved for release by authorization of the Members hereto or their Affiliates from which such information, technical data, or know-how originated. The term "Confidential Information" includes the terms of this Agreement.

"**Consent**" shall mean the consent of the applicable Members.

"**Consult**" or "**Consultation**" shall mean to confer with, and reasonably consider and take into account the reasonable suggestions, comments or opinions of, another Person.

"**Contractor**" shall have the meaning set forth in the MIPSA, and shall include its successors and permitted assigns under the EPC Contracts.

"**Contribution Agreements**" shall mean, collectively, the NextEra Member Contribution Agreement and the EFS Desert Sun Contribution Agreement.

"**Covered Period**" shall mean that period of time commencing on the Original Effective Date and ending at such time as the indebtedness under the Financing Documents shall be paid in full.

"**Creditworthy Person**" shall mean any Person that (a) has (1) a net worth of at least One Billion Dollars ($1,000,000,000) or (2) has at least two of the following credit ratings: (A) Baa3 by Moody's Investors Service, Inc., (B) BBB- by Standard & Poor's Ratings Group or (C) BBB- by Fitch Ratings, a part of the Fitch Group; *provided*, *however*, that if such person or

entity is only rated by one such ratings agency and such rating meets any of (1), (2) or (3) above, then such rating shall suffice.

"**Depreciation**" shall mean, for each Fiscal Year or part thereof, an amount equal to the depreciation, amortization, or other cost recovery deduction allowable for federal income tax purposes with respect to an asset for such year or other period, except that if the Book Value of an asset differs from the adjusted basis for federal income tax purposes at the beginning of such year, Depreciation shall be either (i) an amount that bears the same ratio to such Book Value as the federal income tax depreciation, amortization or other cost recovery deduction of such asset for such year bears to such adjusted tax basis or (ii) such other amount as may be determined under Regulation Section 1.704-3(d)(2); *provided*, *however*, that if the federal income tax basis is zero, depreciation shall be determined with reference to such Book Value using any reasonable method selected by the Tax Matters Member and approved by the Class A Majority and the Class B Majority.

"**Desert Sunlight 250**" shall mean Desert Sunlight 250, LLC, a Delaware limited liability company, which is the owner of the Desert Sunlight 250 Project.

"**Desert Sunlight 250 Project**" shall mean the 250 MW (gross expected capacity) solar PV electric generating facility to be located in and near Desert Center, California known as the "Desert Sunlight 250 Project" located adjacent to the Desert Sunlight 300 Project, and all rights and liabilities related to the ownership and operation thereof, including its interests as tenant-in-common in the Shared Facilities (as defined in the Co-Tenancy and Shared Facilities Agreement, dated as of September 29, 2011, among Desert Sunlight 250, Desert Sunlight 300 and DS Holdings) and its interests in any other facilities shared with Desert Sunlight 250 Project.

"**Desert Sunlight 300**" shall mean Desert Sunlight 300, LLC, a Delaware limited liability company, which is the owner of the Desert Sunlight 300 Project.

"**Desert Sunlight 300 Project**" shall mean the 300 MW (gross expected capacity) solar PV electric generating facility to be located in and near Desert Center, California known as the "Desert Sunlight 300 Project" located adjacent to the Desert Sunlight 250 Project, and all rights and liabilities related to the ownership and operation thereof, including its interests as tenant-in-common in the Shared Facilities (as defined in the Co-Tenancy and Shared Facilities Agreement, dated as of September 29, 2011, among Desert Sunlight 250, Desert Sunlight 300 and DS Holdings) and its interests in any other facilities shared with Desert Sunlight 250 Project.

"**Designated Representative**" shall have the meaning set forth in Section 13.2.2.

"**Disputed Item**" shall have the meaning set forth in Section 5.6.1.

"**Dissolution Event**" shall mean, with respect to any Member, the withdrawal, resignation, retirement, expulsion, Bankruptcy or dissolution of such Member.

"**Distributable Cash**" shall mean, as of any date, all cash, cash equivalents and liquid investments (excluding Capital Contributions) held by the Company, DS Holdings or any Subsidiary as of such date which are distributable in accordance the terms, conditions or provisions of the Financing Documents in effect (including Section 6.10 of the Master

Agreements) or under the terms, conditions or provisions of the documents entered into by the Company, DS Holdings or the Subsidiaries with respect to any other Project Financing approved in accordance with Section 5.6.2 less (a) without duplication of the requirements under the Financing Documents or such other documents, all reasonable reserves that (i) were expressly included in the approved Budget or required pursuant to the terms, conditions or provisions of the Financing Documents or such other documents, (ii) are necessary to prevent or mitigate an emergency situation, and (iii) any additional reserves established by the Managing Member in the aggregate at any time held up to Two Million Dollars ($2,000,000) and any additional reserves approved by the Class A Majority and Class B Majority pursuant to Section 5.6.2.1(f), less (b) without duplication of the requirements under the terms, conditions or provisions of the Financing Documents or such other documents, actual operating expenses incurred in the ordinary course of business and in accordance with the approved Budget, less (c) without duplication of the requirements under the terms, conditions or provisions of the Financing Documents or such other documents, the Management Fee due to the Managing Member in accordance with Section 5.1.4 and any fees payable to the service provider under the Administrative Services Agreements, less (d) without duplication of the requirements under the terms, conditions or provisions of the Financing Documents or such other documents, any amounts required to pay or to be reserved for payment of any obligations or liabilities of the Company with respect to the Treasury Yield Lock Agreements, less (e) any amounts required to pay any obligations or liabilities of the Company with respect to Working Capital Loans and any other indebtedness of the Company incurred with the Consent of the Class A Majority and Class B Majority pursuant to Section 5.6.2.1(b), plus (f) cash that has been reserved under clause (a) above that is in excess of the requirements under which such reserves were established as described in clause (a) above and which the Members (by the Consent of the Class A Majority and Class B Majority) determine should be distributed, plus (g) net proceeds from any permitted sale, lease, assignment, transfer or other disposition of any assets of the Company, DS Holdings or any Subsidiary that are permitted to be distributed pursuant to the Financing Documents.

"**DOE**" shall mean the United States Department of Energy, an agency of the United States of America.

"**DS Holdings**" shall have the meaning set forth in the Recitals to this Agreement.

"**Economic Interest**" shall mean the right of any Interest Holder to receive distributions of the Company's assets and allocations of income, gain, loss, deduction, credit and similar items from the Company pursuant to this Agreement and the Act, but shall not include any other rights of a Member, including the right to consent or participate in the management of the Company or any right to information concerning the business and affairs of the Company.

"**EFS Desert Sun**" shall have the meaning set forth in the preamble to this Agreement.

"**EFS Desert Sun Contribution Agreement**" shall mean that certain Contribution Agreement, dated as of the Original Effective Date, between EFS Desert Sun and the Company.

"**EFS Desert Sun Equity Contribution Agreements**" shall mean (i) that certain Equity Contribution Agreement, dated as of September 29, 2011, entered into by and among EFS Desert Sun, the Company, DS Holdings, Desert Sunlight 250 and the Collateral Agent, as amended by

that certain First Amendment to Equity Contribution Agreement, dated as of the First Amendment Date, and (ii) that certain Equity Contribution Agreement, dated as of September 29, 2011, entered into by and among EFS Desert Sun, the Company, DS Holdings, Desert Sunlight 300 and the Collateral Agent, as amended by that certain First Amendment to Equity Contribution Agreement, dated as of the First Amendment Date.

"**EH&S Program**" shall have the meaning set forth in Section 5.11.1.

"**Environmental Laws**" shall have the meanings set forth in the Master Agreements.

"**EPC Contracts**" shall have the meaning set forth in the MIPSA, as such EPC Contracts may be amended, modified or supplemented pursuant to the provisions thereof.

"**Equity Contribution Agreements**" mean the NextEra Equity Contribution Agreements and the Sumitomo Equity Contribution Agreements, together with any Additional Equity Contribution Agreement(s) hereafter entered into by a Member in connection with a Transfer of Membership Interests.

"**Escalation**" shall mean that the applicable stated dollar amount that is subject to Escalation shall be increased if applicable (but not decreased), based upon changes to the GDP-IPD, if any, calculated by multiplying the amount of the applicable stated dollar amount that is subject to Escalation by the quotient obtained by dividing (i) the most recent quarterly GDP-IPD prior to the date of the calculation of any increase and (ii) the quarterly GDP-IPD for the same fiscal quarter of the preceding year.

"**Financial Closing Date**" shall have the meaning set forth in the Master Agreements.

"**Financing Documents**" shall mean the agreements and documents listed on Part 1 of Schedule II, and any and all amendments thereto.

"**First Amended Agreement**" shall have the meaning set forth in the Preamble to this Agreement.

"**First Amendment Date**" shall have the meaning set forth in the Preamble to this Agreement.

"**Fiscal Year**" shall mean the Company's fiscal year, which shall be the calendar year.

"**Formation Date**" shall have the meaning set forth in the Recitals of this Agreement.

"**FS Development**" shall have the meaning set forth in the Recitals of this Agreement.

"**Fundamental Decision**" shall have the meaning set forth in Section 5.6.2.2.

"**GAAP**" shall mean generally accepted accounting principles in the United States of America, consistently applied.

"**GDP-IPD**" shall mean the Implicit Price Deflator for Gross Domestic Product, as calculated by the Bureau of Economic Analysis in the U.S. Department of Commerce, or if the GDP-IPD ceases to be compiled or published, then such other available data or index as the Managing Member shall reasonably determine to be the most comparable to such index.

"**GECC**" shall have the meaning set forth in the Recitals to this Agreement.

"**Governmental Entity**" shall mean any entity or body exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to United States federal, state, local or municipal government, including any department, commission, board, agency, bureau, subdivision, instrumentality, official or other regulatory, administrative or judicial authority thereof, and any arbitrator, including any authority or other quasi-governmental entity established by a Governmental Entity to perform any of such functions.

"**Guarantor**" shall mean, as the context requires, (i) for the NextEra Member, NextEra Energy Capital Holdings, Inc., a Florida corporation, with respect to the guaranty of the obligations of the NextEra Member under the NextEra Equity Contribution Agreements and with respect to its obligations under the Cash Grant Recapture Support Agreement and NextEra Energy Resources, LLC, a Delaware limited liability company, with respect to the NextEra Residual Sponsor Equity Guaranty Agreements, (ii) for the Sumitomo Member, Sumitomo Corporation, a company formed under the laws of Japan, and (iii) for any other Member, the Person providing any required credit support for such Member pursuant to this Agreement, the Investment Agreement, if applicable, the Equity Contribution Agreements and the Residual Sponsor Equity Guaranty Agreements to which such Member is a party and under the Cash Grant Recapture Support Agreement entered into by such Guarantor with respect to such Member.

"**Independent Manager**" shall mean a person who (i) is not currently and has not been during the five years preceding the Financial Closing Date an officer, director, or employee of any other Related Party or any of their respective Affiliates and (ii) is not a stockholder or member of any other Related Party or any of their respective Affiliates.

"**Initial Capital Contributions**" shall have the meaning set forth in Section 3.1.1.

"**Initiating Party**" shall have the meaning set forth in Section 13.2.1.

"**Interest Holder**" shall mean any Person who holds an Economic Interest, whether as a Member or as an Assignee of a Member.

"**Interest in Member**" shall mean any of Member's Owners ownership interest in a Member, including the right to receive distributions of such Member's assets and allocations of income, gain, loss, deduction, credit and similar items from such Member, the right to consent on or participate in the management of such Member, and the right to receive information concerning the business and affairs of such Member.

"**Investment Advisers Act**" shall mean the Investment Advisers Act of 1940, as amended, and the regulations thereunder and interpretations thereof promulgated by the Securities and Exchange Commission, as in effect from time to time.

"**Investment Agreement**" shall have the meaning set forth in the Recitals of this Agreement.

"**Investment Company Act**" shall mean the Investment Company Act of 1940, as amended, and the regulations thereunder and interpretations thereof promulgated by the Securities and Exchange Commission, as in effect from time to time.

"**Law**" shall mean any applicable statute, law (including common law), constitution, treaty, charter, ordinance, code, order, rule, regulation, Permit, or other binding requirement or determination of any Governmental Entity.

"**LIBOR**" shall mean the interest rate per annum published in The Wall Street Journal as the three month "**London interbank offered rate or Libor**" on the next Business Day following the date on which any loan to the Company is made pursuant to this Agreement, and as of the first Business Day of each January, April, July and October thereafter, as applicable. Once determined, such interest rate shall continue in effect as LIBOR until the next date of determination thereof.

"**Losses**" shall have the meaning set forth in Section 7.1.6.

"**Major Decision**" shall have the meaning set forth in Section 5.6.2.1.

"**Management Fee**" shall have the meaning set forth in Section 5.1.4.

"**Managing Member**" shall mean the Person designated by the Members pursuant to Section 5.1 hereof from time to time as the manager of the Company within the meaning of the Act.

"**Mandatory Additional Capital Contributions**" shall mean the additional Capital Contributions that each Member is required to make in an amount equal to its pro rata share (based upon each Member's Percentage Interest) up to an aggregate amount for all Members not to exceed Thirty Million Dollars ($30,000,000); *provided*, that, if a Member transfers any portion of its Membership Interests prior to the date that the Mandatory Additional Capital Contributions for a Member have been fully funded, the amount of the remaining Mandatory Additional Capital Contributions required to be made by such Member shall be reduced by the amount of the commitment of the Transferee to make its pro rata share (based upon its Percentage Interest) of the Mandatory Additional Capital Contributions from and after the date on which all of the requirements under Article 7 have been satisfied with respect to the Transfer to such Transferee.

"**Master Administrative Agent**" shall have the meaning set forth in the Master Agreements.

"**Master Agreements**" shall have the meaning set forth in Part 1 of Schedule II.

"Material Transaction Document Decisions" shall mean any Major Decision relating to any (i) material amendment, modification or extension of any of the Financing Documents or any Power Purchase Agreement (as defined in the Master Agreements) or any of the Permits, (ii) cancellation, suspension, renewal, replacement or termination of any of the Financing

Documents or any Power Purchase Agreement (as defined in the Master Agreements) or any of the Permits, and (iii) assignment, release or relinquishment of the rights or obligations of any party to any of the Financing Documents or any Power Purchase Agreement (as defined in the Master Agreements).

"**Member**" shall mean the NextEra Member, the Sumitomo Member, the NRG Member, and any Person who executes a counterpart of this Agreement as a Member and any Person who subsequently is admitted as a Member of the Company.

"**Member Nonrecourse Debt**" shall have the meaning ascribed to the term "**Partner Nonrecourse Debt**" in Regulations Section 1.704-2(b)(4).

"**Member's Owners**" shall mean any Person at any time holding a direct or indirect beneficial ownership interest in a Member, including the right to receive distributions of such Member's assets and allocations of income, gain, loss, deduction, credit and similar items from such Member, the right to consent on or participate in the management of such Member, and the right to receive information concerning the business and affairs of such Member.

"**Membership Interest**" shall mean a Member's entire interest in the Company including the Member's Economic Interest, the right to consent on or participate in the management of the Company, and the right to receive information concerning the business and affairs of the Company.

"**MIPSA**" shall have the meaning set forth in the Recitals to this Agreement.

"**Net Profit**" or "**Net Loss**" shall mean, for each Fiscal Year, an amount equal to the Company's taxable income or loss for such year, determined in accordance with Code Section 703(a) (for this purpose, all items of income, gain, loss or deduction required to be stated separately pursuant to Code Section 703(a)(1) shall be included in taxable income or loss), with the following adjustments:

(i) Any income of the Company that is exempt from federal income tax and not otherwise taken into account in computing Net Profit or Net Loss shall be added to such taxable income or loss;

(ii) Any expenditures of the Company described in Code Section 705(a)(2)(B) or treated as Code Section 705(a)(2)(B) expenditures pursuant to Treasury Regulations Section 1.704 1(b)(2)(iv) shall be subtracted from such taxable income or loss;

(iii) In lieu of the depreciation, amortization or other cost recovery deductions taken into account in computing such taxable income or loss, there shall be taken into account Depreciation for such Fiscal Year;

(iv) Book Gain or Book Loss shall be taken into account in lieu of any tax gain or tax loss recognized by the Company; and

(v) Items of income, gain, loss, or deduction allocated separately pursuant to Section 6.2 hereof shall be excluded from the computation of taxable income or loss.

If the Company's taxable income or loss for such Fiscal Year, as adjusted in the manner provided above, is a positive amount, such amount shall be the Company's Net Profit for such Fiscal Year, and, if negative, such amount shall be the Company's Net Loss for such Fiscal Year.

"**NextEra Equity Contribution Agreements**" shall mean (i) that certain Equity Contribution Agreement, dated as of September 29, 2011, entered into by and among the NextEra Member, the Company, DS Holdings, Desert Sunlight 250 and the Collateral Agent, as amended by that certain First Amendment to Equity Contribution Agreement, dated as of the First Amendment Date, and (ii) that certain Equity Contribution Agreement, dated as of September 29, 2011, entered into by and among the NextEra Member, the Company, DS Holdings, Desert Sunlight 300 and the Collateral Agent, as amended by that certain First Amendment to Equity Contribution Agreement, dated as of the First Amendment Date.

"**NextEra Member**" shall have the meaning set forth in the preamble to this Agreement.

"**NextEra Member Contribution Agreement**" shall mean that certain Contribution Agreement, dated as of the Original Effective Date, between the NextEra Member and the Company.

"**NextEra Residual Sponsor Equity Guaranty Agreements**" shall mean each Residual Sponsor Equity Guaranty Agreement, dated as of the Original Effective Date, entered into by the Guarantor of the NextEra Member in favor of the Contractor.

"**Non-Complying Member**" shall have the meaning set forth in Section 3.6.

"**Notice**" shall have the meaning set forth in Section 15.2 and "**Noticed**" shall mean the giving of Notice in accordance with Section 15.2.

"**NRG Member**" shall have the meaning set forth in the preamble to this Agreement.

"**O&M Agreements**" shall mean one or more agreements entered into by each (or both) of the Subsidiaries with the Operator providing for the operation and maintenance of the Projects.

"**Operations Commencement Date**" shall mean the date under the applicable EPC Contracts on which the last of the Projects has achieved Substantial Completion (as defined in such EPC Contracts).

"**Operator**" shall mean the Contractor or any other Person responsible for the operation and maintenance of the Projects pursuant to the O&M Agreements.

"**Original Agreement**" shall have the meaning set forth in the Recitals of this Agreement.

"**Original Effective Date**" shall have the meaning set forth in the Recitals of this Agreement.

"**Original Investment Agreement**" shall have the meaning set forth in the Recitals of this Agreement.

"**Original MIPSA**" shall have the meaning set forth in the Recitals to this Agreement.

"Percentage Interest" shall mean, as of the Second Amendment Date, the percentage of a Member set forth opposite the name of such Member under the column "Member's Percentage Interest" in Schedule I, as such percentage may be adjusted from time to time pursuant to the terms of this Agreement. After the Second Amendment Date, a Member's Percentage Interest shall be equal to, at any time, as the context may require, the product of (x) the total Units of such Member divided by the total Units of all Members multiplied by (y) 100 (expressed as a percentage).

"**Permit**" shall mean any authorization, approval, consent, ratification, certification, filing, registration, exemption, variance, exception, license, permit or franchise relating to any of the Projects, of or from, or to be filed with or delivered to, any Governmental Entity pursuant to any Law.

"**Permitted Transfer**" shall have the meaning set forth in Section 7.1.4.

"**Person**" shall mean an individual, partnership, limited partnership, limited liability company, corporation, trust, estate, association or any other entity.

"**PPA Change in Control**" shall mean the occurrence under the SCE PPA of a "Change in Control" of "Seller" (as such terms are defined in the SCE PPA), whether voluntary or by operation of law, unless such Change in Control has been approved by the prior written consent of SCE.

"**Pre-Approved Additional Capital Contributions**" shall mean the additional Capital Contributions that each Member is required to make in an amount equal to the Pre-Approved Additional Capital Contributions for each Member as set forth on Schedule I; *provided*, that, if a Member transfers any portion of its Membership Interests prior to the date that the Pre-Approved Additional Capital Contributions for a Member have been fully funded, the amount of the remaining Pre-Approved Additional Capital Contributions required to be made by such Member shall be reduced by the amount of the commitment of the Transferee to make its pro rata share (based upon its Percentage Interest) of the Pre-Approved Additional Capital Contributions from and after the date on which all of the requirements under Article 7 have been satisfied with respect to the Transfer to such Transferee and Schedule I shall be revised accordingly to reflect each Member's Pre-Approved Additional Capital Contributions after giving effect to such Transfer.

"**Preliminary Cash Grant Application**" shall mean an application for the Cash Grant with respect to the Projects evidencing that construction of the Project commenced before January 1, 2012, and otherwise containing such additional information as is then required by the Cash Grant Guidance.

"**Project Agreements**" shall mean the agreements and documents listed on Part 2 of Schedule II, and each other agreement material to the ownership, operation or financing of the Projects from time to time, and any and all amendments thereto.

"**Project Financing**" shall mean any financing, whether debt or lease financing, for the financing of the Projects.

"**Project Segment**" shall mean segments of the Projects for which Cash Grant Applications are submitted.

"**Projects**" shall mean, collectively, the Desert Sunlight 250 Project and the Desert Sunlight 300 Project.

"**Prudent Industry Practices**" shall mean that the Managing Member will (a) perform its duties in good faith and as a reasonably prudent manager (in the exercise of reasonable judgment in light of the facts known or that should have been known at the time a decision was made), (b) perform its duties in material compliance with the requirements of the Transaction Documents, and (c) exercise such care, skill and diligence as a reasonably prudent manager of a utility-scale solar energy project would exercise in the conduct of its business and for the advancement or protection of its own interests and without a bias against any of the other Members (in the exercise of reasonable judgment in light of the facts known or should have been known at the time a decision was made).

"**Purported Transferee**" shall have the meaning set forth in Section 7.1.1.

"**Recapture Event**" shall mean an event or circumstance that results in denial, reduction or recapture of the Cash Grant, or a portion thereof, by the Treasury or any other Governmental Authority, at either the Company, DS Holdings, or any Subsidiary or from any individual Member.

"**Recapture Liability**" shall mean any payment required to be made to the United States of America (or any agency or instrumentality thereof) resulting from all or any portion of the Cash Grant being "recaptured."

"**Recapture Period**" shall mean the earlier of (i) the expiration of the five (5) year period commencing on the date on which the last Project Segment is reported as "placed in service" in the Cash Grant Application for such Project Segment, in accordance with the Cash Grant Guidance or (ii) the date that the Company has repaid the Cash Grant in full.

"**Recovery Act**" shall mean the American Recovery and Reinvestment Act of 2009.

"**Regulations**" shall, unless the context clearly indicates otherwise, mean the regulations in force as final or temporary that have been issued by the Treasury pursuant to its authority under the Code, and any successor regulations.

"**Regulatory Allocations**" shall have the meaning set forth in Section 6.2.6.

"**Related Party**" shall have the meaning set forth in Section 14.1.

"**Removal Event**" shall mean the occurrence of any of the following events:

(i) the Managing Member has committed a material breach of any representation or warranty or covenant contained in this Agreement (excluding a material breach of compliance with Prudent Industry Practices which is governed solely by clause (iv) below);

(ii) the Managing Member engages in fraud or willful misconduct;

(iii) the Managing Member takes an action that is grossly negligent and such action has a material and adverse effect (a) on the Projects, (b) on the Company, DS Holdings and the Subsidiaries (taken as a whole), or (c) the validity or enforceability of the Membership Interests;

(iv) the Managing Member takes an action that is in breach of Prudent Industry Practices and such action has a material and adverse effect (a) on the Projects, (b) on the Company, DS Holdings and the Subsidiaries (taken as a whole), or (c) the validity or enforceability of the Membership Interests; or

(v) any Adverse Act occurs and the Managing Member is an Adverse Member.

None of the foregoing events shall constitute a Removal Event if (a) the event arises from an action that constitutes a Major Decision and such Major Decision has been approved by the Consent of the Class A Majority and Class B Majority, (b) the event arises from a failure to take an action that constitutes a Major Decision, prior to the occurrence of such event the Managing Member had requested the Consent of the Class A Majority and Class B Majority with respect to such action and, if the Managing Member granted its Consent to such action, either the Class A Majority or Class B Majority did not grant their Consent to such action, (c) the event arises from an action that constitutes a Fundamental Decision and such Fundamental Decision has been approved by the Consent of the Class A Supermajority and the Class B Supermajority, (d) the event arises from a failure to take an action that constitutes a Fundamental Decision, prior to the occurrence of such event the Managing Member had requested the Consent of the Class A Supermajority and the Class B Supermajority with respect to such action and, if the Managing Member granted its Consent to such action, either the Class A Supermajority or the Class B Supermajority did not grant their Consent to such action, or (e) the event arises from an action or inaction by the Managing Member that did not constitute either a Major Decision or a Fundamental Decision but such action or inaction was approved by the Consent of the Class A Majority and Class B Majority and, for the avoidance of doubt, the Managing Member shall not have any obligation to initiate any dispute resolution procedure with respect to any item described in clause (b) or clause (d) above that has not been approved by the applicable Members. In addition, for purposes of subparagraphs (iii) and (iv) above, the occurrence of an Event of Default (as defined in the Master Agreements) as a result of an event described in such subparagraphs (iii) or (iv) shall be deemed to have a material and adverse effect on the Company, DS Holdings and the Subsidiaries (taken as a whole) unless and until such Event of Default has been waived by the required Persons under the Master Agreement(s) or such Event

of Default has been cured if a cure of such Event of Default is permitted under the Master Agreement(s).

"**Representatives**" shall mean, with respect to any Person, such Person's agents, members, managers, officers, directors, employees, counsel, accountants, lenders, professional and other technical advisors and consultants.

"**Required Additional Capital Contributions**" shall mean the Pre-Approved Additional Capital Contributions and the Mandatory Additional Capital Contributions.

"**Required Insurance Coverage**" shall mean the policies of insurance and coverage required to be maintained by DS Holdings and the Subsidiaries pursuant to the provisions of the Transaction Documents, together with the additional policies of insurance and coverage described on Schedule V.

"**Required Rating**" shall mean a minimum credit rating for senior unsecured debt or corporate credit rating of A- by Standard and Poor's Ratings Services, a division of the McGraw-Hill Companies Inc., or A3 by Moody's Investors Service, Inc.

"**Residual Sponsor Equity Guaranty Agreements**" shall mean, collectively, the NextEra Residual Sponsor Equity Guaranty Agreement and the Sumitomo Residual Sponsor Equity Guaranty Agreement, together with any Residual Sponsor Equity Guaranty Agreement(s) hereafter entered into by a Member in connection with a Transfer of Membership Interests.

"**SCE**" shall mean Southern California Edison Company, a California corporation, and its successors and assigns pursuant to the SCE PPA.

"**SCE PPA**" shall mean that certain Renewable Power Purchase and Sale Agreement (RAP ID #5217), between SCE and Desert Sunlight 250 (formerly known as Desert Sunlight LLC), as amended (including as modified by that certain letter providing notice of Seller's name change from Desert Sunlight LLC to Desert Sunlight 250, LLC, dated as of May 31, 2011, and as further amended by that certain Amendment No. 1 to the Renewable Power Purchase and Sale Agreement, dated as of September 27, 2011, between SCE and Desert Sunlight 250, and as further modified by that certain Consent to Assignment of Membership Interest, dated as of September 29, 2011, entered into by and among SCE, Desert Sunlight 250, First Solar Development, Inc., a Delaware corporation, NextEra Energy Resources, LLC, a Delaware limited liability company, and General Electric Capital Corporation, a Delaware corporation, and as further amended by that certain Amendment No. 2 to the Renewable Power Purchase and Sale Agreement, dated as of November 25, 2014, between SCE and Desert Sunlight 250), and as further modified by that certain consent letter executed by and among SCE, Desert Sunlight 250, GECC, EFS Desert Sun, the NextEra Member, the Sumitomo Member, and the NRG Member.

"**Second Amendment Date**" shall have the meaning set forth in the preamble to this Agreement.

"**Securities Act**" shall mean the Securities Act of 1933, as amended, and the regulations thereunder and interpretations thereof promulgated by the Securities and Exchange Commission, as in effect from time to time.

"**Sponsor Insurance Program**" shall have the meaning set forth in Schedule V.

"**Subsidiaries**" shall mean each of Desert Sunlight 250 and Desert Sunlight 300, and their respective successors and assigns.

"**Sumitomo Equity Contribution Agreements**" shall mean (i) that certain Equity Contribution Agreement, dated as of the First Amendment Date, entered into by and among the Sumitomo Member, the Company, DS Holdings, Desert Sunlight 250 and the Collateral Agent and (ii) that certain Equity Contribution Agreement, dated as of the First Amendment Date, entered into by and among the Sumitomo Member, the Company, DS Holdings, Desert Sunlight 300 and the Collateral Agent.

"**Sumitomo Member**" shall have the meaning set forth in the preamble to this Agreement.

"**Sumitomo Residual Sponsor Equity Guaranty Agreement**" shall mean each Residual Sponsor Equity Guaranty Agreement, dated as of the First Amendment Date, entered into by the Guarantor of the Sumitomo Member in favor of the Contractor.

"**Tax Matters Member**" shall have the same meaning as ascribed to the term "tax matters partner" in Code Section 6231; the Tax Matters Member shall be the NextEra Member, so long as it remains the Managing Member, or such Person's successor as designated pursuant to Section 10.7.

"**Tax Return**" shall mean all tax returns, statements, forms and reports (including, elections, declarations, disclosures, schedules, estimates and informational tax returns) for taxes by, or with respect to, the Company, DS Holdings or the Subsidiaries.

"**Terminated Member**" shall have the meaning set forth in Section 8.2.3.

"Termination Decisions" shall have the meaning set forth in Section 5.6.2.3.

"**Transaction Documents**" shall have the meaning set forth in the Master Agreements.

"**Transfer**" shall mean, whether voluntary or involuntary, any transfer, assigning, (including any fiduciary assignment), conveyance, conversion, sale, pledge or hypothecation of any direct or indirect interest or rights in the Company or the Membership Interests or any interest or rights in or granted by this Agreement. "To Transfer" and "Transferred" have correlative meanings. For avoidance of doubt, any Transfer of an Economic Interest or the right to receive net income, net losses, gains, deductions, credit or similar items, and the right to receive distributions from a Member, as the case may be, will be deemed a Transfer and any indirect Transfer of Membership Interests by a Member or a Transfer of an Interest in Member by a Member's Owner through the transfer or issuance of any equity interest held by such Member or a Member's Owner in any entity formed for the purpose of holding Membership Interests or an Interest in Member will be deemed a Transfer.

"**Transfer Agreement**" shall have the meaning set forth in the Recitals to this Agreement.

"**Transferee**" shall mean a Person to which a Membership Interest is transferred in compliance with the provisions of Article 7.

"**Transferor**" shall have the meaning set forth in Section 7.1.1.

"**Treasury**" shall mean the United States Department of the Treasury.

"**Treasury Yield Lock Agreements**" shall have the meaning set forth in the Master Agreements.

"**Unfunded Portion**" shall have the meaning set forth in Section 3.6.1.

"**Units**" shall mean the Class A Units and Class B Units issued to the Members pursuant to this Agreement including pursuant to Section 3.1 and Section 3.2, representing their respective Class A Membership Interests and Class B Membership Interests in the Company.

"**Working Capital Loan**" shall have the meaning set forth in Section 3.5.1.

"**Working Capital Loan Limit**" shall mean (i) during the period from the Original Effective Date to the date that is sixty (60) days following the Operations Commencement Date, Thirty Million Dollars ($30,000,000) and (ii) after the date that is sixty (60) days following the Operations Commencement Date, Ten Million Dollars ($10,000,000) plus any excess thereof that is outstanding as of the date that is sixty (60) days following the Operations Commencement Date (which excess shall be reduced by the amount of any repayment of any Working Capital Loan).

"**Working Capital Loan Rate**" shall mean a variable per annum rate of interest equal to LIBOR, plus four percent (4%), but in no event more than the maximum rate permitted by applicable Law.

EXHIBIT B

CAPITAL BUDGET AND CURRENT OPERATING BUDGET

(*See attached*)

Exhibit I to the Purchase and Sale Agreement

THIRD AMENDMENT AND JOINDER TO THE INVESTMENT AGREEMENT

This Third Amendment and Joinder to the Investment Agreement (this "Amendment") is being entered into as of June [__], 2015 by and among NextEra Energy Resources, LLC, a Delaware limited liability company (the "NextEra Sponsor"), General Electric Capital Corporation, a Delaware corporation (the "GECC Sponsor"), Sumitomo Corporation of Americas, a New York corporation (the "Sumitomo Sponsor"), NextEra Desert Sunlight Holdings, LLC, a Delaware limited liability company (the "NextEra Member"), EFS Desert Sun, LLC, a Delaware limited liability company (the "GECC Member"), Summit Solar Desert Sunlight, LLC, a Delaware limited liability company (the "Sumitomo Member"), and NRG Yield Operating LLC, a Delaware limited liability company (the "NRG Member") pursuant to Sections 6.5 and 6.8 of the Investment Agreement, dated as of September 29, 2011, as amended by the First Amendment to Investment Agreement, dated as of April 25, 2012, among NextEra Sponsor, GECC Sponsor, NextEra Member, and GECC Member, as further amended by the Second Amendment to Investment Agreement and Joinder, dated as of September 27, 2012, among NextEra Sponsor, GECC Sponsor, Sumitomo Sponsor, NextEra Member, GECC Member, and Sumitomo Member (as the same may hereafter be amended in compliance with the terms contained therein, the "Investment Agreement"). Capitalized terms used but not otherwise defined herein shall have the meanings set forth in the Investment Agreement.

WHEREAS, pursuant to that certain Assignment and Assumption Agreement entered into as of the date hereof by and between the GECC Member and the NRG Member, the GECC Member is assigning 100% of its Membership Interests (as defined in the LLC Agreement (as defined below)) concurrently herewith to the NRG Member;

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth in this Amendment, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree that the Investment Agreement is hereby amended and further agree as follows:

1. Parties. As of the date of this Amendment:

    a. the NRG Member is added as a "Party", as a "Sponsor" and as "Member" to the Investment Agreement, excluding in each case the Preliminary Statements and Sections 2.1, 3.1, 3.2 and 5.1 of the Investment Agreement, in respect of which the NRG Member has no liability, obligation or responsibility whatsoever;

    b. except as otherwise provided in this Amendment, effective on and after the date hereof, the GECC Sponsor is removed as a "Party" and as a "Sponsor" and the GECC Member is removed as a "Party" and as a "Member" from the Investment Agreement;

    c. except as otherwise provided in this Amendment, the GECC Sponsor delegates to the NRG Member any and all duties, obligations, responsibilities, claims, demands and other commitments in connection with the Investment Agreement arising on or after the date of this Amendment, and the NRG Member agrees to perform and be bound by all the terms, conditions and covenants of and assumes the duties and obligations of the GECC Sponsor with respect to the Investment Agreement solely to the extent arising on or after the date of this Amendment;

d. except as otherwise provided in this Amendment, the GECC Member delegates to the NRG Member any and all duties, obligations, responsibilities, claims, demands and other commitments in connection with the Investment Agreement, in each case only to the extent arising on or after the date of this Amendment, and the NRG Member agrees to perform and be bound by all the terms, conditions and covenants of and assumes the duties and obligations of the GECC Member with respect to the Investment Agreement solely to the extent arising on or after the date of this Amendment;

e. the parties to the Investment Agreement prior to giving effect to this Amendment shall look solely to the GECC Member and the GECC Sponsor for the performance and payment of any and all duties, obligations, responsibilities, claims, demands and other commitments in connection with the Investment Agreement which arose prior to the date hereof; and

f. except as otherwise provided in this Amendment, effective on and after the date hereof, all references in the Investment Agreement to the "GECC Sponsor" shall be construed to refer to the NRG Member, and all references in the Investment Agreement to the "GECC Member" shall be construed to refer to the NRG Member.

2. LLC Agreement. The Preliminary Statement numbered 5 of the Investment Agreement shall be amended and restated to read as follows:

5. In anticipation of the acquisition of the membership interests in the Holding Company and the contribution thereof by the Members to the Company, the Sponsors negotiated the terms and provisions of a Limited Liability Company Agreement for the Company in the form of Exhibit B to this Agreement (the "**Original LLC Agreement**") that was intended by the Sponsors to set forth the various rights and duties of the Members as the members of the Company following the transfer by the Members of the membership interests in the Holding Company to the Company, and upon execution and delivery by the Members of the Original LLC Agreement, the Authorized Person's power with respect to the Company ceased. The Original LLC Agreement has been amended and restated pursuant to that certain Second Amended and Restated Limited Liability Company Agreement for the Company dated as of June [__], 2015 entered into by and among the NextEra Member, the Sumitomo Member and the NRG Member (the "**LLC Agreement**").

3. NextEra Representations and Warranties. Each of NextEra Sponsor and NextEra Member hereby represents and warrants as to itself to GECC Sponsor, GECC Member, Sumitomo Sponsor, Sumitomo Member and NRG Member that (a) it has duly authorized, executed and delivered this Amendment and (b) each of the representations and warranties made in Section 4.1 of the Investment Agreement is true and correct as of the date of this Amendment.

4. GECC Representations and Warranties. Each of GECC Sponsor and GECC Member hereby represents and warrants as to itself to NextEra Sponsor, NextEra Member, Sumitomo Sponsor, Sumitomo Member and NRG Member that (a) it has duly authorized, executed and delivered this Amendment and (b) each of the representations and warranties made in Section 4.2 of the Investment Agreement is true and correct as of the date of this Amendment.

5. Sumitomo Representations and Warranties. Each of Sumitomo Sponsor and Sumitomo Member hereby represents and warrants as to itself to NextEra Sponsor, NextEra Member, GECC Sponsor, GECC Member and NRG Member that (a) it has duly authorized, executed and delivered this Amendment and (b) each of the representations and warranties made in Section 7 of the Second

Amendment to Investment Agreement and Joinder, dated as of September 27, 2012, is true and correct as of the date of this Amendment.

6. NRG Representations and Warranties. The NRG Member hereby represents and warrants to NextEra Sponsor, NextEra Member, GECC Sponsor, GECC Member, Sumitomo Sponsor and Sumitomo Member as follows:

    a. It is a limited liability company duly organized, validly existing and in good standing under the laws of Delaware.

    b. It has duly authorized, executed and delivered this Amendment, and the Investment Agreement constitutes its legal, valid and binding obligation and is enforceable against it in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, moratorium, insolvency and similar laws affecting the rights of creditors generally, and by general principles of equity, regardless of whether considered in a proceeding at law or in equity.

    c. There is no action, suit or proceeding pending or, to its knowledge, threatened against it, which could reasonably be expected to impair its ability to perform its obligations under the Investment Agreement and, when executed and delivered, the LLC Agreement.

    d. The execution, delivery and performance by it of its obligations under the Investment Agreement and the LLC Agreement will not (i) contravene any law or any order, writ, decree or injunction of any court or Governmental Authority, or (ii) conflict with, or result in a breach of any term, covenant, condition or provision of, or constitute a default under, or result in the creation or imposition of any lien upon any of its assets pursuant to the terms of, any agreement or instruments to which it is a party or by which it or any of its properties is bound, or (iii) violate any provision of its organizational documents.

    e. No Governmental Approval or filing with or notice to any Governmental Authority is required to be obtained or made by it for the execution, delivery and performance by it of the Investment Agreement, or when executed and delivered, the LLC Agreement, or the consummation of the transactions contemplated thereby, other than any such Governmental Approvals or filings which have been obtained or made or may be required to be obtained or made at a future date, which future Governmental Approvals or filings can reasonably be expected to be obtained when required.

7. Notices. Section 6.2 of the Investment Agreement is hereby amended and supplemented as follows:

    a. The following text is hereby added to the end of such Section:

    If to NRG Member: NRG Yield Operating LLC
    211 Carnegie Center
    Princeton New Jersey 08540
    Attn: Office of the General Counsel
    Fax: 609.524.4589
    Email: ogc@nrgyield.com

    b. The following text is hereby deleted from such Section:

    If to GECC Sponsor: EFS Desert Sun, LLC

c/o GE Energy Financial Services, Inc.
800 Long Ridge Road
Stamford, CT 06927
Attention: Portfolio Manager – EFS Desert Sun, LLC
Facsimile: (203) 357-4890

With a copy to:

GE Energy Financial Services, Inc.
800 Long Ridge Road
Stamford, CT 06927
Attention: Portfolio Manager – Desert Sunlight
Facsimile: (203) 357-6632

If to GECC Member: EFS Desert Sun, LLC
c/o GE Energy Financial Services, Inc.
800 Long Ridge Road
Stamford, CT 06927
Attention: Portfolio Manager – EFS Desert Sun, LLC
Facsimile: (203) 357-4890

With a copy to:

EFS Desert Sun, LLC
c/o GE Energy Financial Services, Inc.
800 Long Ridge Road
Stamford, CT 06927
Attention: Portfolio Manager – EFS Desert Sun, LLC
Facsimile: (203) 357-6632

8. Acknowledgment and Ratification. The NRG Member acknowledges that it has received a copy of the Investment Agreement, dated as of September 29, 2011, the First Amendment to the Investment Agreement, dated as of April 25, 2012, and the Second Amendment to the Investment Agreement and Joinder, dated as of September 27, 2012 ("Second Amendment"), each of which is referred to in the introductory paragraph hereof. As amended hereby, the Investment Agreement is in all respects ratified and confirmed and the Investment Agreement as so supplemented by this Amendment shall be read, taken and construed as one and the same instrument. Without limiting the foregoing, the NRG Member irrevocably agrees and consents to the provisions of Section 3.3 of the Investment Agreement and the actions to be taken by the Managing Member pursuant thereto and, as provided in Section 6.8 of the Investment Agreement, the Parties agree that no further assignment of the interests of a Party under the Investment Agreement shall affect or impair the validity of the consents granted by the NextEra Member or the GECC Member pursuant to Section 3.3 of the Investment Agreement, by the Sumitomo Member pursuant to the Second Amendment, or by the NRG Member pursuant to this Amendment, which consents shall continue to be binding on the Parties and no further consent from any such assignee(s) shall be required with respect to the matters described in Section 3.3 of the Investment Agreement.

9. Governing Law. THIS AMENDMENT SHALL BY GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK, WITHOUT GIVING EFFECT TO CONFLICTS OF LAWS PROVISIONS THEREOF EXCEPT FOR SECTION 5-1401 OF THE NEW YORK GENERAL OBLIGATIONS LAW.

10. Jurisdiction. The provisions of Section 6.10 of the Investment Agreement are incorporated by reference herein, to apply *mutatis mutandis* to this Amendment.

11. Counterparts. This Amendment may be executed in two or more counterparts, and by different parties on separate counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument. Delivery of a signed signature page to this Amendment by facsimile transmission or in portable document format (pdf) shall be effective as, and shall constitute physical delivery of, a signed original counterpart of this Amendment.

[*Signature pages follow*]

IN WITNESS HEREOF, the Parties hereto have caused this Amendment to be duly executed by their respective authorized officers as of the date first above written.

"NextEra Sponsor"

NEXTERA ENERGY RESOURCES, LLC

By: _____
Name:
Title:

"NextEra Member"

NEXTERA DESERT SUNLIGHT HOLDINGS, LLC

By: _____
Name:
Title:

[Signature Page to Third Amendment and Joinder to Investment Agreement]

"GECC Sponsor"

GENERAL ELECTRIC CAPITAL CORPORATION

By: _____
Name:
Title:

[Signature Page to Third Amendment and Joinder to Investment Agreement]

"GECC Member"

EFS DESERT SUN, LLC

By: EFS DESERT SUN HOLDINGS, LLC
Its Managing Member

By: EFS RENEWABLES HOLDINGS, LLC
Its Managing Member

By: _____
Name:
Title:

"Sumitomo Sponsor"

SUMITOMO CORPORATION OF AMERICAS

By: _____
Name:
Title:

"Sumitomo Member"

SUMMIT SOLAR DESERT SUNLIGHT, LLC

By: _____
Name:
Title:

"NRG Member"

NRG YIELD OPERATING LLC

By: _____
Name:
Title:

[Signature Page to Third Amendment and Joinder to Investment Agreement]

Exhibit J to the Purchase and Sale Agreement

GUARANTY

THIS GUARANTY (this "Guaranty"), dated as of [_____], 2015, is made by EFS Renewables Holdings, LLC, a Delaware limited liability company ("Guarantor") in favor of NRG Yield Operating LLC, a Delaware limited liability company (the "Beneficiary"). Each capitalized term used but not defined herein shall have the meaning given to such term in the Agreement (as defined below).

WHEREAS, the Beneficiary has entered into a Purchase and Sale Agreement, dated as of June 17, 2015 (the "Agreement"), with EFS Desert Sun, LLC, a Delaware limited liability company (the "Obligor") pursuant to which the Obligor has agreed to transfer one hundred percent (100%) of its Class B Interests to the Beneficiary, on the terms and conditions and subject to the qualifications set forth in the Agreement, and under which the Obligor has agreed to make various representations and warranties and to perform various obligations;

WHEREAS, the Guarantor and the Obligor will obtain benefits from the execution and performance of the Agreement, and a condition to the Beneficiary's obligations under the Agreement is that the Guarantor execute and deliver to the Beneficiary a guaranty of the Guarantor in the form of this Guaranty;

WHEREAS, the Beneficiary has requested the Guarantor, as the affiliate of the Obligor, to provide a guaranty to the Beneficiary on the terms and conditions hereinafter provided; and

WHEREAS, the Guarantor is willing to enter into this Guaranty to induce the Beneficiary to enter into the Agreement with the Obligor.

NOW, THEREFORE, the Guarantor hereby agrees:

Section 1. Guaranty. (a) From and after the date hereof until the termination date set forth herein, the Guarantor hereby irrevocably and unconditionally guarantees the due and punctual payment of all of the Obligor's payment obligations to Beneficiary arising under, and subject to the terms of, the Agreement, when the same shall become due and payable, whether at maturity, pursuant to mandatory prepayments, by acceleration or otherwise, in each case (except as noted below) after any applicable grace periods or notice requirements, according to the terms of the Agreement and not to exceed, in the aggregate, $285,000,000, except for claims made pursuant to Section 7.1.1(b) of the Agreement which shall not exceed the sum of (i) the aggregate amount of the Cash Grants received by Sunlight Project Companies as of the date of determination, plus (ii) all interest charges and penalties accrued or assessed by the Treasury with respect to the Cash Grants; provided, however, that the Guarantor shall not be liable to make any payment until fifteen (15) Business Days (as used herein, a "Business Day" shall refer to a day other than a Saturday or a Sunday on which commercial banks are open for business in New York City) following receipt by the Guarantor of written notice from the Beneficiary that an amount is due under the Agreement

and is unpaid and provided, further, that the foregoing limitations on the recovery amount shall not apply to enforcement costs and expenses payable in accordance with Section 2.5. The Guarantor hereby agrees that its obligations hereunder shall be unconditional, irrespective of the validity or enforceability of the Agreement against the Obligor, any change therein or amendment thereto, the absence of any action to enforce the same, the recovery of any judgment against the Obligor or any action to enforce the same, or any other circumstances which may otherwise constitute a legal or equitable discharge or defense of a guarantor. The Guarantor hereby waives all suretyship defenses and the defenses under this Guaranty of promptness, diligence, presentment, demand for payment, protest, notice of dishonor, notice of default, notice of acceptance, notice of intent to accelerate, notice of acceleration, notice of the incurring of obligations created under or pursuant to the Agreement and all other notices, demands or conditions whatsoever, except as otherwise required or provided for in this Guaranty, but nothing contained herein shall be construed as a waiver by the Guarantor of presentment, demand of payment, protest or notice to the Guarantor with respect to the obligations under the Agreement evidenced hereby or thereby; provided, however, that (A) the Guarantor's obligations under this Guaranty shall be subject to defenses available to the Obligor, other than bankruptcy or insolvency of the Obligor or defenses relating to the due authorization, execution and delivery by the Obligor of the Agreement or other instrument creating the guaranteed obligations, and (B) nothing contained herein shall be construed to be a waiver by the Guarantor of presentment, demand of payment, protest or notice to the Guarantor with respect to the obligations under the Agreement evidenced thereby or hereby. The Beneficiary is not required to first bring an action against the Obligor to establish its right to payment or performance under the Agreement. The Guarantor covenants that this Guaranty will not be discharged except by complete performance of the obligations contained in the Agreement or otherwise that are guaranteed under the terms of this Guaranty.

(b) The Guarantor shall be subrogated to all rights of the Beneficiary in respect of any amounts paid by the Guarantor pursuant to the provisions of this Guaranty; provided, however, that the Guarantor shall be entitled to enforce, or to receive any payments arising out of or based upon, such right of subrogation only after the amounts due to the Beneficiary under the Agreement and all other amounts owed to the Beneficiary thereunder have been paid in full.

(c) This Guaranty shall continue to be effective or be reinstated, as the case may be, if at any time any payment of any amount owed to the Beneficiary hereunder or under the Agreement is rescinded or must otherwise be returned by the Beneficiary for any reason, including in connection with the insolvency, bankruptcy or reorganization of the Obligor, the Guarantor or otherwise, all as though such payment had not been made.

(d) Notwithstanding any provision hereof to the contrary, all obligations of the Guarantor under this Guaranty shall terminate automatically upon the earlier to occur of (i) the termination of the Obligor's guaranteed indemnification obligations (upon expiration of the longest of the survival periods set forth in Section 7.1.2 of the Agreement) as provided in Section 7.1 of the Agreement and (ii) [_____] [(1)], without further action on the part of the Guarantor

[(1)]NTD: Insert the date that is 10.5 years after the Closing Date.

or the Beneficiary, and thereafter shall have no force and effect; provided, that if prior to such date the Beneficiary shall have made one or more demands of the Guarantor under this Guaranty in writing, this Guaranty shall survive with respect to those demands until final resolution of such demands and payment in full of all amounts required to be paid hereunder, if any, in respect thereof. For the avoidance of doubt, no provision of this Guaranty shall limit or otherwise prejudice in any way the right of Beneficiary to proceed against the Obligor or the Guarantor with respect to the enforcement of Obligor's or Guarantor's obligations (or the enforcement of Beneficiary's rights) under any other agreement to which it is a party.

Section 2. General.

Section 2.1. Representations and Warranties. The Guarantor represents and warrants that (a) it has all requisite corporate power and authority to execute and deliver, and to perform its obligations under, this Guaranty; (b) the execution, delivery and performance of this Guaranty have been duly and validly authorized by all necessary corporate action required on the Guarantor's part, and no other proceedings on its part are necessary to authorize this Guaranty; and (c) assuming the due authorization, execution and delivery of the Guaranty by the Beneficiary, this Guaranty constitutes the valid and legally binding obligation of the Guarantor, enforceable against the Guarantor in accordance with its terms, except as may be limited by bankruptcy, insolvency, reorganization or other laws affecting creditors' rights generally and by general equitable principles.

Section 2.2. Notices. All notices to the Guarantor under this Guaranty and copies of all notices to the Obligor under the Agreement shall, until the Guarantor furnishes written notice to the contrary, be in writing and mailed, faxed or delivered to the Guarantor at EFS Renewables Holdings, LLC, c/o GE Energy Financial Services, Inc., 800 Long Ridge Road, Stamford, CT 06927, and directed to the attention of the Portfolio Manager (facsimile no. (203) 357 4890), with a copy to EFS Renewables Holdings, LLC, c/o GE Energy Financial Services, Inc., 800 Long Ridge Road, Stamford, CT 06927, and directed to the attention of the General Counsel (facsimile no. (203) 357-3114; e-mail: dave.huet@ge.com). The Guarantor may from time to time change its address for the purpose of notices thereto by a similar notice specifying a new address, but no such change is effective until it is actually received by the Person sought to be charged with its contents. Notices which are addressed as provided in this Section 2.1 given in person or by overnight delivery or mail shall be effective upon receipt. Notices which are addressed as provided in this Section 2.1 given by facsimile shall be effective upon actual receipt if received during the recipient's normal business hours, or at the beginning of the recipient's next business day after receipt if not received during the recipient's normal business hours. All notices by facsimile shall be confirmed promptly by the sender after transmission in writing by certified mail or overnight delivery. All notices to the Beneficiary shall be given in accordance with the contact information for the Beneficiary set forth in the Agreement. The Beneficiary may change its address in accordance with the terms of the Agreement.

Section 2.3. Governing Law. THIS GUARANTY SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, AND GOVERNED BY, THE LAWS OF THE STATE OF NEW YORK, UNITED STATES OF AMERICA WITHOUT REGARD TO

PRINCIPLES OF CONFLICTS OR CHOICE OF LAWS OTHER THAN SECTION 5-1401 OF THE NEW YORK GENERAL OBLIGATIONS LAW.

Section 2.4. **Interpretation**. The headings of the sections and other subdivisions of this Guaranty are inserted for convenience only and shall not be deemed to constitute a part hereof. Reference to any person or entity shall, except as otherwise expressly provided herein, include such person or entity's successors and permitted assigns.

Section 2.5. **Attorney's Cost**. The Guarantor agrees to pay all reasonable attorney's fees and disbursements and all other reasonable and actual costs and expenses which may be incurred by the Beneficiary in the enforcement of this Guaranty.

Section 2.6. **No Set-off**. By acceptance of this Guaranty, the

Beneficiary shall be deemed to have waived any right to set-off, combine, consolidate or otherwise appropriate and apply (a) any assets of the Guarantor at any time held by the Beneficiary or (b) any indebtedness or other liabilities at any time owing by the Beneficiary to the Guarantor, as the case may be, against, or on account of, any obligations or liabilities owed by the Guarantor to the Beneficiary under this Guaranty.

Section 2.7. **Currency of Payment**. Any payment to be made by the Guarantor shall be made in the same currency as designated for payment in the Agreement and such designation of the currency of payment is of the essence.

Section 2.8 **Assignment**. This Guaranty shall be binding upon and inure to the benefit of the Guarantor and the Beneficiary and their respective successors and permitted assigns. No assignment of this Guaranty or of any rights or obligations hereunder may be made by the Guarantor or the Beneficiary without the prior written consent of the other (and any attempted assignment hereof without such required consents shall be void).

Section 2.9 **No Third Party Beneficiaries**. Nothing in this Guaranty, whether express or implied, is intended to confer any rights or remedies on any Person other than the Guarantor and the Beneficiary and their respective permitted successors and assigns, nor is anything herein intended to relieve or discharge the obligation or liability of any third Person to the Guarantor or the Beneficiary, nor give any third Person any right of subrogation or action against the Guarantor or the Beneficiary.

Section 2.10 **Construction of Agreement**. This Guaranty shall be construed without regard to the identity of the Person who drafted the various provisions hereof. Each and every provision of this Guaranty shall be construed as though the parties hereto participated equally in the drafting of the same. Consequently, each of the Guarantor and the Beneficiary acknowledges and agrees that any rule of construction that a document is to be construed against the drafting party shall not be applicable to this Guaranty.

Section 2.11 **Jurisdiction**. Each of the Guarantor and the Beneficiary hereby irrevocably submits to the jurisdiction of the courts of the State of New York in the county of

New York or of the United States of America in the Southern District of New York and hereby waives, to the fullest extent permitted by law, any objection that it may now or hereafter have to the laying of venue in an such action or proceeding in any such court.

Section 2.12 Waiver of Jury Trial. Each of the Guarantor and the Beneficiary hereby waives, to the fullest extent permitted by applicable Law, any right it may have to a trial by jury in respect of any litigation directly or indirectly arising out of, under or in connection with this Guaranty. Each of the Guarantor and the Beneficiary (a) certifies that no representative, agent or attorney of the other party hereto has represented, expressly or otherwise, that such other party would not, in the event of litigation, seek to enforce the foregoing waiver and (b) acknowledges that it and the other party hereto has been induced to enter this Guaranty by, among other things, the mutual waivers in this Section 2.12.

Section 2.13 Counterparts. This Guaranty may be executed in any number of counterparts, each of which when so executed shall be deemed to constitute one and the same Guaranty.

Section 2.14 Amendment; Waiver. No amendment of any provision of this Guaranty shall be effective unless it is in writing and signed by the Guarantor and the Beneficiary, and no waiver of any provision of this Guaranty, and no consent to any departure by the Guarantor therefrom, shall be effective unless it is in writing and signed by the Beneficiary. No waiver shall operate as a waiver of, or estoppel with respect to, any prior or subsequent failure to comply with the provision waived or any other provision of this Guaranty.

Section 2.15 Delivery by Facsimile or PDF. This Guaranty and any amendments hereto, to the extent signed and delivered by means of a facsimile machine or electronic transmission in portable document format (pdf), shall be treated in all manner and respects as an original contract and shall be considered to have the same binding legal effect as if it were the original signed version thereof delivered in person. The Guarantor shall not raise the use of a facsimile machine or electronic transmission in pdf to deliver a signature or the fact that any signature was transmitted or communicated through such means as a defense to the enforceability of this Guaranty and the Guarantor forever waives any such defense.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the undersigned, intending to be legally bound hereby, have executed this Guaranty as of the date first written above.

GUARANTOR:

EFS RENEWABLES HOLDINGS, LLC

By:_____Name:
Title:

Accepted and agreed:

NRG YIELD OPERATING LLC

By: _____
Name:
Title:

Exhibit K to the Purchase and Sale Agreement

FORM OF NON-FOREIGN CERTIFICATE

Aircraft Services Corporation

This statement is being provided by Aircraft Services Corporation, a Nevada corporation ("Transferor") pursuant to Section 3.3.10.2 of that certain Purchase and Sale Agreement, dated as of June [__], 2015 (the "Agreement"), between EFS Desert Sun, LLC, a Delaware limited liability company and NRG Yield Operating LLC, a Delaware limited liability company ("Transferee").

Section 1445 of the Internal Revenue Code of 1986, as amended (the "Code") provides that a transferee of a United States real property interest, including an interest in a partnership that is described in Treasury Regulation Section 1.1445-11T(d)(1), must withhold tax if the transferor is a foreign person. Desert Sunlight Investment Holdings, LLC, a Delaware limited liability company (the "Company") is a partnership for U.S. tax purposes. For U.S. tax purposes (including Section 1445), the owner of a disregarded entity (which has legal title to a property interest under local law) will be the transferor of the property interest and not the disregarded entity. To inform Transferee that withholding of tax is not required upon the disposition of the interests in the Company, the undersigned hereby certifies the following on behalf of Transferor:

1. Transferor owns fifty percent (50%) of the issued and outstanding Class B membership interests in the Company through its wholly owned subsidiary, EFS Desert Sun, LLC, a disregarded entity as defined in Section 1.1445-2(b)(2)(iii) of the Treasury Regulations;

2. Transferor is not a foreign corporation, foreign partnership, foreign trust, or foreign estate (as those terms are defined in the Code and the Treasury Regulations);

3. Transferor is not a disregarded entity as defined in Section 1.1445-2(b)(2)(iii) of the Treasury Regulations;

4. Transferor's federal employer identification number is 06-1032456; and

5. Transferor's office address is:

   Aircraft Services Corporation
   800 Long Ridge Road
   Stamford, CT, 06927

Transferor understands that this certification may be disclosed to the United States Internal Revenue Service by Transferee and that any false statement contained herein could be punished by fine, imprisonment or both.

Under penalties of perjury, I declare that I have examined this certification and to the best of my knowledge and belief it is true, correct and complete, and I further declare that I have authority to sign this document on behalf of Transferor.

Aircraft Services Corporation

By:_____

Name:

Title:

Date: _____, 2015

Exhibit L to the Purchase and Sale Agreement

EFS Desert Sun, LLC
c/o GE Energy Financial Services, Inc.
800 Long Ridge Road
Stamford, CT 06927

NextEra Desert Sunlight Holdings, LLC
c/o NextEra Energy Resources, LLC
700 Universe Boulevard
Juno Beach, Florida 33408
Attention: Business Manager
Facsimile: (561) 691-7309

NextEra Energy Resources, LLC
700 Universe Boulevard
Juno Beach, Florida 33408
Attention: Vice President and General Counsel
Facsimile: (561) 691-2988

_____, 2015

Re: Request Letter for Information in Connection With Proposed Transfer

Dear Ladies and Gentlemen:

This request letter is being sent to you pursuant to Sections 8.1, 10.2 and 10.3 of that certain Amended and Restated Limited Liability Company Agreement for Desert Sunlight Investment Holdings, LLC, a Delaware limited liability company ("Investment Holdings"), dated as of September 27, 2012 (the "LLC Agreement"), by and among NextEra Desert Sunlight Holdings, LLC, a Delaware limited liability company, as the Class A Member and Managing Member (the "Managing Member"), Summit Solar Desert Sunlight, LLC, a Delaware limited liability company, as a Class B Member and EFS Desert Sun, LLC, a Delaware limited liability company (the "Transferor"), as a Class B Member. Capitalized terms used and not otherwise defined in this request letter shall have the same meanings as set forth in the LLC Agreement.

Transferor intends to sell 100% of its equity interests in Investment Holdings, which comprises 25% of the total equity interests in Investment Holdings (the "Proposed Transfer") to NRG Yield Operating LLC, a Delaware limited liability company (the "Transferee"). In connection with the Proposed Transfer, we have been asked to provide certain information to the Transferee. Pursuant to the Transferee's inquiries, we hereby request the following:

1. Please confirm that the Managing Member has not received notice, and otherwise has no knowledge, of any Adverse Act under Section 8.1 of the LLC Agreement.

2. In accordance with Section 10.2 of the LLC Agreement:

a. Please provide a current list of the full name and last known business or residence address of each Member and Assignee set forth in alphabetical order, together with the Capital Contributions, Capital Account and Percentage Interest of each Member and Assignee, in each case as required pursuant to Section 10.1.1 of the LLC Agreement.

b. Pursuant to Section 10.1.2 of the LLC Agreement, please confirm that the Intralinks electronic dataroom for the Sunlight Companies (the "Dataroom"), as of the date hereof, contains a copy of the current Certificate of Investment Holdings and that there have been no amendments thereto (and, if there have been any such amendments, that the Dataroom contains copies of all such amendments), and please confirm that any powers of attorney pursuant to which the same have been executed are also contained in the Dataroom, in each case as evidenced by the index attached as Exhibit A to this request letter.

c. Pursuant to Section 10.1.3 of the LLC Agreement, please confirm that the Dataroom contains complete and current copies of all of Investment Holdings's federal, state and local income tax or information returns and reports, if any, since September 29, 2011, in each case as evidenced by the index attached as Exhibit B to this request letter.

3. In accordance with Section 10.3.1 of the LLC Agreement, please confirm that the Dataroom contains complete and accurate quarterly (and year-to-date) financial statements of Investment Holdings, DS Holdings and the Subsidiaries (collectively, the "Sunlight Companies"), prepared and delivered in accordance with such Section 10.3.1, in each case for such entity's [four] most recent quarterly period[s] (including, for the avoidance of doubt, the quarterly period ending at the end of its Fiscal Year), in each case as evidenced by the index attached as Exhibit C to this request letter. [NTD SECTION 10.1.5 ALSO ENTITLES A MEMBER TO RECEIVE THE FINANCIAL STATEMENTS OF THE COMPANY FOR THE MOST RECENT 6 YEARS AND SECTION 10.1.6 ENTITLES A MEMBER TO RECEIVE THE "BOOKS AND RECORDS" OF THE COMPANY FOR THE MOST RECENT 6 YEARS; PLEASE EXPANCE ACCORDINGLY]

4. In accordance with Section 10.3.2 of the LLC Agreement, please confirm that the Dataroom contains complete and accurate audited financial reports, prepared and delivered in accordance with, and accompanied by all other documentation and information required pursuant to, such Section 10.3.2, in each case corresponding with the most recently ended Fiscal Year, in each case as evidenced by the index attached as Exhibit D to this request letter.

5. In accordance with Section 10.3.3 of the LLC Agreement, please confirm that the Dataroom contains complete and accurate reports, prepared and delivered in accordance with, and accompanied by all other documentation and information required pursuant to, such Section 10.3.3, in each case corresponding with the most recently ended Fiscal Year, in each case as evidenced by the index attached as Exhibit E to this request letter.

6. In accordance with Section 10.3.5 of the LLC Agreement, please confirm that the Dataroom contains a complete and accurate report for each of the last [12] calendar months, prepared and delivered in accordance with such Section 10.3.5, in each case as evidenced by the index attached as Exhibit F to this request letter.

7. In accordance with Section 10.3.6 of the LLC Agreement, please confirm that Exhibit G contains a true, correct and complete list of all "Material Contracts" and "Governmental Approvals", together with all amendments and supplements thereto, in each case to which any Sunlight Company is a party or by which its assets are subject.

    a. For purposes of this request letter, "Material Contracts" shall mean any agreement, contract, lease, sublease, mortgage, indenture, promissory note, evidence of indebtedness, purchase order, letter of credit, license or sublicense: (i) for the purchase, exchange or sale of electric energy, capacity, ancillary services or related attributes, or renewable energy credits or other environmental attributes; (ii) for the transmission of electric power; (iii) for electrical interconnection or the engineering, procurement or construction of interconnection facilities or system upgrades; (iv) for the operation and maintenance of the Projects; (v) for evidencing material indebtedness of any Sunlight Company; (vi) for rights or interests in real property required for the operation and maintenance of the Projects; (vii) providing an option for any Sunlight Company to acquire, or obligating any Sunlight Company to sell or transfer, any material real property or other material assets; (viii) pursuant to which any Sunlight Company is obligated to pay or entitled to receive more than $2,500,000 in any year or $10,000,000, in each case in respect of each Project, and (ix) any Contract that provides for any non-monetary obligation on the part of any Sunlight Company or the other parties thereto, the non-performance of which obligations would cause material adverse change in the business, assets, liabilities or financial condition of the Projects and the Sunlight Companies taken as a whole.

    b. For purposes of the requests made in this Section 7, "Governmental Approval" shall mean any authorization, approval, consent, license, ruling, permit, registration, exemption, right, privilege, tariff, certification, exemption, order, recognition, grant,

confirmation, clearance, or filing issued by or filed with any Governmental Entity under any Law, which is necessary for the ownership, use or operation of the Projects.

Please provide and upload to the Dataroom true, correct and complete copies of all such documents not listed in Exhibit G.

8. In accordance with Section 10.3.7 of the LLC Agreement, please confirm that the Dataroom contains complete and accurate copies of all notices (and all other correspondence, documentation and information) required to be delivered by each of the Subsidiaries pursuant to Section 5.1.6 of each of the Master Agreements, in each case as evidenced by the index attached as Exhibit H to this request letter.

9. Please confirm that the Dataroom contains complete and accurate copies of all waivers, consents, amendments, supplements or other modifications that have been received by any Sunlight Company under the Financing Documents.

10. Please confirm that none of the Sunlight Companies is in default (and, to your knowledge, no other party thereto is in default) of any material obligation of any Sunlight Company set forth in any Material Contract to which any Sunlight Company is a party and there are no specific existing facts or circumstances which with notice, the passage of time or both would constitute a default by any Sunlight Company under any Material Contract. Please confirm that no Sunlight Company has received from the applicable counterparty any written notice of termination of any Material Contract.

11. Please confirm that no Sunlight Company has received from any insurer, any written notice of a denial of coverage under any insurance policies maintained by the Sunlight Companies or any written notice of cancellation or termination in respect of the current coverage of any such policy.

12. Please confirm there is no litigation, cause of action, arbitration, suit, written complaint, investigation, inquiry or other proceeding pending to which any Sunlight Company is a party (and, to your knowledge, there is no such proceeding threatened in writing) against or affecting any Sunlight Company or any Project.

13. Please confirm that, since December 31, 2014, no event, change, fact, condition or circumstance has occurred which has had, or would reasonably be expected to result in, a material adverse change in the business, assets, liabilities or financial condition of the Projects and the Sunlight Companies taken as a whole.

14. Please confirm each of the following:

a. All material tax returns, statements, forms and reports (including, elections, declarations, disclosures, schedules, estimates and informational tax returns) for taxes by, or with respect to, the Sunlight Companies (collectively, "Tax Returns") of or with respect to each Sunlight Company have been filed within the time and in the manner required by Law (giving regard to valid extensions) and all such Tax Returns are and will be true, accurate and complete in all material respects.

b. All material Taxes (as such term is defined in the Master Agreements, "Taxes") shown to be due on all filed Tax Returns by each Sunlight Company and all other material Taxes required to have been paid in respect of, or otherwise imposed upon, each Sunlight Company have been paid in full and all material Taxes that are required to be withheld or collected by each Sunlight Company have been duly withheld and collected and, to the extent required, have been paid within the time and in the manner required by Law.

c. Neither the IRS nor any other tax authority has assessed or asserted or threatened to assess or to assert any deficiency or assessment, or proposed (formally or informally) any adjustment or any examination, with respect to any Taxes against any Sunlight Company that has not been fully resolved or paid.

d. No Sunlight Company or any affiliate thereof (i) has received any private letter ruling or closing agreement from the IRS (or any comparable ruling or agreement from any other taxing authority) with respect to any Sunlight Company or (ii) has any requests for such a ruling or agreement pending.

e. No Sunlight Company or any affiliate thereof has waived or extended any statute of limitations in respect of Taxes.

f. No Sunlight Company is party to any Tax sharing, Tax indemnification or similar agreement currently in force other than the Cash Grant Recapture Indemnity Agreements and customary tax indemnification provisions in contracts entered into in the ordinary course of business that do not primarily relate to Tax matters.

g. There are no Liens (as such term is defined in the Master Agreements) for Taxes upon any of the assets of any Sunlight Company other than Permitted Liens (as such term is defined in the Master Agreements).

By signing below, the Managing Member (i) responds to all requests for confirmation made in this request letter by making affirmative confirmations to the best of its knowledge and (ii) acknowledges that it has placed into the Dataroom all documentation requested pursuant to this request letter, and has disclosed previously or is disclosing herewith all matters of any sort of which it has knowledge, in either case, to the extent responsive to the requests made in this request letter.

[*Signature pages follow*]

Sincerely yours,

EFS DESERT SUN, LLC

By: EFS Desert Sun Holdings, LLC
Its Managing Member

By: EFS Renewables Holdings, LLC
Its Managing Member

By: _____
Name:
Title:

cc:

NRG Yield Operating LLC
211 Carnegie Center
Princeton New Jersey 08540
Attn: Office of the General Counsel
Fax: 609.524.4589
Email: ogc@nrgyield.com

[Signature Page to Managing Member Request Letter]

Acknowledged, agreed and confirmed:

NEXTERA DESERT SUNLIGHT HOLDINGS, LLC,
a Delaware limited liability company

By: _____
Name:
Title:

[Signature Page to Managing Member Request Letter]

Exhibit A

Certificate, Amendments Thereto (if any) and Powers of Attorney

[See attached]

Exhibit B

Federal, State and Local Income Tax or Information Returns and Reports

[See attached]

Exhibit C

Quarterly and Year-to-Date Financial Statements

[See attached]

Exhibit D

Audited Financial Reports and Accompanying Documentation

[See attached]

Exhibit E

Reports Containing Forms K-1, Similar Forms and Related Information

[See attached]

Exhibit F

Monthly Report[s] Showing Availability, Production and Budgeted Revenues and Expenditures

[See attached]

Exhibit G

List of Material Documents and Contracts

[See attached]

Exhibit H

Notices

[See attached]

EXHIBIT 10.1

NRG RPV HOLDCO 1 LLC

a Delaware Limited Liability Company

AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT

Dated as of April 9, 2015

THE SECURITIES (MEMBERSHIP INTERESTS) REPRESENTED BY THIS AGREEMENT HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933 OR REGISTERED OR QUALIFIED UNDER ANY SECURITIES OR BLUE SKY LAWS OF ANY STATE OR JURISDICTION. THEREFORE, THE SECURITIES MAY NOT BE SOLD, PLEDGED, HYPOTHECATED OR OTHERWISE TRANSFERRED UNTIL A REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR THE APPLICABLE STATE SECURITIES OR BLUE SKY LAWS SHALL HAVE BECOME EFFECTIVE WITH REGARD TO THE PROPOSED TRANSFER, OR UNLESS REGISTRATION OR QUALIFICATION UNDER THE SECURITIES ACT OR BLUE SKY LAWS IS NOT REQUIRED IN CONNECTION WITH THE PROPOSED TRANSFER.

Portions of this Exhibit, indicated by the mark "[***]," were omitted and have been filed separately with the Secretary of the Commission pursuant to the Registrant's application requesting confidential treatment pursuant to Rule 24b-2 of the Securities Exchange Act of 1934.

NRG RPV HOLDCO 1 LLC

Amended and Restated Limited Liability Company Agreement

TABLE OF CONTENTS

ANNEXES, SCHEDULES AND EXHIBITS:

Annex I	Members
Exhibit A	Form of Fund Addendum
Exhibit B	Form of Membership Interest Certificate
Exhibit C	Form of Assignment Agreement
Exhibit D	Initial Operating Budget

NRG RPV HOLDCO 1 LLC
AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT

THIS AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT, dated as of April 9, 2015 (this "**Agreement**"), is made and entered into by and among **NRG YIELD RPV HOLDING LLC**, a Delaware limited liability company (the "**Initial Class A Member**"), as a Class A Member, and **NRG RESIDENTIAL SOLAR SOLUTIONS LLC**, a Delaware limited liability company (the "**Initial Class B Member**"), as a Class B Member. This Agreement supersedes all prior and contemporaneous agreements, statements, understandings and representations regarding the terms and operations of the Company, including without limitation that certain Limited Liability Company Agreement of the Company dated as of January 22, 2015 (the "**Original Agreement**").

RECITALS

A. NRG RPV HOLDCO 1 LLC, a Delaware limited liability company (the "**Company**"), was formed by the Members pursuant to the Act on April 9, 2015 by virtue of its Certificate of Formation (the "**Delaware Certificate**") filed with the Secretary of State of the State of Delaware.

B. The Company has been formed by the Members to own interests in subsidiary companies (each a "**Fund Company**" and collectively the "**Fund Companies**") that either own or will purchase solar power generation projects and other ancillary related assets (each a "**Project**" and collectively, the "**Projects**");

C. The Company will hold its interest in the Fund Companies through one or more intermediate wholly-owned companies (each an "**Intermediate Company**" and collectively the "**Intermediate Companies**"). An Intermediate Company may be the sole owner of a Fund Company or it may be the managing member of such Fund Company if such Fund Company is jointly owned with one or more investors (each, a "**Fund Investor**" and collectively, the "**Fund Investors**");

D. Upon the approval of the Members for acquisition by the Company of a Fund Company, the Members will each make capital contributions to the Company to fund the Company's purchase of such Fund Company, if such Fund Company is a going concern, and to fund the ongoing obligations of each Intermediate Company with respect to its Fund Company subsidiaries in accordance with the Company's Approved Budget.

E. The Company adopted the Original Agreement on January 22, 2015 and now wishes to replace such Original Agreement.

F. The Members desire to enter into this Agreement to describe their respective right and obligations as members of the Company.

NOW, THEREFORE, in consideration of the premises and the mutual undertakings contained herein, the parties hereto hereby agree, as follows:

Article I

DEFINITIONS

Section 1.1 Certain Definitions.

The following initially capitalized terms, as and when used in this Agreement, shall have meanings set forth below:

"Accepted Acquisition" is defined in Section 6.3(b).

"Act" means the Delaware Limited Liability Company Act, 6 Del. Code §§ 18-101 *et seq.*, as amended from time to time, and any successor to such statutes.

"Additional Project Document" means, collectively, any Contract (or series of related Contracts) entered into by the Company or any Subject Company subsequent to the Effective Date.

"Adjusted Capital Account Deficit" means, with respect to any Member, the deficit balance, if any, in the Capital Account established and maintained for such Member, as the same is specially computed as of the end of the Taxable Year after giving effect to the following adjustments:

(a) Credit to such Member's Capital Account any amounts (including unpaid Capital Contributions expected to be paid by the end of the relevant tax year) which such Member is obligated to contribute to the Company or to restore pursuant to Section 12.3 of this Agreement or is deemed obligated to restore pursuant to the penultimate sentences in Treasury Regulations Sections 1.704-2(g)(1) and 1.704-2(i)(5), and

(b) Debit to such Member's Capital Account any items described in Treasury Regulations Sections 1.704-1(b)(2)(ii)(d)(4), (5) and (6).

The foregoing definition of Adjusted Capital Account Deficit is intended to comply with the provisions of Treasury Regulations Section 1.704-1(b)(2)(ii)(d) and shall be interpreted consistently with the Treasury Regulations.

"Adjusted Deficit Capital Account Balance" has the meaning set forth in Section 12.3.

"Advisors" is defined in Section 7.7(a).

"Affiliate" means, with respect to any designated 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 designated Person. Any Person shall be deemed to be an Affiliate of any specified Person if such Person owns more than fifty percent (50%) of the voting securities of the specified Person, if the specified Person owns more than fifty percent (50%) of the voting securities of such Person, or if more than fifty percent (50%) of the voting securities of the specified Person and such Person are under common Control. Notwithstanding anything to the contrary

herein, the Initial Class A Member and the Initial Class B Member shall not be considered Affiliates for purposes of this Agreement.

"After-Tax Basis" means, with respect to any payment to be actually or constructively received by any Person, the amount of such payment (the "base payment") supplemented by a further payment (the "additional payment") to that Person so that the sum of the base payment plus the additional payment shall, after deduction of the amount of all federal income taxes required to be paid by such Person in respect of the receipt or accrual of the base payment and the additional payment, using an assumed rate equal to the Highest Marginal Rate (and ignoring state and local taxes), taking into account any federal income tax savings realized (or likely to be realized in the future as a result of such base payment) at a discount rate equal to the Target IRR by the recipient as a result of the payment or the event giving rise to the payment, using an assumed rate equal to the Highest Marginal Rate, equals the amount required to be received.

"After-Tax IRR" means, with respect to the Holder of a Class A Unit and at the time of any determination, the annual effective discount rate (calculated and compounded on a daily basis using the Microsoft Excel XIRR function on all after-tax cash flows) which sets A equal to B, where A is the sum of (a) the present value of all Cash Distributions in respect of such Class A Unit, *plus* (b) the present value of all Tax Benefits in respect of such Class A Unit, *plus* (c) the present value of all indemnity payments (net of any tax gross-up payments) received in respect of such Class A Unit, that compensate for loss of any item listed in the foregoing clauses (a) and (b), *minus* (d) the present value of all Tax Costs in respect of such Class A Unit; and B is the present value of all Capital Contributions made in respect of Class A Units.

"Aggregate Tracking Model" means the base case model for the Company, to be prepared and approved in connection with the execution of the second Fund Addendum and updated (a) to reflect each Accepted Acquisition, (b) monthly during the Investment Period and (c) as otherwise required by this Agreement from time to time, in each case, to reflect actual results of the Company, in accordance with and subject to the assumptions, conventions and procedures set forth in Article X as such assumptions, conventions and procedures may be supplemented or modified by the applicable Fund Addendum. The updated Aggregate Tracking Model shall be delivered by the Manager to the Members, each time it is updated as set forth above.

"Agreement" means this Amended and Restated Limited Liability Company Agreement.

"Anti-Corruption Laws" means (a) anti-bribery or anti-corruption Laws, including the U.S. Foreign Corrupt Practices Act of 1977, as amended, and the U.K. Bribery Act 2010, and (b) Laws relating to financial record keeping and reporting, currency transfer and money laundering, including, as applicable, the US PATRIOT Act of 2001 and all "know your customer" rules and other applicable regulations.

"Approved Budget" means the annual operating budget prepared and approved (or deemed approved) by the Members in accordance with Section 6.8 and updated upon each Accepted Acquisition.

"Accepted Acquisition" means the acquisition by the Company, indirectly through an Intermediate Company, of membership interests in a Fund Company, with the Consent of the Members in accordance with Section 6.3.

"Assets" means all right, title and interest of a Person in land, properties, buildings, improvements, fixtures, foundations, assets and rights of any kind, whether tangible or intangible, real, personal or mixed, including contracts, leases, easements, equipment, systems, books, data, reports, studies and records, proprietary rights, intellectual property, Licenses and Permits, rights under or pursuant to all warranties, representations and guarantees, cash, accounts receivable, deposits and prepaid expenses.

"Available Cash Flow" means, with respect to any Distribution Date, the gross cash receipts from Company operations (including sales and dispositions of Company Assets (including Contracted RECs), insurance payments, warranty payments, cash previously reserved less the portion thereof used to pay, or establish reserves (in accordance with the Approved Budget) for, all expenses of the Company and of the Subject Companies, including Company Reimbursable Expenses. For the avoidance of doubt, Available Cash Flow will not include the Capital Contributions by the Members, which shall be applied by the Manager to fund Company obligations and expenses in accordance with this Agreement. For the avoidance of doubt, proceeds from the as sales of Uncontracted RECs shall not be included in Available Cash Flow and shall be distributed in accordance with Section 5.1(c).

"Bankrupt" means, with respect to any Person: (a) that such Person (i) files in any court pursuant to any statute of the United States or of any state a voluntary petition in bankruptcy or insolvency, (ii) files a petition or answer seeking for such Person a reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any Law or the appointment of a receiver or a trustee of all or a material portion of such Person's Assets, (iii) makes a general assignment for the benefit of creditors, (iv) becomes the subject of an order for relief or is declared insolvent in any federal or state bankruptcy or insolvency proceedings, (v) files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against such Person in a proceeding of the type described in (i) through (iv), (vi) admits in writing its inability to pay its debts as they fall due, or (vii) seeks, consents to or acquiesces in the appointment of a trustee, receiver or liquidator of any material portion of its Assets; or (b) a petition in bankruptcy or insolvency, or a proceeding seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any Law has been commenced against such Person, and sixty (60) days have expired without dismissal thereof or with respect to which, without such Person's consent or acquiescence, a trustee, receiver, or liquidator of such Person or of all or any substantial part of such Person's properties has been appointed and sixty (60) days have expired without the appointment's having been vacated or stayed, or sixty (60) days have expired after the date of expiration of a stay, if the appointment has not previously been vacated; or (c) if a Member, the whole or any material portion of such Person's Membership Interest is levied or attached, and such levy or attachment is not released or discharged within sixty (60) days.

"Business Day" means any day except Saturday, Sunday and any day that is a legal holiday in New York City or a day on which banking institutions are authorized or required by Law or other government action to close in New York City.

"Capital Account" means the capital account established and maintained for a Member pursuant to Section 4.1.

"Capital Call Amount" is defined in Section 3.3(b).

"Capital Contribution" means any cash or the initial Value of any other property (net of liabilities secured by such property that the Company is considered to assume or take subject to under Code Section 752) that a Member directly or indirectly contributes to the Company with respect to the Units held or purchased by such Member, including any capital contributions made by such Member pursuant to Article III hereof, and any reference to the Capital Contributions of a Member shall include the Capital Contributions of any predecessor Holder of the Member's Units.

"Capital Contribution Request" is defined in Section 3.3(b).

"Cash Difference" is defined in Section 10.2(g)(i).

"Cash Distributions" is defined in Section 10.2(c).

"Cash Trigger Amount" is defined in Section 10.2(f)(i).

"Certified Public Accountant" means a firm of independent public accountants (a) that is one of Ernst & Young, Deloitte & Touche, PricewaterhouseCoopers or KPMG LLC, as selected from time to time by the Manager or (b) with respect to any other firm, as selected from time to time with the Consent of the Members.

"Class A Claims" is defined in Section 11.1.

"Class A Capital Contribution Amount" is defined in Section 3.3(c).

"Class A Interest" means, with respect to any Class A Member: (a) that Class A Member's status as a Class A Member; (b) that Class A Member's share of Company Items and the right to receive distributions from the Company; (c) all other rights, benefits and privileges enjoyed by that Class A Member (under the Act, this Agreement, or otherwise) in its capacity as a Class A Member, including that Class A Member's right to vote, consent and approve and otherwise to participate in the management of the Company, to the extent provided in this Agreement; and (d) all obligations, duties and liabilities imposed on that Class A Member (under the Act, this Agreement or otherwise) in its capacity as a Class A Member, including any obligations to make Capital Contributions.

"Class A Member" means each Member holding a Class A Interest.

"Class A Member Capital Contribution Commitment" means $150,000,000, as the same may be increased from time to time by the Class A Members upon delivery of written

notice to the Class B Members and the Manager. If the Manager determines that the Class A Member Capital Contribution Commitment is insufficient to meet the projected contribution requirements of the Company under any Fund Documents, then the Class A Member shall use its good faith diligent efforts to obtain the necessary approvals to increase the then current Class A Member Capital Contribution Commitment to the amounts projected by the Manager that are so required.

"Class A Parties" is defined in Section 11.1.

"Class A Unit" means a unit representing a Class A Interest having the rights, preferences and designations provided for such class in this Agreement.

"Class B Capital Contribution Amount" is defined in Section 3.3(d).

"Class B Claim" is defined in Section 11.1(b).

"Class B Interest" means, with respect to any Class B Member: (a) that Class B Member's status as a Class B Member; (b) that Class B Member's share of Company Items, and the right to receive distributions from the Company; (c) all other rights, benefits and privileges enjoyed by that Class B Member (under the Act, this Agreement, or otherwise) in its capacity as a Class B Member, including that Class B Member's right to vote, consent and approve and otherwise to participate in the management of the Company to the extent provided in this Agreement; and (d) all obligations, duties and liabilities imposed on that Class B Member (under the Act, this Agreement or otherwise) in its capacity as a Class B Member, including any obligations to make Capital Contributions.

"Class B Member" means each Member holding a Class B Interest.

"Class B Parties" is defined in Section 11.1(b).

"Class B Unit" means a unit representing a Class B Interest having the rights, preferences and designations provided for such class in this Agreement.

"Code" means the Internal Revenue Code of 1986, as amended from time to time, and any corresponding provisions of any successor tax statute.

"Company" is defined in the recitals to this Agreement.

"Company Items" means the separate items of income, gain, loss, deduction and credit of the Company for purposes of subchapter K of the Code, as determined for Capital Account maintenance purposes consistent with the principles of Treasury Regulations Section 1.704-1(b)(2)(iv).

"Company Minimum Gain" has the meaning given the term "partnership minimum gain" set forth in Treasury Regulations Section 1.704-2(b)(2) and will be determined as provided in Treasury Regulations Section 1.704-2(d).

"Company Reimbursable Expenses" means all reasonable and documented Third Party costs and expenses incurred in the ordinary course of business by the Manager on behalf of the Company in performing the duties hereunder or relating to the Company's activities and business, including all reasonable and documented costs and expenses incurred for legal, accounting and auditing fees paid or payable to Third Parties in accordance with this Agreement and as provided for in the Approved Budget, but excluding such costs and expenses attributable to the gross negligence, willful misconduct or fraud of the Manager or a breach by the Manager (or a Member if such Member is, or is an Affiliate of, the Manager).

"Competitor" means any Person directly or indirectly engaged in owning, managing, operating, maintaining or developing facilities utilizing solar power for the production of electricity for sale to others; provided that a Person who is involved in owning, managing, developing, maintaining or operating such facilities solely as a result of such Person, directly or through an Affiliate, making passive investments in such facilities shall not be considered a "Competitor" hereunder so long as such Person certifies in a manner reasonably acceptable to the Class B Members that it has in place procedures to prevent any Affiliate of such Person that is not a passive owner, manager, operator, maintenance provider or developer from acquiring confidential information relating to its investment in the Company.

"Confidential Information" is defined in Section 7.7(a).

"Consent of the Class A Members" means the written consent or approval of the Class A Members who own in the aggregate more than fifty percent (50%) of the Class A Units.

"Consent of the Class B Members" means the written consent or approval of the Class B Members who own in the aggregate more than fifty percent (50%) of the Class B Units.

"Consent of the Members" means both the Consent of the Class A Members and the Consent of the Class B Members.

"Contracted RECs" means any REC projected to be generated by a Project in the future, that, as of the date on which the Class A Member is making a Capital Contribution with respect to the associated Project, is subject to a contract with either NRG Power Marketing LLC or Boston Energy Trading and Marketing LLC or another third party to be agreed upon with the Consent of the Members, providing for such REC to be sold at a fixed or determinable price.

"Contracts" means contracts, agreements, leases, licenses, notes, indentures, obligations, reinsurance treaties, bonds, mortgages, instruments, and other binding commitments, arrangements, undertakings and understandings (whether written or oral).

"Contribution Event" is defined in Section 3.3(e).

"Control" and the terms **"Controlled by"** and **"under common Control"** mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through ownership, by contract, or otherwise.

"Damages" is defined in Section 11.1.

"Delaware Certificate" is defined in the recitals to this Agreement.

"Depreciation" means, for each Taxable Year, an amount equal to the depreciation, amortization (including pursuant to Code Sections 197 and 709) or other cost recovery deduction allowable for federal income tax purposes with respect to an Asset for such period, except that if the Value of any Asset differs from its adjusted basis for federal income tax purposes at the beginning of such period, Depreciation shall be an amount which bears the same ratio to such beginning Value as the federal income tax depreciation, amortization or other cost recovery deduction allowable for such Taxable Year bears to such beginning adjusted tax basis; *provided*, *however*, that if such Asset has a zero beginning adjusted basis for such Taxable Year, Depreciation shall be determined with reference to such beginning Value using any method selected by the Manager with the Consent of the Members.

"Disqualified Entity" means at any time during the Recapture Period, an entity that is referred to in Section 50(b)(3) or 50(b)(4) of the Code, *provided*, *that* if any indirect owner owns its indirect interest through a taxable C corporation (as defined in the Code), but excluding any entity that is a "tax exempt controlled entity" defined in Section 168(h)(6)(F)(iii) of the Code, then such Person will not be deemed to be a Disqualified Entity.

"Disqualified Transferee" means (a) any Person that is, or whose Affiliate is, then a party adverse in any pending or threatened (in writing or other reasonably satisfactory evidence of such threat) action, suit or proceeding to the Company or any Member or an Affiliate thereof, if the Company (with the Consent of the Members) or such Member (in its sole and absolute discretion), as applicable, shall not have consented to the Transfer to such Person; *provided*, *however*, that any foreclosure upon any Membership Interests pursuant to an Encumbrance permitted hereunder shall not be an action, suit or proceeding for the purposes of this clause (a), (b) with respect to any Transfer of a Class A Interest, a Person that is, or whose Affiliate is, a Competitor, (c) a Related Party or a Disqualified Entity, (d) a Person who is, or who is an Affiliate of any Person that is, then Bankrupt, or (e) a Person who, or is an Affiliate of any Person who, is a Sanctioned Person, in each case, other than an existing Member.

"Distribution Date" means each day that is five (5) Business Days following a distribution of cash from a Fund Company to the Intermediate Company; *provided* that the Members may mutually agree in writing to regular monthly or quarterly Distribution Dates for administrative ease.

"DRO Amount" means $0 on the Effective Date, and from and after the Effective Date means $0 unless such amount is increased pursuant to a Fund Addendum.

"Effective Date" means the date of this Agreement.

"Encumbrances" means encumbrances, liens, pledges, charges, collateral assignments, options, mortgages, warrants, deeds of trust, security interests, claims, restrictions (whether on voting, sale, transfer, disposition, or otherwise), assessments, easements, variances,

purchase rights, rights of first refusal, reservations, encroachments, irregularities, deficiencies, defaults, defects, adverse claims, interests, and other matters of every type and description whatsoever, whether voluntary or involuntary, choate or inchoate or imposed by Law, agreement (including any agreement to give any of the foregoing or any conditional sale or other title retention agreement), understanding, or otherwise, and whether or not of record, impairing or affecting the title to real or personal property (including membership interests), and **"Encumber"** means any action or inaction creating an Encumbrance.

"Energy Regulatory Approvals" means any License and Permit issued by or filed with an Energy Regulatory Authority that is required to be maintained by any Project or any Subject Company.

"Energy Regulatory Authority" a Governmental Authority with jurisdiction over public utilities, energy, natural resources or any similar subject matter.

"Environmental Law" means any Law imposing liability, standards or obligations of conduct concerning pollution or protection of human health and safety (including the health and safety of workers under the U.S. Occupational Safety and Health Act of 1970 (29 U.S.C. §§ 651 *et seq.*)), flora and fauna, any Environmental Media, including (a) any Law relating to any actual or threatened emission, discharge, release, manufacture, processing, distribution, use, treatment, storage, disposal, transport, or handling of any hazardous waste (as defined by 42 U.S.C. § 6903 (5)), hazardous substance (as defined by 42 U.S.C. § 9601(14)), hazardous material (as defined by 49 U.S.C. § 5102(2)), toxic pollutant (as listed pursuant to 33 U.S.C. § 1317), or pollutant or contaminant (as pollutant or contaminant is defined in 42 U.S.C. § 9601(33)), any oil (as defined by 33 U.S.C. § 2701(23)); and (b) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. §§ 9601 *et seq*.) ("CERCLA"), the Federal Water Pollution Control Act (33 U.S.C. §§ 1251 *et seq*.) and the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*) with any amendments or reauthorization thereto or thereof, and any and all regulations promulgated thereunder, and all analogous state and local counterparts or equivalents.

"Equity Capital Contribution Date" means (a) each day that a capital contribution is required to be made to a Fund Company by the Intermediate Company, or (b) as required to be made by the Members to fund the Company or the Intermediate Company, in each case, as set forth in a Capital Contribution Request delivered by the Manager to the Members.

"ERISA" is defined in Section 8.10(h).

"Fair Market Value" means, with respect to any Asset, the price at which the Asset would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell, and both having reasonable knowledge of the relevant facts, and specifically with respect to any Project or any Membership Interest.

"FERC" means the Federal Energy Regulatory Commission and any successor agency.

"FICO® Score" means a score based on the credit risk rating system established and maintained by the Fair Isaac Corporation.

"Fiscal Quarter" means the calendar quarters each ended March 31st, June 30th, September 30th and December 31st during each Fiscal Year.

"Fiscal Year" means (a) the period commencing on the Effective Date and ending on the immediately succeeding December 31, (b) any subsequent calendar year, and (c) the final Fiscal Year of the Company shall end on the date on which the Company is terminated under Article XII hereof.

"Flip Date" means the end of the last day of the month in which the Flip Point occurs.

"Flip Point" means the point in time at which the Class A Units are determined, under the procedures set forth in Article X, to have realized an After-Tax IRR equal to the Target IRR.

"FPA" means the Federal Power Act, as amended, and the regulations of the FERC thereunder.

"Fund Addendum" means an addendum in the form of Exhibit A that includes Fund Company specific agreements of the Members that, upon execution, will be deemed to supplement this Agreement with respect to the Members' and the Company's investment in such Fund Company. Each executed Fund Addendum will include the agreed upon updated Approved Budget, the Fund Base Case Model, the Fund Credit Profile, the Tax Assumptions and the form of Officer's Certificate applicable to the respective Fund Company, in each case reflecting the acquisition of the applicable Fund Company and the Capital Contributions made, or to be made, by the Members thereto.

"Fund Base Case Model" means the base case financial model in connection with each Fund Company, which will be attached to the applicable Fund Addendum, which shall specifically set forth the Capital Contributions required to be made by each Member to the Company in order to fund the Company's capital contribution to such Fund Company, in each case computed so that the Class A Members are projected to achieve the Target IRR on the Target Flip Date. For clarity, following the Investment Period, the Fund Base Case Model will not be used by the Members for purposes of this Agreement.

"Fund Company" and **"Fund Companies"** are defined in the recitals to this Agreement.

"Fund Company Call Event" means an option to purchase a Fund Investor's membership interest in a Fund Company is then available pursuant to the applicable Fund Documents in favor of an Intermediate Company (whether through a purchase option or buyout event or otherwise).

"Fund Company Presentation Package" means the following information and documentation regarding a proposed investment in a Fund Company: (a) a proposed Fund Addendum with the Fund Base Case Model and proposed amended Approved Budget attached as exhibits, (b) a summary of the proposed transaction and (c) all relevant Fund Documents; *provided* that if not all Fund Documents are in final form, all current drafts thereof shall be provided with the initial Fund Company Presentation Package and final drafts shall be provided to the Members prior to the Intermediate Company's execution of such documents.

"Fund Company Presentation Notice" is defined in Section 6.3(b).

"Fund Company Put Event" means that an Intermediate Company is required to purchase a Fund Investor's membership interest in a Fund Company pursuant to the applicable Fund Documents.

"Fund Credit Profile" means, with respect to each Fund Company, the expected aggregate credit profile of the counterparties to the offtake and/or lease agreements, including (a) the average expected FICO Score, (b) the minimum average FICO Score permitted under the Fund Documents, (c) the minimum FICO Score for any such counterparty permitted under the Fund Documents, (d) the actual minimum FICO Score of any such counterparty known to the Class B Member at such time and (e) an allowable percentage of such counterparties below a minimum FICO Score to be determined by the Members, which agreed upon percentage and minimum score will be included in the applicable Fund Addendum.

"Fund Documents" means, with respect to each Fund Company, the material documents in connection with the ownership and operation of such Fund Company, including, if applicable, the purchase agreement whereby the applicable Intermediate Company acquired its interest in such Fund Company, the Fund Company's operating agreement, the purchase and sale agreement or other similar document pursuant to which the Fund Company purchased or will purchase Projects, any operations and maintenance agreements, administrative service agreements or similar documents providing for the administration of such Fund Company and the operation and maintenance of the Projects, and any other material documents contemplated by any of the foregoing.

"Fund Investor" and **"Fund Investors"** are defined in the recitals to this Agreement.

"Fund Investor Interests" is defined in Section 6.3(e).

"Funding Notice" is defined in Section 3.4(a).

"GAAP" means United States generally accepted accounting principles, as amended, consistently applied.

"Good Management Standard" means that a Person will perform its management functions in good faith and in a manner it reasonably believes to be in the best interests of the Company. Good Management Standard is not intended to be limited to a single set of practices, methods and acts.

"Governmental Authority" means any foreign, domestic, federal, territorial, state or local governmental authority, court, commission, board, bureau, agency or instrumentality, or any regulatory, administrative or other department, agency, or any political or other subdivision, department or branch of any of the foregoing, any Taxing Authority and any electric reliability organization, regional transmission organization or independent system operator or any successor thereto.

"Highest Marginal Rate" means, with respect to any Member, the then highest marginal federal income tax rate applicable to such Member. The Highest Marginal Rate applicable to the Class A Member shall be 37.6%, as such rate may be adjusted with respect to any Fund Company if specified otherwise in a Fund Addendum.

"Holder" means, as to a Class A Unit, the Class A Member holding such Class A Unit, and, as to a Class B Unit, the Class B Member holding such Class B Unit.

"HSR Act" means the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended.

"Indebtedness" means indebtedness for borrowed money and any lease of any property as lessee the obligations of which are required to be classified or accounted for as a capital lease on the balance sheet of the applicable Person, off-balance sheet leases, but expressly does not include short-term (*i.e.*, less than one (1) year in maturity) trade payables incurred in the ordinary course of business.

"Indemnified Party" is defined in Section 11.1.

"Indemnifying Member" is defined in Section 11.3.

"Initial Capital Contribution" means a Capital Contribution made on the Effective Date.

"Initial Class A Member" means NRG Yield RPV Holding LLC, a Delaware limited liability company.

"Initial Class B Member" means NRG Residential Solar Solutions LLC, a Delaware limited liability company.

"Intent Notice" is defined in is defined in Section 9.6(d).

"Intermediate Company" and **"Intermediate Companies"** are defined in the recitals to this Agreement.

"Investment Documents" means this Agreement and any other documents entered into by the Company in connection with the Members acquiring and maintaining their Membership Interests in the Company.

"Investment Response Notice" is defined in Section 6.3(b).

"Investment Period" means the period from the Effective Date until the later of (a) December 31, 2016 and (b) the final capital contribution required in connection with the purchase of Projects under any Fund Document entered into prior to such date.

"IRS" means the Internal Revenue Service and any successor Governmental Authority.

"Issued Interest" is defined in the recitals to this Agreement.

"ITC" means the energy tax credit provided for under Section 48 of the Code.

"Law" means any applicable constitution, statute, law, ordinance, regulation, rate, ruling, order, judgment, legally binding guideline, restriction, requirement, writ, injunction or decree that has been enacted, issued or promulgated by any Governmental Authority.

"Licenses and Permits" means filings and registrations with, and licenses, permits, notices, approvals, grants, easements, exemptions, variances and authorizations from, any Governmental Authority.

"Liquidating Events" is defined in Section 12.1(a).

"Manager" means the Person appointed by the Members pursuant to Article VI to manage the affairs of the Company and any other Person hereafter appointed as a successor Manager of the Company as provided in Article VI. Pursuant to its appointment by the Members in Section 6.1, the Initial Class B Member shall be the initial Manager of the Company.

"Master Services Provider" means NRG Asset Services LLC, a Delaware limited liability company. For purposes of this Agreement the Master Services Provider shall be considered an Affiliate of the Initial Class B Member but not an Affiliate of the Initial Class A Member.

"Member" means any Person who executes the signature page of this Agreement as of the Effective Date or thereafter agrees to be bound hereby and is admitted to the Company as a Member pursuant to this Agreement, excluding any Person that has ceased to be a Member.

"Member Contribution Event" means an event requiring a Member to make a Capital Contribution to the Company in connection with a liability of a Subject Company under a Fund Document or otherwise that is the obligation of that Member (a) as a result of such Member's indemnity obligations to the other Members under Article XI, or (b) with respect to the Class B Member, non-utilization fees, non-deployment fees or commitment fees that are payable to a Fund Investor arising under the Fund Documents or any legal or other fees and costs in connection with the negotiation and entry by the Intermediate Company or any other Person into any Fund Documents, which obligation shall be borne solely by the Class B Member.

"Member Loan" is defined in Section 3.4(a).

"Member Nonrecourse Debt" has the meaning given the term "partner nonrecourse debt" in Treasury Regulations Section 1.704-2(b)(4).

"Member Nonrecourse Debt Minimum Gain" has the meaning given the term "partner nonrecourse debt minimum gain" set forth in Treasury Regulations Section 1.704-2(i)(2), and will be computed as provided in Treasury Regulations Section 1.704-2(i)(3).

"Member Nonrecourse Deductions" has the same meaning as the term "partner nonrecourse deductions" in Treasury Regulations Sections 1.704-2(i)(1) and 1.704-2(i)(2).

"Membership Interest" means either the Class A Interest or the Class B Interest or both, as the context requires.

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

"Nonrecourse Deductions" has the meaning given to such term in Treasury Regulations Sections 1.704-2(b)(1) and 1.704-2(c).

"Nonrecourse Liability" has the meaning given such term in Treasury Regulations Section 1.704-2(b)(3).

"Officers" is defined in Section 6.7(a).

"Original Agreement" has the meaning given that term in the introductory paragraph.

"Party" means the Class B Member, the Company or the Class A Member, as the context requires.

"Permitted Investments" is defined in Section 8.5.

"Person" means an individual, a corporation, a limited liability company, a partnership, an association, joint venture, a labor union, a trust or any other entity or organization, including a Governmental Authority.

"Placed-in-Service" means, with respect to any Project that is owned by a Fund Company, the applicable definition of "placed in service" provided in such Fund Documents, and, for any other Project, that (a) all necessary permits and licenses for operating such Project (including, for the avoidance of doubt, the permission to operate letter) have been obtained , (b) all critical commissioning and testing activities necessary for proper operation of such Fund Company have been performed, (c) legal title and control to such Project has been transferred to the Company, (d) initial synchronization of such Project to the grid has occurred and (e) daily operation of such Project has begun.

"Placed-in-Service Date" in respect of a Project means the date such Project is Placed in Service.

"Portfolio Material Adverse Effect" means any act, event, condition or circumstance that, individually or in the aggregate, has, or could reasonably be expected to have, a material adverse effect on (a) the Projects, taken as a whole, (b) the business, earnings, Assets,

liabilities (contingent or otherwise), results of operations, prospects, condition (financial or otherwise) or properties of the Projects, taken as a whole, or any of the following Persons: the Company, the Subject Companies (taken as a whole) or, to the extent expressly specified, any Member, or on the ability of any such Person to timely perform any of its respective obligations under any Investment Document, (c) the rights and remedies of any Class A Member under any Investment Document or (d) the legality, validity, binding effect or enforceability of any Investment Document.

"Post Investment Period Contribution Percentage" means, with respect to each Member opting or required to participate in a Contribution Event following the Investment Period in accordance with this Agreement, the percentage of the Capital Call Amount required in connection with such Contribution Event (for clarity, not including amounts required in connection with a Member Contribution Event) derived by *dividing* the total amount of Capital Contributions made by such Member during the Investment Period by the total amount of Capital Contributions made by all Members during the Investment Period that are opting or required to participate in such Contribution Event in accordance with this Agreement, in each case, excluding Capital Contributions made with respect to Member Contribution Events.

"Preliminary Intent Notice" is defined in Section 9.6(b).

"Project" is defined in the recitals to this Agreement.

"Project Documents" means collectively, with respect to each Fund Company, all Fund Documents and all other Contracts with respect to such Fund Company to which the Company or any Subject Company is a party or by which it or its Assets are bound.

"PUHCA" means the Public Utility Holding Company Act of 2005, 42 U.S.C. §§ 16451 *et seq.* (2013) and the regulations of the FERC thereunder at 18 C.F.R. §§ 366.1, *et seq.* (2013).

"Purchase Option" is defined in Section 9.6.

"Purchase Option Period" is defined in Section 9.6(a).

"Purchase Option Price" is defined in Section 9.6(a).

"Qualified Transferee" means a nationally recognized Person (or a direct or indirect subsidiary of a Person): (a) that, with respect to an Encumbrance on a Class B Unit, (i) owns and manages or operates (before giving effect to any Transfer hereunder) not less than 100 MWs of solar projects in the United States, and such Person (or such Person's direct or indirect Parent) must have done so for a period of at least three (3) years prior to the Transfer or (ii) engages a Person (at its own cost and expense) meeting the qualifications of clause (i) above to act as a non-member manager hereunder, and (b) that (i) has a credit rating of "BBB" or higher by S&P and "Baa2" or higher by Moody's, or (ii) has a direct or indirect parent with a credit rating of "BBB" or higher by S&P and "Baa2" or higher by Moody's, and such parent provides a guaranty in favor of the Members not party to such Encumbrance, in form and substance reasonably acceptable to such Members.

"Qualifying Facility" means a "qualifying small power production facility" as defined in PURPA and the implementing regulations of the FERC thereunder.

"Recapture Event" means an event within the meaning of Section 50 of the Code and the Treasury Regulations thereunder that results in a reduction, denial or recapture of the ITC, or a portion thereof, by any Governmental Authority, at either the Company level or from any individual Member.

"Recapture Period" means the period from the date that the first Project is Placed in Service until the date that is five (5) years from the date that the last Project is Placed in Service.

"RECs" means any credits, credit certificates, green tags or similar environmental or green energy attributes (such as those for greenhouse reduction or the generation of green power or renewable energy) created by a Governmental Authority or independent certification board or group generally recognized in the electric power generation industry, and generated by or associated with a Project or electricity produced therefrom, but excluding ITCs or any other tax benefits.

"Reference Rate" means the rate of interest published in The Wall Street Journal as the prime lending rate or "prime rate", with adjustments in that varying rate to be made on the same date as any change in that rate is so published.

"Register" is defined in Section 2.8.

"Regulatory Allocations" is defined in Section 4.3(i).

"Rejected Acquisition" is defined in Section 6.3(b).

"Related Party(ies)" means at any time during the Recapture Period, any Person who is considered for federal income tax purposes to be purchasing electricity generated by the applicable Project and who is related to the Company or the applicable Fund Company within the meaning of Section 267(b) or Section 707(b) of the Code or any successor provision, but excluding any Person that so purchases electricity generated by such Project to the extent such Person resells the electricity to another Person who is not related to the Company or the applicable Fund Company within the meaning of Section 267(b) or Section 707(b) of the Code or any successor provision.

"Representatives" is defined in Section 7.7(a).

"Review Period" is defined in Section 6.3(b).

"S&P" means Standard & Poor's Ratings Group, a division of McGraw Hill, Inc., or any successor entity.

"Sanctioned Country" means, at any time, a country or territory which is itself the subject or target of any Sanctions.

"Sanctioned Person" means, at any time, (a) any Person listed in any Sanctions-related list of designated Persons maintained by the Office of Foreign Assets Control of

the U.S. Department of the Treasury, the U.S. Department of State, the United Nations Security Council, the European Union or any European Union member state, (b) any Person operating, organized or resident in a Sanctioned Country or (c) any Person owned or controlled by any such Person or Persons.

"Sanctions" mean (a) all U.S. and applicable international economic and trade sanctions and embargoes, including any sanctions or regulations administered and enforced by the U.S. Department of State, the U.S. Department of the Treasury (including the Office of Foreign Assets Control) and any executive orders, rules and regulations relating thereto, (b) all applicable Laws concerning exportation, including rules and regulations administered by the U.S. Department of Commerce, the U.S. Department of State or the Bureau of Customs and Border Protection of the U.S. Department of Homeland Security, and (c) any anti-boycott Laws, including any executive orders, rules and regulations.

"Securities" means, with respect to any Person, such Person's capital stock or limited liability company interests or any options, warrants or other securities which are directly or indirectly convertible into, or exercisable or exchangeable for, such Person's capital stock or limited liability company interests, whether or not such derivative securities are issued by such Person, and any reference herein to **"Securities"** refers also to any such derivative securities and all underlying securities directly or indirectly issuable upon conversion, exchange or exercise of such derivative securities.

"Securities Act" means the Securities Act of 1933 or any successor statute, as amended from time to time.

"Special DRO Allocations" is defined in Section 4.2(a).

"Subject Companies" means, collectively, the Fund Companies and the Intermediate Companies (and each Fund Company and each Intermediate Company individually, a "**Subject Company**").

"Subject Company Material Adverse Effect" means any act, event, condition or circumstance that, individually or in the aggregate, is, or could reasonably be expected to be, materially adverse to the business, earnings, Assets, liabilities (contingent or otherwise), results of operations, prospects, condition (financial or otherwise) or properties of any Subject Company, or on the ability of any such Subject Company to timely perform any of its respective obligations under any Fund Document to which it is a party or the legality, validity, binding effect or enforceability of any such Fund Document.

"Target Flip Date" means with respect to a calculation to be performed on each Equity Capital Contribution Date, the date when the Members expect the Target IRR to be achieved by the Class A Equity Investors, which shall be the earlier of (a) the date specified in the most recent Fund Addendum and (b) the date that is two (2) calendar years preceding the last date on which any Project referenced in the Fund Base Case Model on such Equity Capital Contribution Date is subject to an offtake contract or lease with respect to the energy generated by such Project.

"Target IRR" means an After-Tax IRR of [***] and [***] percent ([***]%).

"Tax" or **"Taxes"** means all taxes, charges, fees, levies, penalties or other assessments imposed by any federal, state or local or foreign taxing authority, including, but not limited to, income, excise, ad valorem, real or personal property, sales, transfer, franchise, payroll, withholding, social security, gross receipts, license, stamp, occupation, employment or other taxes, including any interest, penalties or additions attributable thereto.

"Tax Assumptions" means for each Fund Company or Intermediate Company the applicable tax methods, conventions and assumptions that will be used by the Company to calculate the Tax Costs and Tax Benefits accruing to each Class A Member for purposes of determining the Class A Member's After-Tax IRR at any point in time as specified in the Fund Addendum.

"Tax Benefits" means, with respect to a Class A Unit, the periodic federal income tax savings resulting from (a) the distributive share of ITCs allocated by the Company to the Holder of such Class A Unit, and (b) the distributive share of tax losses and deductions allocated by the Company to the Holder of such Class A Unit, in each case, as such federal income tax savings is determined in accordance with Section 10.2(e) as such determination may be supplemented or modified by the applicable Fund Addendum.

"Tax Costs" means, with respect to a Class A Unit, the periodic federal income tax liability (after taking into account any suspended losses of the Class A Members under Section 704 (d)) resulting from (a) the distributive share of taxable income and gain allocated by the Company to the Holder of such Class A Unit (including expected chargebacks of Company Minimum Gain pursuant to Section 4.3(a), expected chargebacks of Member Nonrecourse Debt Minimum Gain pursuant to Section 4.3(b), and expected allocations of Items of income pursuant to the first sentence of Section 12.2(a)(iv)), (b) any gain recognized by such Holder under Sections 731(a) of the Code from Cash Distributions, in each case, as such federal income tax liability is determined in accordance with Section 10.2(e), as such determination may be supplemented or modified by the applicable Fund Addendum.

"Tax Information" is defined in Section 7.7(b).

"Tax Matters Member" is defined in Section 8.7(a).

"Tax Payment Dates" is defined in Section 10.2(d).

"Tax Return" means the Company's federal income tax return for each Taxable Year, including Schedule K-1s (the "**Tax Return**").

"Taxable Year" means the taxable year of the Company for federal income tax purposes, which shall be (a) the period commencing on the Effective Date and ending on the immediately succeeding December 31, (b) any subsequent calendar year or (c) any portion of the period described in clause (a) or (b) for which the Company is required to allocate Company Items pursuant to Article IV or Section 12.2(a)(iv).

"Taxing Authority" means, with respect to a particular Tax, the agency or department of any Governmental Authority responsible for the administration and collection of such Tax.

"TEFRA" means Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97-248).

"Terminated Member" is defined in Section 9.7.

"Third Party" means a Person other than a Member or an Affiliate of a Member.

"Transaction" means the transactions contemplated and provided for in the Investment Documents.

"Transfer" means the sale, transfer, assignment, conveyance, gift, exchange or other disposition of Class A Units or Class B Units (and the Membership Interests represented thereby), whether directly by the Member or indirectly, excluding the creation of an Encumbrance, but including any such sale, transfer, assignment, conveyance, gift, exchange or other disposition in connection with, or in lieu of, the foreclosure of an Encumbrance.

"Transferee" means a Person to which a Transfer is or would be made.

"Transferring Member" means the Member effecting a Transfer.

"Treasury Regulations" means the regulations promulgated under the Code by the United States Department of Treasury, as such regulations may be amended from time to time. All references herein to specific sections of the regulations shall be deemed also to refer to any corresponding provisions of succeeding regulations, and any reference to temporary regulations shall be deemed also to refer to any corresponding provisions of final regulations.

"UCC" or **"Uniform Commercial Code"** means the Uniform Commercial Code in effect in the State of Delaware from time to time.

"Uncontracted RECs" means any REC projected to be generated by a Project in the future, that, as of the date on which the Class A Member is making a Capital Contribution with respect to the associated Project, is not a Contracted REC.

"Units" means either the Class A Units or the Class B Units or both, as the context requires.

"Value" means, with respect to any Asset of the Company, such Asset's adjusted basis for federal income tax purposes, except as follows:

(a) the initial Value of any Asset contributed by a Member to the Company shall be the gross fair market value of such Asset, as agreed to by the Members;

(b) the Value of all Assets of the Company shall be adjusted to equal their respective gross fair market values (taking Code Section 7701(g) into account), as

determined by the Members, in accordance with Treasury Regulations Section 1.704-1(b)(2)(iv)(f), as of the following times: (i) the acquisition of an additional Membership Interest in the Company by any new or existing Member in exchange for more than a *de minimis* Capital Contribution; (ii) the distribution by the Company to a Member of more than a *de minimis* amount of Company Assets as consideration for the acquisition of a Membership Interest in the Company; (iii) the grant of a Membership Interest in the Company (other than a *de minimis* interest) as consideration for the provision of services to or for the benefit of the Company by an existing Member acting in a Member capacity or a new Member acting in a Member capacity or in anticipation of being a Member; and (iv) the liquidation of the Company within the meaning of Treasury Regulations Section 1.704-1(b)(2)(ii)(g); *provided* that any adjustment described in clauses (i), (ii) or (iii) of this paragraph shall be made only upon the Consent of the Members;

(c) the Value of any Asset distributed to any Member shall be adjusted to equal the gross fair market value of such Asset on the date of distribution (taking Code Section 7701(g) into account), as determined by the Consent of the Members; and

(d) the Value of Company Assets shall be increased (or decreased) to reflect any adjustments to the adjusted basis of such Assets pursuant to Code Section 734(b) or Code Section 743(b), but only to the extent that such adjustments are taken into account in determining Capital Accounts pursuant to Treasury Regulations Section 1.704-1(b)(2)(iv)(m); *provided*, *however*, that the Value shall not be adjusted pursuant to this clause (d) to the extent the Members determine that an adjustment pursuant to clause (b) of this definition is necessary or appropriate in connection with a transaction that would otherwise result in an adjustment pursuant to this clause (d).

If the Value of an Asset has been determined or adjusted pursuant to clause (a), (b) or (d) of this definition, such Value shall thereafter be adjusted by the Depreciation taken into account with respect to such Asset for purposes of determining Company Items and not by the depreciation, amortization, or other cost recovery deductions taken into account with respect to that asset for federal income tax purposes.

"Working Capital Loan" is defined in Section 3.4(a).

"Working Capital Notice" is defined in Section 3.4(a).

Section 1.2 Other Definitional Provisions

(a) Construction. As used herein, the singular shall include the plural, the masculine gender shall include the feminine and neuter and the neuter gender shall include the masculine and feminine unless the context otherwise indicates.

(b) References. References to Articles and Sections are intended to refer to Articles and Sections of this Agreement, and all references to Annexes, Exhibits and Schedules are intended to refer to Annexes, Exhibits and Schedules attached to this Agreement, each of which is made a part of this Agreement for all purposes. The terms "include," "includes" and "including"

mean "including, without limitation." Any date specified for action that is not a Business Day shall mean the first Business Day after such date. Any reference to a Person shall be deemed to include such Person's successors and permitted assigns. Any reference to any document or documents shall be deemed to refer to such document or documents as amended, modified, supplemented or replaced from time to time in accordance with the terms of this Agreement. References to laws refer to such laws as they may be amended from time to time, and references to particular provisions of a Law include any corresponding provisions of any succeeding Law. The words "herein," "hereof" and "hereunder" and words of similar import shall refer to this Agreement as a whole and not to any particular section or subsection of this Agreement. References to money refer to legal currency of the United States of America.

(c) Accounting Terms. As used in this Agreement and in any certificate or other documents made or delivered pursuant hereto, accounting terms not defined in this Agreement or in any such certificate or other document, and accounting terms partly defined in this Agreement or in any such certificate or other document to the extent not defined, will have the respective meanings given to them under GAAP. To the extent that the definitions of accounting terms in this Agreement or in any such certificate or other document are inconsistent with the meanings of such terms under GAAP, the definitions contained in this Agreement or in any such certificate or other document will control.

Article II

THE COMPANY

Section 2.1 Continuation of Limited Liability Company.

The Initial Class A Member is hereby admitted as a Class A Member of the Company and the Initial Class B Member is hereby admitted as a Class B Member. The parties hereto hereby continue the Company, which was formed as a Delaware limited liability company by the filing of the Delaware Certificate pursuant to the Act. The rights and obligations of the Members shall be as provided in the Act, except as otherwise expressly provided herein. The Manager shall from time to time execute or cause to be executed all such certificates, instruments and other documents, and cause to be done all such filings and other actions, as the Manager may deem necessary or appropriate to operate, continue, or terminate the Company as a limited liability company under the laws of the State of Delaware and to qualify the Company to do business in all jurisdictions other than the State of Delaware in which the Company conducts or proposes to conduct business and in any other jurisdiction where such qualification is necessary or appropriate.

Section 2.2 Name.

The name of the Company is, and the business of the Company shall continue to be conducted under the name of, "NRG RPV HOLDCO 1 LLC" or such other name or names as the Manager may designate from time to time, with the Consent of the Members. The Manager shall take any action that it determines is required to comply with the Act, assumed name act, fictitious name act, or similar statute in effect in each jurisdiction or political subdivision in which the Company conducts or proposes to conduct business and the Members agree to execute any documents reasonably requested by the Manager in connection with any such action.

Section 2.3 Principal Office.

The Company shall maintain a principal office at 211 Carnegie Center, Princeton, NJ 08540. The Manager may change the principal office of the Company from time to time upon prior written notice to the Members. The Manager shall maintain all records of the Company at its principal office or such location designated by the Manager in a notice to the Members.

Section 2.4 Registered Office; Registered Agent.

The name of the registered agent of the Company in the State of Delaware is CT Corporation System. The address of the Company's registered office in the State of Delaware is at Corporation Trust Center, 1209 Orange Street, Wilmington, DE 19801.

Section 2.5 Purposes.

The purpose of the Company is to directly or indirectly (a) own the Intermediate Companies and the Fund Companies (collectively, the "**Subject Companies**") that may (i) own, finance, lease, occupy, equip, test, operate, maintain and repair the Projects for the purpose of

producing electricity and RECs and (ii) sell electricity produced by the Projects and to sell RECs generated from the Projects; (b) enter into, comply with and perform its obligations and enforce its rights under this Agreement and each other Investment Document to which it is a party and to cause each Subject Company to comply with, and perform its obligations and enforce its rights under each Fund Document and each other Project Document to which such Subject Company is a party; and (c) engage in and perform any and all activities necessary, incidental, related or appropriate to accomplish the foregoing that may be engaged in by a limited liability company formed under the Act. The Company shall not engage in any activity or own any Assets that are not directly related to the Company's purpose as set forth in the first sentence of this Section 2.5.

Section 2.6 Term.

The Company was formed on January 22,2015, and shall continue in existence until dissolved and terminated in accordance with this Agreement or the Act.

Section 2.7 Title to Property.

Title to Company Assets, whether tangible or intangible, shall be held in the name of the Company, and no Member, individually, shall have title to or any interest in such property by reason of being a Member. Membership Interests of each Member shall be personal property for all purposes.

Section 2.8 Units; Certificates of Membership Interest; Applicability of Article 8 of UCC.

Membership Interests shall be represented by Units, divided into Class A Units (in the case of Class A Interest) and Class B Units (in the case of Class B Interest). The Membership Interests represented by Class A Units and Class B Units shall have the respective rights, powers and preferences ascribed to Class A Units and Class B Units in this Agreement. The class of Membership Interest of a Member shall be as provided in Annex I. The Members hereby specify, acknowledge and agree that all Units (and the Membership Interests represented thereby) are securities governed by Article 8 and all other provisions of the Uniform Commercial Code, and pursuant to the terms of Section 8-103(c) of the Uniform Commercial Code, such interests shall be "certificated securities" for all purposes under such Article 8 and under all other provisions of the Uniform Commercial Code. All Units (and the Membership Interests represented thereby) shall be represented by certificates substantially in the form attached hereto as Exhibit B, shall be recorded in a register (the "**Register**") thereof maintained by the Company, and shall be subject to such rules for the issuance thereof in compliance with this Agreement and applicable Law.

Section 2.9 No Partnership.

The Members intend that the Company not be a partnership (including a limited partnership) or joint venture, and that no Member be a partner or joint venturer of any other Member, for any purposes other than tax purposes, and this Agreement may not be construed to suggest otherwise.

Article III

CAPITAL CONTRIBUTIONS

Section 3.1 Class A Interest.

On the Effective Date, the Class A Member has made its Initial Capital Contribution in cash in exchange for its Class A Units in an amount set forth in Annex I, which Class A Units comprise one hundred percent (100%) of the Class A Interest. Each Class A Member shall be entitled to the allocations, distributions and other rights as are prescribed for a Class A Member in this Agreement. Each Class A Member's Capital Account balance as of the Effective Date with respect to its Class A Interest is as indicated on Annex I. The number of Class A Units held by each Class A Member with respect to its Class A Interest as of the Effective Date is the number indicated on Annex I.

Section 3.2 Class B Interest.

On the Effective Date, the Class B Member has made its Class B Initial Capital Contribution in cash in exchange for its Class B Units in an amount set forth in Annex I, which Class B Units comprise one hundred percent (100%) of the Class B Interest. Each Class B Member shall be entitled to the allocations, distributions and other rights as are prescribed for a Class B Member in this Agreement. Each Class B Member's Capital Account balance as of the Effective Date with respect to its Class B Interest is as indicated on Annex I. The number of Class B Units held by each Class B Member with respect to its Class B Interest as of the Effective Date is the number indicated on Annex I.

Section 3.3 Other Required Capital Contributions.

(a) Except as provided in this Section 3.3, Section 3.1, Section 3.2 and Section 12.3, no Member shall be obligated to make Capital Contributions.

(b) Immediately upon receipt of (i) the presentation made to a Fund Company of a tranche of Projects for purchase, (ii) a formal capital contribution request from a Fund Company with respect to a tranche of Projects, that in either case sets forth an amount of capital contributions that will be required from the members of such Fund Company and a date by which contributions to a Fund Company must be made or (iii) any notice delivered to the Company in connection with a Contribution Event pursuant to Section 3.3(e), the Manager shall deliver to the Members a request for Capital Contributions (the "**Capital Contribution Request**"), consisting of, with respect to clauses 3.3(b)(i) and (ii), (A) the amount of capital that a Fund Company or other Subject Company requires (the "**Capital Call Amount**"), (B) a reasonably detailed explanation of the intended use of such capital by the Company and each applicable Subject Company, (C) the Fund Base Case Model used to calculate the Capital Contributions being requested, (D) the Equity Capital Contribution Date when the requested Capital Contributions must be made, which shall be the same date as the capital contributions are required by the underlying Fund Company, if applicable, and otherwise shall be at least ten (10) days following delivery of the Capital Contribution Request, (E)

the Class A Capital Contribution Amount, as determined in accordance with Section 3.3(c), and (F) the Class B Capital Contribution Amount, as determined in accordance with Section 3.3(d).

(c) On each Equity Capital Contribution Date other than with respect to a Contribution Event, the Class A Members shall each make a Capital Contribution in cash equal to the percentage of the Capital Call Amount required so that each Class A Member is projected to achieve the Target IRR on the Target Flip Date (the "**Class A Capital Contribution Amount**"), as determined pursuant to the applicable Fund Base Case Model.

(d) On each Equity Capital Contribution Date other than with respect to a Contribution Event, the Class B Members shall make a Capital Contribution (if more than one, then *pro rata* in accordance with their Class B Units) in cash equal to the Capital Call Amount *minus* the Class A Capital Contribution Amount (the "**Class B Capital Contribution Amount**"), as determined pursuant to the applicable Fund Base Case Model.

(e) In addition to the Capital Contributions contemplated by Section 3.3(b), the Manager may (or, in the case of clause (iv), shall) request from the Members, and the Members shall be obligated to make, as applicable, Capital Contributions to fund (i) the purchase price of an Accepted Acquisition, (ii) a Fund Company Put Event, (iii) a Fund Company Call Event approved in accordance with Section 6.3 or (iv) a Member Contribution Event (each a "**Contribution Event**"), in each case, by delivering a Capital Contribution Request to the applicable Member(s) (with a copy to the other Members) in accordance with the time requirements of Section 3.3(b), consisting of (A) a detailed explanation of the Contribution Event and the total capital required from the Company in connection therewith, (B) the amount of such Capital Contribution requested of each such Member, and (C) all notices and other documentary evidence received by the Intermediate Company in connection with such Contribution Event. In the case of an Accepted Acquisition, the Manager shall determine the Members' respective Capital Contribution amounts in accordance with Section 3.3(c) and Section 3.3(d) respectively, except that the Aggregate Tracking Model will be used instead of the Fund Base Case Model. In the event that a Contribution Event other than a Member Contribution Event occurs following the Investment Period, the Capital Contribution to be made by each Member shall be the applicable Capital Call Amount multiplied by such Member's Post Investment Period Contribution Percentage.

(f) Notwithstanding anything herein to the contrary, but subject to the Class A Members' obligation to make further Capital Contributions in connection with a Contribution Event if and as required by this Agreement, (i) in no event shall the Class A Members be obligated to make Capital Contributions to the Company that in the aggregate exceed the Class A Member Capital Contribution Commitment or if the credit profile of the tranche of projects intended to be funded by the Capital Contributions is substantially different than the Fund Credit Profile defined in the applicable Fund Addendum (as determined by the Class A Members in their reasonable discretion) and (ii) the obligation of the Class A Members under this Section 3.3 with respect to the acquisition of Projects by a Fund Company are subject to receipt by the Class A Members of evidence satisfactory to them that the Investor Member under any applicable Fund Documents has agreed to make its required capital contribution pursuant to the terms of the Fund Documents. If the Class A Members do not fund any portion of the Capital Contribution requested of them contained in a

Capital Contribution Request because such amount exceeds Class A Member Capital Contribution Commitment, then, in addition to funding such shortfall amount as a Member Loan pursuant to Section 3.4 below, the Class B Members may fund such shortfall as a Capital Contribution (if more than one Class B Member desires to do so, then *pro rata* in accordance with their Class B Units), and the Members shall work together in good faith to adjust to the allocations under Section 4.1 and the distributions under Section 5.1 to reflect such increased Capital Contributions made by the Class B Members.

(g) If any Member disputes the amount of its Capital Contribution set forth in a Capital Contribution Request, then such Member shall immediately deliver notice to the other Members and the Manager and all Members and the Manager shall, within three (3) Business Days, meet in good faith to resolve any discrepancies causing such dispute and if they are not able to resolve such dispute, then such matter will be handled pursuant to the dispute resolution mechanisms set forth in Section 10.3.

Section 3.4 Member Loans.

(a) In the event that, from time to time after the Effective Date, additional working capital is needed to enable the Company to cause the Assets of the Company and any Subject Company to be properly operated and maintained (and to pay and perform the costs, expenses, obligations and liabilities of the Company or any Subject Company), but not in connection with a Contribution Event, then, at the discretion of the Manager, the Manager may give notice to the Members thereof (the "**Working Capital Notice**"), and each Member shall have the right (but not the obligation) to advance all or part of the needed funds to the Company. Within ten (10) Business Days following the date of the Working Capital Notice, the participating Members shall give notice to the Manager and the other Members stating their election whether to provide such funding to the Company (the "**Funding Notice**"). If more than one Member states in the Funding Notice that it elects to provide such funds, then each Member shall provide an equal amount of funds (or such other amount as the Members decide) to the Company within five (5) Business Days after the date of the Funding Notice. Amounts advanced by any Member pursuant to this Section 3.3(g) shall be considered "**Member Loans**".

(b) Any Member Loan shall be unsecured and shall bear interest at a rate equal to the lesser of (A) the Reference Rate *plus* four percent (4%) or (B) the highest rate of interest that may be charged by a Member in accordance with applicable Law, unless a lower rate of interest is otherwise agreed to by such Member in its sole discretion. Member Loans shall be repaid by the Company out of Available Cash Flow in accordance with the provisions of Section 5.1(b). Interest on each Member Loan pursuant to this Section 3.4 shall accrue and, if not paid in accordance with the immediately preceding sentence of this Section 3.4(b), be compounded to the principal amount thereof on each Distribution Date.

Section 3.5 No Right to Return of Capital Contributions.

Except as otherwise provided in this Agreement, no Member may require a return of any part of its Capital Contributions or the payment of interest thereon from the Company or from another Member. An unrepaid Capital Contribution is not a liability of the Company or any Member.

Article IV

CAPITAL ACCOUNTS; ALLOCATIONS

Section 4.1 Capital Accounts.

(a) The Company shall maintain for each Member a separate Capital Account in accordance with the rules of Treasury Regulations Section 1.704-l(b)(2)(iv).

(b) A Member's Capital Account will be increased by (i) such Member's Capital Contributions, (ii) the income and gain the Member is allocated by the Company, including any income and gain that is exempted from tax and including any income and gain described in Treasury Regulations Section 1.704-1(b)(2)(iv)(g), but excluding tax items of income and gain described in Treasury Regulations Section 1.704-1(b)(4)(i), and (iii) an amount equal to an allocation of upward basis adjustment to such Member as a result of a Recapture of ITCs as described in Treasury Regulations Section 1.704-1(b)(2)(iv)(j). A Member's Capital Account will be decreased by (i) the amount of money distributed to the Member by the Company, (ii) the net value of any property other than money distributed to the Member by the Company (*i.e.*, the fair market value of the property net of any liabilities secured by the property that the Member is considered to assume or take subject to under Section 752 of the Code), (iii) any expenditures of the Company described in Section 705(a)(2)(B) of the Code (*i.e.*, that cannot be capitalized or deducted in computing taxable income) that are allocated to the Member, (iv) losses and deductions that are allocated to the Member, but excluding tax items of loss or deduction described in Treasury Regulations Section 1.704-1(b)(4)(i), and (v) an amount equal to an allocation of downward basis adjustment to such Member as described in Treasury Regulations Section 1.704-1(b)(2)(iv)(j).

(c) In the event Units are Transferred in accordance with the terms of this Agreement, the Transferee shall succeed to the Capital Account of the Transferring Member to the extent it relates to the Units so Transferred.

(d) In determining the amount of any liability for purposes of Section 4.2(b) there shall be taken into account Code Section 752(c) and any other applicable provisions of the Code and Treasury Regulations.

(e) The Members' Initial Capital Contributions and initial Capital Accounts are set forth on Annex I.

(f) This Section 4.1 and the other provisions of this Agreement relating to the maintenance of Capital Accounts are intended to comply with Treasury Regulations Section 1.704-1(b), and shall be interpreted and applied in a manner consistent with such Treasury Regulations.

Section 4.2 Allocations.

For purposes of maintaining Capital Accounts, all Company Items, which, for the avoidance of doubt, shall be separately determined for each Project, for any Taxable Year shall be allocated among the Members as follows:

(h) General Allocations. Subject to Section 4.2(b) through Section 4.2(c), Section 4.3 and Section 12.2(a)(iv), all Company Items attributable to each Project for any Taxable Year or relevant portion thereof shall be allocated among the Members as follows:

(i) *first*, from and after the Effective Date and through the Flip Date, ninety-five percent (95%) to the Class A Members, *pro rata* in accordance with their Class A Units, and five percent (5%) to the Class B Members, *pro rata* in accordance with their Class B Units; and

(ii) *thereafter*, five percent (5%) to the Class A Members, *pro rata* in accordance with their Class A Units, and ninety-five percent (95%) to the Class B Members, *pro rata* in accordance with their Class B Units.

Notwithstanding the foregoing, if a Class A Member would have a deficit in its Capital Account balance as of the end of any Taxable Year ending on or after the Flip Date, income and gain of the Company (but not loss or deductions of the Company) shall be allocated ninety-nine percent (99%) to the Class A Members, pro rata among the Class A Members in accordance with the deficit in its Capital Account balances in excess of the amount such Class A Member is deemed obligated to restore pursuant to the penultimate sentences of Treasury Regulations Section 1.704-2(g)(1) and 1.704-2(i)(5), and one percent (1%) to the Class B Members, in accordance with their Class B Units, until each Class A Member's deficit Capital Account balance is not in excess of the amounts that such Class A Member is deemed obligated to restore (any such allocations, a "**Special DRO Allocation**").

(i) Items in Connection with Liquidation. Company Items for the Taxable Year in which there is a disposition or deemed disposition of all or substantially all of the Assets of the Company pursuant to Section 12.2(a)(iii) shall be allocated pursuant to Section 12.2(a)(iv).

(j) RECs. Prior to the Flip Date, and subject to Section 4.2(b), (x) each Company Item that is realized in respect of RECs that are Contracted RECs for any Taxable Year shall be allocated ninety-five percent (95%) to the Class A Members, *pro rata* in accordance with their Class A Units, and five percent (5%) to the Class B Members, *pro rata* in accordance with their Class B Units, and (y) each Company Item that is realized in respect of Uncontracted RECs for any Taxable Year shall be allocated ninety-five percent (95%) to the Class B Members, *pro rata* in accordance with their Class B Units, and five percent (5%) to the Class A Members, *pro rata* in accordance with their Class A Units. Following the Flip Date, and subject to Section 4.2(b), each

Company Item that is realized in respect of RECs that are Contracted RECs or Uncontracted RECs for any Taxable Year shall be allocated ninety-five percent (95%) to the Class B Members, *pro rata* in accordance with their Class B Units, and five percent (5%) to the Class A Members, *pro rata* in accordance with their Class A Units; *provided, however*, that if the Class B Members provide the notice described in Section 5.1(c) hereof, then all Company Items realized in respect of the Uncontracted RECs shall be allocated ninety-five percent (95%) to the Class A Members and five percent (5%) to the Class B Members.

Section 4.3 Adjustments.

The following adjustments shall be made to the allocations set forth in Section 4.2 in the following order of priority in order to comply with Treasury Regulations Sections 1.704-1 (b) and 1.704-2:

(c) Company Minimum Gain Chargeback. Notwithstanding the other provisions of this Article IV, except as provided in Treasury Regulations Section 1.704-2(f), if there is a net decrease in Company Minimum Gain during any taxable year of the Company, each Member shall be allocated Company Items of income and gain for such taxable year (and, if necessary subsequent taxable years) in an amount equal to such Member's share of the net decrease in Company Minimum Gain, determined in accordance with Treasury Regulations Section 1.704-2(g). Allocations pursuant to the previous sentence shall be made in proportion to the respective amounts required to be allocated to each Member pursuant thereto. The Company Items to be so allocated shall be determined in accordance with Treasury Regulations Sections 1.704-2(f)(6) and 1.704-2(j)(2). This Section 4.3(a) is intended to comply with the minimum gain chargeback requirement in Treasury Regulations Section 1.704-2(f) and shall be interpreted consistently therewith.

(d) Chargeback of Minimum Gain Attributable to Member Nonrecourse Debt. Notwithstanding the other provisions of this Article IV, except as provided in Treasury Regulations Section 1.704-2(i)(4), if there is a net decrease in Member Nonrecourse Debt Minimum Gain attributable to a Member Nonrecourse Debt during any taxable year of the Company, each Member who has a share of the Member Nonrecourse Debt Minimum Gain attributable to such Member Nonrecourse Debt, determined in accordance with Treasury Regulations Section 1.704-2(i)(5), shall be allocated Company Items of income and gain for such taxable year (and, if necessary, subsequent taxable year) in an amount equal to such Member's share of the net decrease in Member Nonrecourse Debt, determined in accordance with Treasury Regulations Section 1.704-2(i)(4). Allocations pursuant to the previous sentence shall be made in proportion to the respective amounts required to be allocated to each Member pursuant thereto. The Company Items to be so allocated shall be determined in accordance with Treasury Regulations Sections 1.704-2(i)(4) and 1.704-2 (j)(2). This Section 4.3(b) is intended to comply with the partner nonrecourse debt minimum gain chargeback requirement in Treasury Regulations Section 1.704-2(i)(4) and shall be interpreted consistently therewith.

(e) Limitation on Losses and Deductions. No items of loss or deduction may be allocated to any Member to the extent the allocation would result in or increase an Adjusted Capital Account Deficit at the end of any Taxable Year. In the event some but not all of the Members would have Adjusted Capital Account Deficits as a consequence of an allocation of items of loss or deduction, this limitation shall be applied on a Member-by-Member basis and items of loss or deduction not allocable to any Member as a result of such limitation shall be allocated to the other Members in the manner otherwise required pursuant to Section 4.2 and Section 12.2(a)(iv) to the extent such other Members may be allocated such items of loss or deduction without producing an Adjusted Capital Account Deficit.

(f) Qualified Income Offset. In the event any Member unexpectedly receives any adjustments, allocations or distributions described in Treasury Regulations Sections 1.704-1(b)(2)(ii)(d)(4), (5) or (6), Company Items of income and gain shall be allocated to such Member in an amount and manner sufficient to eliminate as quickly as possible, to the extent required by the Treasury Regulations, any Adjusted Capital Account Deficit; *provided* that an allocation pursuant to this Section 4.3(d) shall be made only if and to the extent that such Member would have such a deficit Capital Account after all other adjustments provided for in this Section 4.3 have been tentatively made as if this Section 4.3(d) were not in this Agreement.

(g) Gross Income Allocation. In the event any Member has a deficit Capital Account at the end of any Taxable Year that is in excess of the amount such Member is deemed obligated to restore pursuant to the penultimate sentences of Treasury Regulations Sections 1.704-2(g)(1) and 1.704-2(i)(5), each such Member shall be specially allocated Company Items of income and gain in the amount of such excess as quickly as possible; *provided* that an allocation pursuant to this Section 4.3(e) shall be made only if and to the extent that such Member would have a deficit Capital Account in excess of such sum after all other special allocations provided for in this Section 4.3 have been made as if Section 4.3(d) and this Section 4.3(e) were not in this Agreement.

(h) Section 754 Adjustments. To the extent an adjustment to the adjusted tax basis of any Company Asset pursuant to Code Section 734(b) or Section 743(b) is required pursuant to Treasury Regulations Section 1.704-1(b)(2)(iv)(m)(2) or Section 1.704-1(b)(2)(iv)(m)(4) to be taken into account in determining Capital Accounts as the result of a distribution to a Member in complete liquidation of such Member's interest in the Company or a distribution to a Member other than in complete liquidation of such Member's interest in the Company, the amount of such adjustment to Capital Accounts shall be treated as an item of gain (if the adjustment increases the basis of the Asset) or loss (if the adjustment decreases such basis). Such gain or loss shall be specially allocated to the Members as follows: (A) to the Member to whom such distribution was made in the event the first sentence of Treasury Regulations Section 1.704-1(b)(2)(iv)(m)(4) applies; (B) in accordance with how the corresponding item of "displaced" gain or loss would be allocated to the Members pursuant to Section 4.2 to the extent the second sentence of Treasury Regulations Section 1.704-1(b)(2)(iv)(m)(4) applies; and (C) in accordance with the Members' "interests in the Company" under Treasury Regulations Section 1.704-1(b)(3) in the event Treasury Regulations Section 1.704-1(b)(2)(iv)(m)(2) applies.

(i) Nonrecourse Deductions. Nonrecourse Deductions for any Taxable Year shall be allocated to the Members in accordance with (i) Section 4.2, as in effect at the time the Nonrecourse Deduction arises, or (ii) if applicable, Section 12.2(a)(iv), as in effect at the time the Nonrecourse Deduction arises.

(j) Member Nonrecourse Deductions. Any Member Nonrecourse Deductions for any Taxable Year shall be allocated to the Member who bears the economic risk of loss with respect to the Member Nonrecourse Debt to which such Member Nonrecourse Deductions are attributable in accordance with Treasury Regulations Section 1.704-2(i)(1).

(k) Regulatory Allocations. The allocations required in Section 4.3(a) through Section 4.3(h) (the "**Regulatory Allocations**") are intended to comply with certain requirements

of the Treasury Regulations. It is the intent of the Members that, to the extent consistent with the Treasury Regulations, all Regulatory Allocations shall be offset either with other Regulatory Allocations or with allocations of other Company Items. Therefore, notwithstanding any other provisions of this Article IV, the Regulatory Allocations shall be taken into account in allocating other Company Items among the Members such that, to the extent consistent with the Treasury Regulations, the net amount of allocations of such items and the Regulatory Allocations to each Member shall be equal to the net amount that would have been allocated to each Member if the Regulatory Allocations had not occurred and all Company Items were allocated pursuant to Section 4.2, this Section 4.3 (excluding the Regulatory Allocations) and this Section 4.3(i) and Section 12.2(a)(iv).

Section 4.4 Tax Allocations.

(a) Except as otherwise provided in this Section 4.4, for federal, state and local income tax purposes each item of the Company's income, gain, loss, deduction and credit as determined for federal income tax purposes shall be allocated to the Members in the same manner as the correlative Company Items are allocated for book purposes pursuant to Section 4.2, Section 4.3 and Section 12.2(a)(iv).

(b) In accordance with Code Section 704(c) and the Treasury Regulations thereunder, items of the Company's income, gain, loss, deduction and credit as determined for federal income tax purposes that are attributable to any non-cash property contributed to the capital of the Company shall, solely for tax purposes, be allocated among the Members so as to take account of any variation between the adjusted basis of such property to the Company for federal income tax purposes and its initial Value using the "remedial" method permitted by Treasury Regulations Section 1.704-3(d).

(c) In the event the Value of any Company Asset is adjusted pursuant to subparagraph (b) of the definition of Value, subsequent allocations of Company Items with respect to such Asset shall take account of any variation between the adjusted basis of such Asset for federal income tax purposes and its Value in the same manner as under Code Section 704(c) and the Treasury Regulations thereunder.

(d) Allocations pursuant to this Section 4.4 are solely for federal, state, and local income taxes and shall not affect, or in any way be taken into account in computing, any Member's Capital Account or distributive share of Company Items or distributions pursuant to any provision of this Agreement.

Section 4.5 Other Allocation Rules.

(a) The Members are aware of the income tax consequences of the allocations made by this Article IV and Section 12.2(a) and hereby agree to be bound by the provisions of this Article IV and by Section 12.2(a) in reporting their distributive shares of Company Items for income tax purposes, unless otherwise required by applicable Law. If the respective Membership Interests or allocation ratios described in this Article IV of the existing Members in the Company change or if a Membership Interest is Transferred in compliance with this Agreement to any other Person,

then, for the Taxable Year in which the change or Transfer occurs, all Company Items resulting from the operations of the Company shall be allocated, as between the Members for the Taxable Year in which the change occurs or between the Transferring Member and the Transferee, by taking into account their varying interests using the interim closing of the books method permitted by Treasury Regulations Section 1.706-1(c)(2)(ii), unless otherwise agreed in writing by all the Members.

(b) The Members agree that solely for purposes of determining a Member's proportionate share of the "excess nonrecourse liabilities" of the Company within the meaning of Treasury Regulations Section 1.752-3(a)(3), the Members' interests in Company profits are in accordance with Section 4.2 as in effect at the time the excess nonrecourse liability arises.

(c) Each Member agrees to provide the Company with information in connection with a transaction subject to Sections 734 and 743 of the Code and the elections permitted and provisions required thereunder, including Treasury Regulations Section 1.743-1.

Article V

DISTRIBUTIONS

Section 5.1 Distributions of Available Cash Flow.

Available Cash Flow shall be distributed to the Members as follows:

(k) Subject to Section 5.1(b), (c) and (d) from and after the Effective Date, Available Cash Flow shall be distributed to the Members on each Distribution Date on which the Company has Available Cash Flow, in the following order and priority:

(i) *first*, from and after the Effective Date until the Flip Date, ninety-five percent (95%) to the Class A Members, *pro rata* in accordance with their Class A Units, and five percent (5%) to the Class B Members, *pro rata* in accordance with their Class B Units;

(ii) *thereafter*, five percent (5%) to the Class A Members, *pro rata* in accordance with their Class A Units, and ninety-five percent (95%) to the Class B Members, *pro rata* in accordance with their Class B Units;

(l) Notwithstanding Section 5.1(a), on any Distribution Date on which there is an unpaid balance on any Member Loan made by a Member in accordance with Section 3.4, Available Cash Flow shall be distributed to the Members participating in such Member Loan on such Distribution Date in an amount not to exceed the outstanding balance of such Member Loan.

(m) Notwithstanding Section 5.1(a), all proceeds from the sale of Uncontracted RECs shall be distributed one hundred percent (100%) to the Class B Members; *provided*, that the Class B Members may, at any time and from time to time, deliver notice to the other Members and the Manager that any Uncontracted RECs should be included in Available Cash Flow to be distributed pursuant to Section 5.1(a) and thereafter all Uncontracted RECs specified in such notice shall be distributed pursuant to Section 5.1(a).

(n) Notwithstanding Section 5.1(a), if on any Distribution Date within a Taxable Year that begins on or after the Flip Date, the distributions of Available Cash Flow distributed to the Class A Member within that Taxable Year are not at least equal to the Tax Costs for the Class A Member to date for such Taxable Year, then a portion of the Available Cash Flow otherwise distributable to the Class B Member equal to that shortfall shall instead be distributed to the Class A Member.

Section 5.2 Limitation.

The distributions described in this Article V shall be made only from Available Cash Flow and only to the extent that there shall be sufficient Available Cash Flow to enable the Manager to make payments in accordance with the terms hereof. Notwithstanding any provision to the contrary contained in this Agreement, the Company shall not make a distribution to a Member on

account of its Membership Interest if such distribution (including a return of Capital Contributions) would violate the Act or any other applicable Law.

Section 5.3 Withholding.

Notwithstanding any other provision of this Agreement, the Company shall comply with any withholding requirements under any Law and shall remit amounts withheld to, and file required forms with, applicable taxing authorities. To the extent that the Company is required to withhold and pay over any amounts to any taxing authority with respect to distributions or allocations to any Member, the amount withheld shall be treated as a distribution of cash to such Member in the amount of such withholding. The Company shall notify the Member and permit the Member, if permitted by applicable Law, to contest the applicability of the underlying Tax prior to making such withholding, *provided* that the Company shall not incur any interest, penalties or additions to tax (unless the contesting Member shall have agreed to indemnify and hold harmless the Company for any such additional liabilities). If an amount required to be withheld was not withheld from an actual distribution, the Company may reduce subsequent distributions by the amount of such required withholding and any penalties or interest thereon. Each Member agrees to furnish to the Company such forms or other documentation as is reasonably necessary to assist the Company in determining the extent of, and in fulfilling, its withholding obligations.

Article VI

MANAGEMENT

Section 6.1 Manager.

(l) The Initial Class B Member is hereby appointed by the Members as the initial Manager of the Company. Except as provided in Section 6.2 or as otherwise expressly provided in this Agreement, the Manager shall conduct, direct and exercise control over all activities of the Company, and shall have full power and authority on behalf of the Company to manage and administer the business and affairs of the Company and to do or cause to be done any and all acts reasonably considered by the Manager to be necessary or appropriate to conduct the business of the Company (including, without limitation, taking all necessary actions to cause the Company to cause each Subject Company to perform its obligations and enforce its rights under the Project Documents to which it is a party and to otherwise carry out its purposes) without the need for approval by or any other consent from any Member, including the authority to bind the Company in making contracts and incurring obligations in the Company's name in the course of the Company's business. The Manager may delegate its management duties and obligations to third parties, including the Management Services Provider, or Officers but such delegation shall not relieve the Manager of its primary obligation with respect to such duties and obligations. Except to the extent that a Member is also the Manager or authority is delegated from the Manager, no Member shall have any authority to bind the Company. Without limiting the generality of the foregoing, the Manager shall (provided that, in each case as it relates to any Subject Company, only to the extent that the Company has (directly or indirectly) the authority to control the management of such Subject Company):

(i) in accordance with Article VIII hereof, keep and maintain books of account that are true and correct in all material respects and prepare and timely file all necessary tax returns and make all necessary or desirable tax elections for the Company and each Subject Company;

(ii) prepare and submit all filings of any nature that are required to be made by the Company and each Subject Company under any laws, regulations, ordinances or otherwise applicable to the Company, the Subject Companies or the Projects;

(iii) procure and maintain all Licenses and Permits (if any) required for the Company and the Subject Companies;

(iv) comply with the terms and conditions of the Investment Documents, the Project Documents, the Licenses and Permits and applicable Law;

(v) procure and maintain, or cause to be procured and maintained, all insurance required to be maintained pursuant to the Project Documents;

(vi) enforce the Company's and the Subject Companies' and any counterparty's compliance with the terms and conditions of all Contracts under which the Company or any Subject Company has any obligations or rights, including this Agreement and the Project Documents and ensure compliance with applicable Laws, including Environmental Laws, Anti-Corruption Laws and Laws relating to Sanctions;

(vii) manage the Company's and the Subject Companies' cash according to investment guidelines set forth in Section 8.5 and make distributions out of available cash as provided under the relevant provisions of this Agreement, the Fund Documents and the Subject Companies' organizational documents, including the prompt distribution of cash from the Subject Companies to the Company;

(viii) prepare and deliver all of the reports and other information set forth in Section 8.4; and

(ix) create and maintain the Register, including to reflect any Encumbrance on or Transfer of Membership Interests.

(m) In addition to the actions required pursuant to Section 6.1(a), and in no event in limitation thereof, the Manager shall provide the following services to the Company and the Subject Companies, as applicable (provided that, in each case as it relates to any Subject Company, only to the extent that the Company has (directly or indirectly) the authority to control the management of such Subject Company):

(i) Accounting Services. The Manager shall and/or shall cause the Master Services Provider to provide accounting and administrative support for all operations, including the following accounting services, to the Company and the Subject Companies, as applicable:

(A) preparation, filing, storage and dissemination of all necessary documentation of each such Person's actions and transactions as required by law, by the applicable Fund Documents (including all reporting required thereunder) and of all documentation reasonably deemed necessary or appropriate by the Manager;

(B) maintenance of accounting and tax records of each such Person's transactions in accordance with the accounting standards set forth in the applicable Fund Documents and this Agreement;

(C) facilitation of payment by the Company and each Subject Company of all reasonable expenses of the Company and such Subject Company in accordance with the applicable Fund Documents and this Agreement, as reflected in the annual budget for the Company and such Subject Company, or reasonably related thereto;

(D) preparation and distribution of all applicable financial reports, financial models and accompanying certificates in accordance with the applicable Fund Documents and this Agreement;

(E) preparation and distribution of an annual budget for the Subject Companies and as may be required by the Fund Documents and this Agreement (including Section 6.8 hereof);

(F) negotiation and administration of an engagement letter with the Certified Public Accountant for annual audit (if required) and tax return review services; and

(G) preparation, facilitation and / or distribution of all other reports, certificates, or transactional information or analysis as reasonably required by the Subject Companies.

(ii) Taxes. Subject to Article VIII and other more specific provisions of this Agreement and the related provisions contained in the Fund Documents, the Manager shall provide, or cause to be provided, the following tax services to the Company and the Subject Companies in accordance with its obligations required by the Fund Documents, as applicable (provided that, in each case as it relates to any Subject Company, only to the extent that the Company has (directly or indirectly) the authority to control the management of such Subject Company):

(A) preparation and timely filing of all applicable federal, state, local and / or other Tax returns, including income, franchise, excise, gross receipts, sales and use tax returns and / or reports in accordance with the terms and conditions of the Fund Documents and this Agreement, including the performance or coordination of any tax law research to support such filing;

(B) administration, invoicing and coordination of property taxes including preparation of all applicable business property tax returns; the review of any property tax assessment on the Projects; the review and timely payment of property tax bills; and administration of any property tax agreement, if applicable; and

(C) cause the Tax Matters Member to represent the Company, and cause the tax matters member of each Subject Company to represent such Subject Company, in any audit, examination, or review conducted by an appropriate taxing authority of any of the Company's or such Subject Company's federal, state, provincial, or local income, franchise, gross receipts, sales and use, or property tax filings.

(iii) Treasury Services. The Manager shall provide, or cause to be provided, the following treasury services, to the extent necessary, to the Company and the Subject Companies, as applicable (provided that, in each case as it relates to any Subject

Company, only to the extent that the Company has (directly or indirectly) the authority to control the management of such Subject Company):

(A) establishment, maintenance, and administration of one or more bank accounts in the name of the Company and the Subject Companies (with respect to the Subject Companies, if and as required) in which to deposit the Company's or the Subject Companies' receipts, and from which to draw upon for the payment of all reasonable expenses of the Company or the Subject Companies;

(B) investment and distribution of the Company and the Subject Companies' funds in association with reasonable and customary cash forecast and cash management practices and in accordance with the terms, conditions, and limitations of all applicable Fund Documents and this Agreement;

(C) maintenance and administration of any revolving lines of credit available to the Company or the Subject Companies subject to the terms and conditions of all applicable Fund Documents and this Agreement;

(D) maintenance and administration of any letters of credit issued by, on behalf of, or for the benefit of the Company or any Subject Company subject to the terms and conditions of all applicable Fund Documents and this Agreement;

(E) maintenance by the Manager of the Company's and the Subject Companies' relationships with its banks, bondholders, rating agencies and / or other financial institutions, and their respective legal counsels; and

(F) periodic maintenance and analysis of the Projects' long-term economic projections.

(iv) Legal. The Manager shall coordinate legal services, in the name of and on behalf of the Company and the Subject Companies for whom the Company has (directly or indirectly) management authority, as it deems necessary to ensure the proper administration and management of the Projects. In coordinating these legal services, the Manager will determine whether such legal services are to be performed by in-house legal staff (if at the time such legal services are performed during the term of this Agreement the Manager has in its employ any in-house legal staff), outside legal counsel, or any combination thereof.

(v) Insurance. If required under the Fund Documents or any of the other Project Documents, the Manager shall procure insurance coverage for, and in the name of, the Company and (to the extent the Company has (directly or indirectly) management authority for any Subject Company) shall cause the Subject Companies to procure, at the Company's or the Subject Companies' expense, as applicable, and shall enforce its rights to such insurance coverage, defense and indemnification; *provided*, *however*, that if any such insurance (after consultation with ta reputable insurance broker) is not available on

commercially reasonable terms only such insurance shall then be required to be carried pursuant to this Agreement as is then available on commercially reasonable terms.

(vi) Insurance Claims. The Manager shall adjust insurance claims of the Company and (to the extent the Company has (directly or indirectly) management authority for any Subject Company) the Subject Companies with insurance carriers, as applicable, to ensure equitable recovery for property damage and business interruption claims. Adjustment of such a claim shall include: (A) filing proof of loss with all applicable supporting documentation, (B) site inspection, (C) negotiations with insurance carriers, and (D) ensuring that insurance proceeds be deposited and distributed in accordance with the terms and conditions of this Agreement and the Project Documents. In the event of a liability claim, the Manager shall oversee the defense of the claim.

(vii) Indebtedness. During any such time during which any Company or (to the extent the Company has (directly or indirectly) management authority for any Subject Company) Subject Company Indebtedness remains outstanding, the Manager shall cause the Company and the applicable Subject Companies to:

(A) comply with the applicable financing documents, including, without limitation, by repaying such Indebtedness in the amounts and at the times required under such financing documents; and

(B) as soon as practicable following the occurrence or existence of a default or an event of default under any financing documents, use cash or reserves of the applicable Subject Company or, if such Subject Company does not have sufficient cash or reserves, cash or reserves of the Company, to effect (or make commercially reasonable efforts to effect) a cure (or request a waiver) of such a default or an event of default in accordance with the applicable financing documents. For the avoidance of doubt, any cash used by the Company to cure (or attempt to cure or waive) such default or event of default shall be an expense of the Company and shall not be Available Cash Flow available for distribution to the Members pursuant to Article V.

(viii) Anti-Corruption Laws and Sanctions. The Manager shall cause the Company to maintain in effect and enforce policies and procedures designed to ensure compliance by the Company and the Subject Companies, and their respective directors, officers, employees and agents, with Anti-Corruption Laws and applicable Sanctions. The Manager shall cause the Company and (to the extent the Company has (directly or indirectly) management authority for any Subject Company) the Subject Companies, and their respective directors, officers, employees and agents, not to use any Company or Subject Company funds (A) in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any Person in violation of any Anti-Corruption Laws, (B) for the purpose of funding, financing or facilitating any activities, business or transaction of or with any Sanctioned Person or in any Sanctioned Country or (C) in any manner that would result in the violation of any Sanctions.

For the avoidance of doubt, all services required to be performed by the Manager pursuant to this Section 6.1 shall be provided by the Manager at no cost or expense to the Company, except to the extent otherwise provided in this Agreement or the Approved Budget, including fees and expenses incurred pursuant to any subcontract entered into for the provision of such services in accordance with this Agreement.

(n) A Member shall not be deemed to be participating in the control of the business of the Company by virtue of its possessing or exercising any rights set forth in this Agreement or the Act or any other Contract relating to the Company.

Section 6.2 Standard of Care; Required Consents.

(e) In carrying out its duties hereunder, the Manager shall perform its duties and obligations hereunder in all material respects in accordance with the Project Documents, Licenses and Permits, applicable Laws, the purposes set forth in Section 2.5 and in accordance with the Good Management Standard.

(f) Notwithstanding any other provision of this Agreement to the contrary, the Manager may not take, or cause or permit the Company or (to the extent the Company has (directly or indirectly) management authority for any Subject Company) any Subject Company to take, any of the following actions without having first obtained the Consent of the Members, taking into account the best interests of the Company and the mutual benefit of its Members; *provided*, that following the Flip Date, the actions described in clauses (xi) (solely to the extent any such action would not adversely affect the rights of the Class A Members), (xiii), (xiv), (xvi), (xxii) and (xxvi) of this Section 6.2(b) shall not require the consent of the Class A Members:

(iii) Do any act in contravention of this Agreement or of the organizational documents of the Company or any Subject Company;

(iv) With respect to (A) the Company, engage in any business or activity that is not within the purpose of the Company, as set forth in Section 2.5, or to change such purpose, and (B) any Subject Company, engage in any business or activity that is not within the purpose of such Subject Company's organizational documents, or to change such purpose;

(v) Cause the Company to be treated other than as a partnership for tax purposes or cause any Subject Company listed to be treated other than as set forth in its Fund Documents, in each case for United States federal income tax purposes (including by electing under Treasury Regulations Section 301.7701‑3 to be classified as an association);

(vi) Permit (A) possession of property of the Company or any Subject Company by any Member (unless such action is taken pursuant to the express terms of any Fund Document), (B) the assignment, transfer, Encumbrance or pledge of rights of the Company or any Subject Company in specific property of the Company or any Subject Company for other than a Company or Subject Company purpose, as applicable, or other than for the benefit of the Company or such Subject Company, or (C) any commingling of the funds of the Company or any Subject Company with the funds of any other Person;

(vii) Amend the Delaware Certificate or the certificate of formation, certificate of incorporation or other formation document, as applicable, of any Subject Company, in any way that would be materially adverse to any Member;

(viii) Cause the Company or any Subject Company to be deemed Bankrupt, serve as one of the three (3) petitioning creditors in connection with an involuntary

bankruptcy petition against the Company or any Subject Company, cooperate with creditors in an effort to commence an involuntary bankruptcy petition, guarantee such creditors' claims, or take any action to encourage or assist in any way with the commencement of an involuntary bankruptcy petition against the Company or any Subject Company;

(ix) Make any distribution to any Member, except as specified in this Agreement;

(x) Repurchase, redeem or convert any membership interests in, or other securities of, the Company, except pursuant to the Purchase Option;

(xi) Enter into any loan, contract or agreement with any Affiliate of the Manager other than as permitted by this Agreement or to loan any funds of the Company or any Subject Company to any Person or make any advance payments of compensation or other consideration to the Manager or any of its Affiliates;

(xii) Borrow any money in the name or on behalf of the Company or any Subject Company, as applicable, in excess of $1,000,000 in the aggregate, or execute and issue promissory notes and other negotiable or non-negotiable instruments and evidences of indebtedness in excess of $1,000,000 in the aggregate, except the Manager may borrow, or cause the Company or any Subject Company to borrow money in the name and on behalf of the Company or such Subject Company, as applicable, in such amounts as the Manager shall reasonably determine are necessary: (A) to preserve and protect the Company's or such Subject Company's property upon the occurrence of an accident, catastrophe or similar event, or (B) in connection with exercise of the Purchase Option so long as such borrowing occurs simultaneously with the closing of such Purchase Option;

(xiii) Mortgage, pledge, assign in trust or otherwise encumber any Company or Subject Company property, or assign any monies owing or to be owing to the Company or any Subject Company except: (A) to secure the payment of any borrowing permitted hereunder, (B) for customary liens contained in or arising under any operating agreements, construction contracts and similar agreements executed by or binding on the Company or such Subject Company with respect to amounts not yet due or not yet delinquent (or, if delinquent, that are being contested by the Manager, the Company or such Subject Company in good faith and for which adequate reserves have been set aside in accordance with GAAP), or (C) for statutory liens for amounts not yet due or not yet delinquent (or, if delinquent, that are being contested by the Manager, the Company or such Subject Company in good faith and for which adequate reserves have been set aside in accordance with GAAP); *provided*, that in no event shall the Manager mortgage, pledge, assign in trust or otherwise encumber the Company's right to receive Capital Contributions from the Members;

(xiv) Sell, lease, transfer, assign or distribute any interest in (A) any Subject Company or any Project or (B) any Asset or related group of Assets with a fair market value in excess of $2,000,000 *per annum* and $10,000,000 in the aggregate in one or a related series of transactions, except for (1) the sale of energy, (2) the sale of RECs or (3) otherwise

in the ordinary course of the Subject Companies' business and in accordance with the applicable Project Documents;

(xv) Guarantee in the name or on behalf of the Company or any Subject Company, the payment of money or the performance of any contract or other obligation of any Person except, with respect to the Fund Documents, for responsibilities customarily assumed under operating agreements considered standard in the solar power industry;

(xvi) Amend the Approved Budget to increase projected expenditures or expend funds in excess of the Approved Budget for any Fiscal Year, except for (A) amendments or expenditures that do not increase the aggregate spending under the Approved Budget above one hundred ten percent (110%) of the aggregate expense amount reflected in the Approved Budget for the Fiscal Year, (B) with respect to any Subject Company, expenditures that, after taking into account amounts theretofore paid in such Fiscal Year, do not exceed twenty percent (20%) of the amount budgeted to be expended in such Fiscal Year in the Approved Budget for such Subject Company, (C) expenditures required to be made under Fund Documents and (D) in connection with the Accepted Acquisition of a new Fund Company in accordance with Section 6.3;

(xvii) Merge or consolidate the Company or any Subject Company with any Member or other Person or entity, convert the Company or any Subject Company to a general partnership or other entity, or agree to an exchange of interests with any other Person, or acquire all or substantially all of the assets, stock or interests of any other Person other than the Accepted Acquisition of a new Fund Company in accordance with Section 6.3;

(xviii) Compromise or settle any lawsuit, administrative matter or other dispute where the amount the Company or any Subject Company may recover or might be obligated to pay, as applicable, is in excess of $1,000,000 in the aggregate, or which includes consent to the award of an injunction, specific performance or other equitable relief;

(xix) Admit any additional Member to the Company except as permitted under Article IX hereof, cause any additional member to be admitted to any Subject Company except in accordance with such Subject Company's operating agreement, or otherwise issue, or permit the issuance of, any additional membership interests in the Company or any Subject Company except in accordance with such Subject Company's operating agreement; *provided* that the Manager may not permit the issuance of additional Class A Units at any time during the term of this Agreement without having first obtained the Consent of the Class A Members;

(xx) (A) Hire any employees, enter into or adopt any bonus, profit sharing, thrift, compensation, option, pension, retirement, savings, welfare, deferred compensation, employment, termination, severance or other employee benefit plan, agreement, trust, fund, policy or arrangement for the benefit or welfare of any directors, officers or employees of the Company or any Subject Company, as the case may be or (B) transfer any Company or Subject Company Assets to satisfy any liabilities of any Class B Member or its Affiliates arising from ERISA;

(xxi) Change the Company's or any Subject Company's methods of accounting as in effect on the Effective Date, except as required by GAAP, or take any action, other than reasonable and usual actions in the ordinary course of business or specifically contemplated under the Fund Documents to which it is a party, with respect to accounting policies or procedures, unless required by GAAP;

(xxii) Take any action that would result in a material breach or an event of default, or that would permit or result in the acceleration of any obligation or termination of any right, under any Fund Document, which acceleration or termination would cause a Subject Company Material Adverse Effect.

(xxiii) Enter into: (A) any amendment, modification, waiver or termination of a Fund Document or any Licenses or Permits that could reasonably be expected to have a Subject Company Material Adverse Effect, (B) any substitution or replacement of any Fund Document that could reasonably be expected to have a Subject Company Material Adverse Effect, (C) any Additional Project Document not contemplated by the then current Approved Budget or that could reasonably be expected to have a Subject Company Material Adverse Effect; or (D) any new agreement with an Affiliate other than in accordance with this Agreement or amend any economic provision or otherwise materially amend any existing contract with an Affiliate;

(xxiv) Remove the Master Services Provider or appoint a new Person to act in a similar capacity to the Master Services Provider or consent to or allow the assignment by the Master Services Provider of the Master Services Agreement or any of its rights or obligations thereunder, other than to an Affiliate;

(xxv) Cause an Intermediate Company to make a capital contribution to a Fund Company to purchase Projects unless any applicable Fund Investor has committed to fund its respective portion of such purchase price upon satisfaction or waiver of all of the conditions precedent in favor of such Fund Investor;

(xxvi) Subject to Section 6.3(e), cause an Intermediate Company to exercise a purchase option pursuant to a Fund Company Call Event;

(xxvii) Cause the Company or cause the Company to cause any Subject Company to change its respective legal form, recapitalize, liquidate, wind up or dissolve (other than in accordance with this Agreement), or declare itself Bankrupt; or

(xxviii)Cause the Company or any Subject Company to hire legal advisors to act on such company's behalf; provided that all legal advisors currently used by such company as of the Effective Date are approved.

(g) Prior to the dissolution of the Company under the terms of this Agreement, the Manager shall devote such time and effort to the Company's business as may be necessary to adequately promote the interests of the Company and the mutual interests of the Members.

(h) With respect to any actions described in this Agreement that require the Consent of the Members (including, without limitation, those actions set forth in this Section 6.2), the Manager shall use commercially reasonable efforts to request such consent or approval from each Member no later than ten (10) Business Days prior to the proposed date for the taking of such action, and such request shall include, to the extent applicable, copies of all material documentation relating to the proposed action. The failure of any Member to deliver a response either approving or disapproving any action requiring the Consent of the Members within such ten (10) Business Day period shall be deemed such Member's consent to the proposed action.

Section 6.3 Fund Company Acquisitions; Fund Company Call Events.

(d) During the Investment Period, the Manager shall present each proposed Fund Company to the Members in accordance with Section 6.3(b) to obtain Consent of the Members to either (i) if such proposed Fund Company is a going concern and owns one or more Projects at the time of such acquisition, purchase such Fund Company or (ii) if such proposed Fund Company is a newly formed company that does not yet own any Projects at the time of such acquisition, cause the applicable Intermediate Company to acquire a membership interest in such Fund Company and enter into the Fund Documents with any applicable Fund Investor.

(e) In order to initiate the Company's investment in a proposed Fund Company, the Manager shall deliver to the Members a Fund Company Presentation Package for their review; *provided*, that such delivery will be considered an informal delivery unless and until a formal notice is sent by the Manager to the Members (a "**Fund Company Presentation Notice**") indicating that such delivery is intended to commence the Review Period set forth below. Following receipt of a Fund Company Presentation Notice, each Member shall respond in writing (each, an "**Investment Response Notice**") within thirty (30) days (the "**Review Period**") indicating whether it accepts (an "**Accepted Acquisition**") or rejects (a "**Rejected Acquisition**") such investment opportunity. A proposed investment shall automatically be treated as a Rejected Acquisition unless all Members deliver Investment Responses approving such acquisition prior to the expiration of the applicable Review Period.

(f) In the case of each Accepted Acquisition, the Members shall be deemed to have consented to the applicable Fund Documents and the Manager will (i) cause the applicable Intermediate Company to enter into the applicable Fund Documents to acquire interests in such Fund Company, (ii) coordinate with each Member any documents required to be executed by such Member in connection with such Accepted Acquisition, if any, including any guarantees required in connection therewith, (iii) the Members shall execute a Fund Addendum and (iv) deliver such Capital Contribution Notices to the Members as are required to fund such acquisition.

(g) If the proposed Fund Base Case Model and proposed amendments to the Approved Budget contained in the Fund Company Presentation Package in connection with a proposed acquisition of a Fund Company require an increase to the Class A Member Capital Contribution Commitment in connection with such acquisition and such acquisition becomes an Accepted Acquisition, then the Class A Member Capital Contribution Commitment shall be automatically increased as agreed to by the Members in connection with the modification of the Approved Budget in connection with such acquisition.

(h) In the event that a Fund Company Call Event arises, the Manager shall send notice to the Members together with a detailed explanation of the mechanics for such event in the applicable Fund Documents. Within five (5) Business Days following receipt of such notice, the Members shall meet to determine whether the Company should cause the Intermediate Company to purchase the applicable Fund Investor's membership interests (the "**Fund Investor Interests**") in such Fund Company; *provided*, that, if such decision is not required to be made under the Fund Documents until an appraisal of such Fund Investor Interests has been completed, then the Members may postpone such decision until such appraisal has been completed. If the Members agree to exercise the option pursuant to the Fund Company Call Event, then each Member's respective Capital Contributions will be determined in accordance with Section 3.3(e). If the Class A Members and the Class B Members cannot reach agreement with respect to exercising such option within the number of days required for such decision contained in the notice from the Manager (to be determined reasonably by the Manager in each case based on the required response period in the underlying Fund Documents), then the Class B Members shall have the right (but not the obligation), to be exercised within three (3) days]following the initial decision period contained in the Manager's notice, to cause the Intermediate Company to exercise such option to purchase the Fund Investor Interests conditioned on the Class B Members funding one hundred percent (100%) of the Capital Contributions required to consummate such purchase. If the Class B Members decline the opportunity to fund one hundred percent (100%) of the Capital Contributions required to consummate such purchase, then the Class A Members shall have the right (but not the obligation), to be exercised within three (3) days following the receipt of the Class B Members' response (or deemed response), to cause the Intermediate Company to exercise such option to purchase the Fund Investor Interests conditioned on the Class A Members funding one hundred percent (100%) of the Capital Contributions required to consummate such purchase. The failure of any Member to respond within the time periods set forth in this Section 6.3(e) shall be deemed such Member's rejection of such opportunity. Following any Member's delivery of notice that it has elected to fund one hundred percent (100%) of the Capital Contributions required to consummate the purchase of the Fund Investor Interests, the Members shall work together in good faith to adjust to the allocations under Section 4.1 and the distributions under Section 5.1 to reflect such increased Capital Contributions made by the Class B Members. If more than one (1) of any class of Member desires to exercise such option than any Members of such class purchasing such Fund Investor Interests shall do so pro rata in accordance with their respective number of Units.

Section 6.4 Removal and Election of Manager.

(a) The Manager shall not have a right to resign unless and until a successor manager is elected or appointed as specified under this Section 6.4 and assumes the obligations of the Manager under this Agreement. If the Manager so resigns, the resigning Manager shall reasonably cooperate with the Members and the replacement Manager to effect an orderly transition of responsibilities and duties to the replacement Manager. Such replacement Manager shall be elected by a majority vote of the Class B Members, subject to subparagraph (b) below.

(b) The Manager will be subject to removal as Manager by Consent of the Members (excluding any Member who is the Manager or an Affiliate of the Manager), if the Manager (in its capacity as Manager or its capacity as Tax Matters Member) (i) is proven to have engaged

in gross negligence, willful misconduct or fraud or (ii) is proven to have performed any action that is in breach or violation of this Agreement and that has or is reasonably expected to have a Portfolio Material Adverse Effect; *provided*, *however*, that in the case of this clause (ii), for any breach or violation other than a failure to make a cash distribution when due under this Agreement, the Manager shall have the opportunity to cure such breach or violation within thirty (30) days of receiving notice of such breach; *provided*, *further*, that if such breach cannot be cured within such period, and the Manager is proceeding with diligence to cure such breach, the 30-day cure period shall be extended by an additional sixty (60) days, for a total cure period of ninety (90) days; *provided*, *further*, that during such cure period the Manager may continue as the Manager (and Tax Matters Member). In addition, the Manager shall be removed automatically without further vote, action or notice by any Member in the event of a Bankruptcy of the Manager, the Tax Matters Member (if it is an Affiliate of the Manager) or any Member who is an Affiliate of the Manager, unless those Members who are not Affiliates of the Manager elect otherwise upon written notice.

(c) If the Manager is removed under subparagraph (b) above, the Consent of the Members (excluding any Member who is the Manager or an Affiliate of the Manager) shall be required to elect or appoint a successor Manager to succeed to all the rights, and to perform all of the obligations, set forth for the Manager hereunder. If the Manager is so removed, the removed Manager shall reasonably cooperate with the Members and the replacement Manager to effect an orderly transition of responsibilities and duties to the replacement Manager. The Person selected as the successor Manager shall be an entity that is experienced and reputable in operating solar facilities similar to the Projects and shall execute a counterpart to this Agreement.

Section 6.5 Indemnification and Exculpation.

(a) To the fullest extent permitted by Law, the Manager and its respective officers, directors, employees and agents shall be exculpated from, and the Company shall indemnify, from Available Cash Flow, such Persons from and against, all Damages any of them incur by reason of any act or omission performed or omitted by such Person in a manner reasonably believed to be consistent with its rights and obligations under Law and this Agreement; *provided*, *however*, that this indemnity does not apply to Damages that are attributable to the gross negligence, willful misconduct or fraud of such Person or a material breach by the Manager or any of its Affiliates of their respective covenants or representations set forth in any of the Investment Documents or any other Fund Document to which it is a party.

(b) To the fullest extent permitted by Law, reasonable and documented expenses to be incurred by an indemnified Person under this Section 6.5 shall, from time to time, be advanced by or on behalf of the Company, from Available Cash Flow, prior to the final disposition of any matter upon receipt by the Company of an undertaking from a Person with sufficient credit capacity to repay such amount if it shall be determined that the indemnified Person is not entitled to be indemnified under this Agreement.

(c) Provided that the same is reflected in the Approved Budget, the Company may purchase from the funds of the Company and maintain insurance on behalf of any Person who is or was an officer, employee, or agent of the Company, against any liability asserted against the Person and incurred by the Person in any capacity, or arising out of the Person's status as such, whether or not the Company would have the power to indemnify the Person against the liability under the provisions of this Section 6.5.

Section 6.6 Company Reimbursement; Fund Formation Expenses.

The Company shall directly pay and reimburse the Manager for all Company Reimbursable Expenses incurred from time to time. Notwithstanding anything to the contrary in this Agreement, the Class A Members shall not be obligated to make Capital Contributions in connection with any legal or other fees and costs in connection with the negotiation and entry by the Intermediate Company or any other Person into any Fund Documents, which obligation shall be borne solely by the Class B Member as a Member Contribution Event, including the repayment of the Manager for any such expenses advanced by the Manger.

Section 6.7 Officers.

(a) Number. The officers of the Company shall be a President, a Secretary and any number of Vice Presidents or Assistant Secretaries or other officers (each an "**Officer**" and collectively "**Officers**") as may be elected by the Manager. Any two (2) or more offices may be held by the same person.

(b) Election and Term of Office. The Officers of the Company shall be elected or appointed by the Manager. Vacancies may be filled or new offices created and filled by the Manager. Each Officer shall hold office until his successor shall have been duly elected or appointed or until his death or until he shall resign or shall have been removed in the manner hereinafter provided. Election of an Officer shall not of itself create contract rights.

(c) Vacancies. A vacancy in any office because of death, resignation, removal, disqualification or otherwise, may be filled by the Manager for the unexpired portion of the term.

(d) Removal. Any Officer elected or appointed by the Manager may be removed by the Manager whenever in its judgment the best interests of the Company would be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed.

(e) Duties; Standard of Care. Each Officer is only authorized to perform the duties specifically enumerated herein or as may be specifically assigned to such Officer in accordance with the terms of this Agreement. Each Officer shall be subject to the same standard of care applicable to the Manager as set forth in Section 6.2(a) in carrying out any of their relevant duties whatsoever and shall be required to obtain the necessary prior consents for actions specified in Section 6.2(b).

(f) Indemnification of Officers. To the greatest extent allowed by the Act, the Officers shall not be liable to the Company or any Member because any taxing authorities disallow or adjust income, deduction or credits in the Company tax returns. Furthermore, the Officers shall not have any liability for the repayment of the capital contributions of any Member. In addition, the doing of any act or the omission to do any act by the Officers the effect of which may cause or result in loss or damage to the Company, if done in good faith and otherwise in accordance with the terms of this Agreement, shall not subject the Officers or their successors and assigns to any liability to the greatest extent allowed by the Act. To the greatest extent allowed by the Act, the Company will indemnify and hold harmless the Officers and their successors, delegees and assigns from any claim, loss, expense, liability, action or damage resulting from any such act or omission, including reasonable costs and expenses of litigation and appeal of such litigation (including reasonable fees and expenses of attorneys engaged by any of the Officers in defense of such act or omission), but the Officers shall not be entitled to be indemnified or held harmless due to, or arising from, their fraud, gross negligence, bad faith or willful malfeasance. The foregoing indemnification is limited to Available Cash Flow, and nothing contained herein is intended to create personal liability for any Member.

Section 6.8 Approved Budgets.

The Manager shall prepare or cause to be prepared for each Fiscal Year of the Company and the Subject Companies an operating budget on a consolidated basis setting forth the anticipated revenues and expenses of the Company and each Subject Company for such Fiscal Year. The initial operating budget for the remainder of the Fiscal Year ending December 31, 2015 is attached as Exhibit D hereto. For a succeeding Fiscal Year (commencing with the fiscal year ending December 31, 2016), the Manager shall, not later than the first day of the month preceding the month in which the then current Fiscal Year ends (currently November 1), submit the proposed

operating budget for such succeeding Fiscal Year to the Members for their review. If the aggregate expense amount reflected in the proposed operating budget is not more than the lesser of ten percent (10%) above the annual spending projected in the Aggregate Tracking Model for the applicable Fiscal Year and five percent (5%) above the aggregate expense amount reflected in the Approved Budget for the previous Fiscal Year (and in each case, does not include expenditures exceeding $500,000 in aggregate of a type not included in the Aggregate Tracking Model for the applicable Fiscal Year or in the Approved Budget for the previous Fiscal Year, as the case may be), then the Consent of the Members shall not be required and such proposed operating budget shall be deemed approved by all of the Members. If such Consent of the Members is required and if either the Consent of the Members is received or if no Member objects to such proposed operating budget by the last day of the month preceding the month in which the then current Fiscal Year ends (currently November 30), then not later than such date, such operating budget shall be deemed approved by all of the Members (each budget as attached hereto, approved or deemed approved, an "**Approved Budget**"). If the Consent of the Members is required and not obtained as provided above, then the Manager shall prepare or cause to be prepared a revised operating budget, which shall be submitted to the Members for their approval as set forth in the preceding sentences, and, upon final approval of such operating budget by the Consent of the Members, such budget shall become an Approved Budget hereunder. To the extent that amounts relating to any items of a proposed budget are not approved, the corresponding amounts for the items in the previous Fiscal Year's Approved Budget will continue as part of the Approved Budget for such year, until a more current amount for such item is approved in accordance with this Section 6.8. The Manager may from time to time during the Fiscal Year propose to amend the Approved Budget to decrease expected expenditures, or, subject to Section 6.2(b)(xiv), to increase expected expenditures and as so amended, any such amended budget shall be the Approved Budget hereunder.

Article VII

RIGHTS AND RESPONSIBILITIES OF MEMBERS

Section 7.1 General.

The rights and responsibilities of the Members shall be as provided in the Delaware Certificate, this Agreement and the Act.

Section 7.2 Member Consent.

Except as provided in Section 6.2(b) and as otherwise expressly provided in this Agreement, the Consent of the Members shall constitute the approval by, or the authorization of, any action by or on behalf of the Company that requires a vote, consent, approval or action of or an election by the Members; *provided*, that, without the prior written approval of each Member adversely affected thereby, no such consent shall (a) modify the limited liability of a Member; (b) require a Member to provide funds to the Company, by loan, contribution or otherwise (or amend any of the conditions to making any loan or contribution); (c) alter the interest of any Member in Capital Accounts, Company Items, ITCs, distributions of Available Cash Flow; or (d) amend, supplement or otherwise modify Section 6.2(b), or this Section 7.2, or, in each case, any of the definitions of capitalized terms used therein.

Section 7.3 Member Liability.

(d) To the fullest extent permitted under the Act and any other applicable Law as currently or hereafter in effect, no Member shall have any personal liability whatsoever, whether to the Company or to its creditors for the debts, obligations, expenses or liabilities of the Company, whether arising in contract, tort or otherwise, which shall be solely the debts, obligations, expenses or liabilities of the Company, or for any of its losses, in excess of the value of such Member's Capital Account, except as expressly provided herein.

(e) A Member shall be liable only to make its Capital Contributions as provided herein and, other than as specifically provided in Section 12.3, shall not be required to restore a deficit balance in its Capital Account. Except as provided in Section 3.3 no Member shall be required to make any additional contributions or to lend any funds to the Company. The failure of the Company to observe any formalities or requirements relating to the exercise of its powers or management of its business or affairs under this Agreement or the Act shall not be grounds for imposing personal liability on the Members or the Manager for liabilities of the Company.

(f) To the fullest extent permitted by Law, each Member and its respective officers, directors, managers, employees, direct and indirect owners, attorneys, contractors, representatives and agents shall be exculpated from, and the Company shall indemnify, defend and hold harmless such Persons from and against, all Damages from Third Parties that result by virtue of the Member's ownership of its Membership Interest; *provided*, *however*, that this indemnity does not apply: (i) to Damages that are attributable to the proven gross negligence, willful misconduct

or fraud of such Person, (ii) to indemnity obligations of the Members pursuant to Section 11.1 of this Agreement, or (iii) to a Member acting in a capacity other than solely as a Member, in the event that any such Claim is asserted against any Member in its capacity in more than one role (such as, for the avoidance of doubt, the Class B Member's role as Member and Manager).

(g) To the fullest extent permitted by Law, reasonable and documented expenses actually incurred by an indemnified Person under this Section 7.3 shall, from time to time, be advanced by or on behalf of the Company from Available Cash Flow, prior to the final disposition of any matter upon receipt by the Company of an undertaking from a Person with sufficient credit capacity to repay such amount if it shall be determined that the indemnified Person is not entitled to be indemnified under this Agreement.

Section 7.4 Withdrawal.

Except as otherwise provided in this Agreement, no Member shall be entitled to: (a) voluntarily withdraw or resign from the Company; (b) withdraw any part of such Member's Capital Contributions from the Company; (c) demand the return of such Member's Capital Contributions; or (d) receive property other than cash in return for such Member's Capital Contribution.

Section 7.5 Member Compensation.

No Member shall receive any interest, compensation or drawing with respect to its Capital Contributions or its Capital Account or for services rendered on behalf of the Company or otherwise in its capacity as a Member, except as otherwise provided in this Agreement.

Section 7.6 Other Ventures.

Notwithstanding any other provision of this Agreement or any duty existing at law or in equity, the Members and their respective Affiliates at any time and from time to time may engage in and possess interests in other business ventures of any and every type and description, including other business ventures competitive with, or of the same type and description as, the Company and the Subject Companies, independently or with others, as long as such venture does not cause any Subject Company to cease to hold any Energy Regulatory Approval or to become subject to regulation under PUHCA, other than with respect to regulations pertaining to maintaining Qualifying Facility status, as applicable, in each case with no obligation to offer to such Subject Company, the Company, any Member or any of their respective Affiliates the right to participate in, or share the results or profits of, those activities (even if those activities may be made possible or more profitable by reason of the Company's or such Subject Company's activities), except any activity that would cause a Member to be a Related Party.

Section 7.7 Confidential Information.

(a) With respect to each of the Company, the Members and the Manager, except to the extent necessary for the exercise of its rights and remedies and the performance of its obligations under this Agreement, the Company, such Member and the Manager will not itself use

or intentionally disclose (and will not permit the use or disclosure by any of its Affiliates, any of the officers, directors or employees of it or its Affiliates (collectively, "**Representatives**"), or any of its advisors, counsel and public accountants (collectively, "**Advisors**")), directly or indirectly, any of the terms and conditions of the Project Documents, this Agreement, the other Investment Documents or other information in respect of the transactions contemplated hereby ("**Confidential Information**"); *provided*, that (i) the Company, any such Member, the Manager and its Affiliates, Representatives and Advisors may use and disclose Confidential Information to its Affiliates, Representatives and Advisors and to the Company, any other Member, the Manager and its Affiliates, Representatives and Advisors provided such use or disclosure is in connection with its administration of its interests under this Agreement, (ii) the Company, any such Member, the Manager and its Affiliates, Representatives and Advisors may disclose Confidential Information to any Governmental Authority having jurisdiction over the Company, such Member, the Manager or its Affiliates or as may be required by law, (iii) the Company, any such Member, the Manager and its Affiliates, Representatives and Advisors may use and disclose Confidential Information that (A) has been publicly disclosed or is publicly known (other than by the Company, such Member, the Manager or any of its Affiliates, Representatives or Advisors in breach of this Section 7.7), (B) has come into the possession of the Company, such Member, the Manager or any of its Affiliates, Representatives or Advisors other than from the Company, another Member or a Person acting on such other Member's behalf or the Manager under circumstances not involving to the knowledge of the Company, such Member or the Manager any breach of any confidentiality obligation, or (C) has been independently developed by the Company, such Member, the Manager or any of its Affiliates, Representatives or Advisors without use of information obtained under this Agreement, (iv) to the extent that such disclosure is (A) required by law, a subpoena or any other applicable legal process or (B) by request of any Governmental Authority having jurisdiction over such Party or its Affiliates, any stock exchange on which such Party's or its Affiliates Securities are traded or any self-regulatory body having jurisdiction over such Party (including, to the extent applicable, the Financial Industry Regulatory Authority, Inc.), the Company, such Member, the Manager or its Affiliates may disclose Confidential Information provided that in such case the Company, such Member and the Manager shall, unless otherwise prohibited by law, (1) give prompt notice to the Company, the other Members or Manager that such disclosure is or may be required and (2) cooperate in protecting such confidential or proprietary nature of the Confidential Information which must so be disclosed; *provided* that no such notification shall be required in respect of any disclosure to FERC, any Energy Regulatory Authority or bank, insurance or financial industry regulatory authorities having jurisdiction over the Company, such Member, the Manager or its Affiliates, (v) disclosures to lenders, potential lenders or other Persons providing financing to the Company or any Subject Company or to their respective representatives and advisors, the Company, any Member, the Manager or its Affiliates and potential purchasers of equity interests in the Company, the Company, any Member, the Manager or its Affiliates are permitted, any person to which such Member sells or offers to sell its investment in the Company or any portion thereof, if such Persons have agreed to abide by the terms of this Section 7.7 or have otherwise entered into an agreement with restrictions on disclosure substantially similar to the terms of this Section 7.7 (or in the case of advisors, are otherwise bound by professional or legal obligations of confidentiality), (vi) the Company, any such Member, the Manager and its Affiliates, Representatives and Advisors may disclose Confidential Information, and make such filings, as may be required by this Agreement or the Project Documents, (vii) any Member which is an insurance company or an Affiliate thereof may disclose such information to

the National Association of Insurance Commissioners and any rating agency requiring access to its portfolio, (viii) any Member and its Affiliates, Representatives and Advisors may disclose Confidential Information relating to any Project (but not Confidential Information relating to any other Member) to lenders, potential lenders or other Persons providing financing to any Person developing or proposing to develop the remaining phases of any Project and potential purchasers of equity interests in such Person or potential power or REC purchasers from such Persons, or to any Person in connection with the operation of any Project if, in each case described in this clause (viii), such Persons have agreed to abide by the terms of this Section 7.7 or have otherwise entered into a Contract with restrictions on disclosure substantially the same (and for not less than two (2) years in duration) as the terms of this Section 7.7 (or in the case of Advisors, are otherwise bound by professional or legal obligations of confidentiality), and (ix) any such Member may disclose Confidential Information to the IRS or any state taxing authority in connection with any communication regarding the tax consequences of any Project, any Subject Company's ownership and operation of the applicable Project or such Member's ownership of an interest in the Company; *provided* that such Member shall, as soon as practicable, notify the other Members of such disclosure, furnish a copy of any written material provided to the IRS or any state taxing authority to the other Members and, if practicable, afford the other Members reasonable opportunity to comment on the proposed disclosure (but for the avoidance of doubt the other Members will not have the right to consent to such proposed disclosure). A Member's obligations pursuant to this Article VII shall survive the Transfer of its Units.

(b) The foregoing obligations shall not apply to the tax treatment or tax structure of the transactions contemplated hereby and each Member (and any employee, representative, or agent of any Member) may disclose to any and all Persons of any kind, the tax treatment and tax structure of the transactions contemplated hereby and all other materials of any kind (including opinions or other tax analysis) that are provided to any Member relating to such tax treatment and tax structure (all such information that may be disclosed being the "**Tax Information**"). However, any such Tax Information is required to be kept confidential to the extent necessary to comply with any applicable securities laws. The preceding sentences are intended to cause the transactions contemplated hereby not to be treated as having been offered under conditions of confidentiality for purposes of Treasury Regulations Sections 1.6011-4(b)(3) and 301.6111-2(a)(2)(ii) and shall be construed in a manner consistent with such purpose. For purposes of this provision, the Tax Information includes only those facts that may be relevant to understanding the purported or claimed U.S. federal income tax treatment or tax structure of the transactions contemplated hereby and, to eliminate any doubt, therefore specifically does not include information that either reveals or standing alone or in the aggregate with other information so disclosed tends of itself to reveal or allow the recipient of the information to ascertain the identity of the Company or any Member or the Class B Member (or potential member), or any other third parties involved in any of the transactions contemplated hereby or any other potential transactions with any of the foregoing.

(c) Except as otherwise permitted by this Section 7.7, no Member shall include in a press release or otherwise disclose (other than as required to be included in a filing to FERC, any Energy Regulatory Authority or any bank, insurance or financial industry regulatory authority having jurisdiction over such Member, its affiliates or permitted transferees) the name of any

Member as an equity investor or potential equity investor without the prior written consent of such Member which consent shall not be unreasonably withheld.

(d) If the Company or any subsidiary thereof is required at any time to make any regulatory filing to the FERC or any Energy Regulatory Authority that identifies by name, or otherwise relates specifically to, any Member or any of its affiliates or permitted transferees, then the Company shall submit (or the Company shall cause its subsidiary to submit) an advance draft of such regulatory filing to such Member or its affiliate or permitted transferee, as applicable, as early as practicable in advance of the specified deadline imposed by FERC or such Energy Regulatory Authority or its regulations. Such Member (or its affiliate or permitted transferee, as applicable) shall have the right to provide comments to such regulatory filing as it relates to such Member (or its affiliate or permitted transferee), and the Company or its subsidiary shall incorporate or accommodate, prior to submitting such filing, such comments timely received. A Member's failure to promptly provide such comments shall constitute approval of the making of such regulatory filing by the Company or subsidiary thereof.

(e) If any Member is required at any time to make any regulatory filing (other than a filing to any bank, insurance or financial industry regulatory authority having jurisdiction over such Member or its affiliates) that identifies by name, or otherwise relates specifically to, any other Member, then such Member shall submit an advance draft of the relevant portions of such regulatory filing to such other Member. Such other Member shall have the right to provide comments to such regulatory filing as it relates to such other Member, and the Member making such filing shall incorporate or accommodate, prior to submitting such filing, such reasonable comments. The Parties acknowledge and agree that from time to time a Member may be required to submit a regulatory filing or reporting that may be subject to the Freedom of Information Act.

Section 7.8 Company Property.

All property owned by the Company, whether real or personal, tangible or intangible and wherever located, shall be deemed to be owned by the Company, and no Member, individually, shall have any ownership of such property.

Article VIII

ADMINISTRATIVE AND TAX MATTERS

Section 8.1 Intent for Income Tax Purposes.

The Members intend that the Company be treated as a partnership for federal, state and local income tax purposes and that it be operated in a manner consistent with such treatment, but that the Company not be operated or treated as a "partnership" for any other purpose, including, but not limited to, Section 303 of the Federal Bankruptcy Code, and the provisions of this Agreement may not be construed to suggest otherwise.

Section 8.2 Books and Records; Bank Accounts; Company Procedures.

(h) The Company's books of account shall be prepared and maintained in accordance with GAAP for the type of business of the Company. The Manager shall cause to be kept, at the principal place of business of the Company, full, proper, complete and accurate ledgers and other books of account and records of all receipts and disbursements and other financial activities of the Company in accordance with prudent business practices and as required by Law, including the following documents:

(i) A copy of the Delaware Certificate and all certificates of amendment thereto, together with executed copies of any powers of attorney pursuant to which any certificate has been executed;

(ii) Copies of the Company's and each Subject Company's federal, state and local income tax or information returns and reports, if any, for the six (6) most recent Taxable Years or, if later, until the statute of limitations expires on any IRS, state, or local tax audit of such returns or reports of the Company and the Subject Companies;

(iii) Copies of this Agreement and all amendments thereto;

(iv) Copies of the formation documents and operating agreement of each Subject Company;

(v) Financial statements, including a balance sheet and statements of income (or loss), of the Company for, to the extent applicable, each of the six (6) most recent Fiscal Years, including quarterly and monthly internal financial statements of the Company;

(vi) The Company's books and records for at least the current and, to the extent applicable, the past three (3) Fiscal Years;

(vii) the Register;

(viii) minutes of meetings of the Members; and

(ix) copies of all Project Documents.

(i) The books of account of the Company shall be (i) maintained on the basis of a Fiscal Year and (ii) maintained on an accrual basis in accordance with GAAP.

(j) Funds of the Company shall be deposited in such banks or other depositories, and withdrawals from any such depository shall be made as determined by the Manager. All monies in bank accounts shall be retained in cash or invested in Permitted Investments.

(k) The Manager shall cause the Company to maintain its existence separate and distinct from any other Person, including causing the Company to take the following actions:

(i) maintaining in full effect its existence, rights and franchises as a limited liability company under the laws of its jurisdiction of formation and obtaining and preserving its qualification to do business in each jurisdiction in which such qualification is or will be necessary to protect the validity and enforceability of its applicable operating agreement and each other Contract necessary or appropriate to properly administer its applicable operating agreement and permit and effectuate the transactions contemplated in its applicable operating agreement;

(ii) conducting its affairs separately from those of the Manager and its Affiliates and maintaining accurate and separate books and records;

(iii) acting solely in its own limited liability company name and not that of any other Person, including the Manager and its Affiliates;

(iv) not holding itself out as having agreed to pay, or as being liable for, the obligations of any other Person;

(v) not commingling its Assets with those of any other Person;

(vi) observing all limited liability company formalities required in this Agreement and the Delaware Certificate;

(vii) paying the salaries of its own employees, if any;

(viii) not acquiring obligations of its Members, the Manager or their respective Affiliates;

(ix) holding itself out as a separate entity; and

(x) correcting any known misunderstanding regarding its separate identity.

Section 8.3 Information and Access Rights.

The Members and their respective agents also will have the right, at their sole risk and expense and upon reasonable prior notice to the Manager, to inspect the Projects, and the Company's Assets no more than twice per Taxable Year and to audit, examine and make copies of all relevant documents, books and records of the Company. Any such inspection will be conducted during normal business hours and so as not to unreasonably interfere with the business of the Manager. The foregoing rights may be exercised through any agent or employee of such Member designated in writing by it or by an independent public accountant, engineer, attorney or other consultant so designated. Any inspection of Projects shall be subject to all restrictions and conditions included in the operating agreement of the applicable Subject Company.

Section 8.4 Reports.

The Manager shall, at the Company's expense, deliver, or caused to be delivered, to each Member, the following reports, information and consolidated financial statements for the Company and its consolidated subsidiaries, at the times indicated below:

(a) Annually, within one hundred twenty (120) days after the end of each Fiscal Year (and, for the avoidance of doubt, the first such Fiscal Year for which financial statements shall be delivered shall be the Fiscal Year ending December 31, 2015), unaudited consolidated financial statements for the Company and its consolidated subsidiaries prepared on a GAAP basis effective as of the end of the immediately-preceding year, including a consolidated balance sheet and consolidated statements of income, members' equity and changes in cash flows;

(b) The Aggregate Tracking Model prepared pursuant to Section 10.1;

(c) Quarterly within sixty (60) days after the end of each Fiscal Quarter other than the fourth Fiscal Quarter, unaudited quarterly consolidated financial statements of the Company and its consolidated subsidiaries for the Fiscal Quarter and portion of the Fiscal Year then ended (including a balance sheet, income statement, statement of cash flows and statement of changes in Member's capital schedule) all in reasonable detail and fairly presenting the consolidated financial position of the Company as of the end of such quarter, prepared on a GAAP basis, subject to lack of footnotes and normal year-end adjustment;

(d) Promptly following any request therefor, such other reports and information in the possession of the Manager as reasonably requested by the Members and such other reports reasonably requested by and paid for by the requesting Member to the extent external costs are incurred with respect to the preparation of such reports;

(e) Copies of all material reports or (without duplication of any other provisions of this Section 8.4) material notices delivered to or by the Company or any Subject Company under any Project Document;

(f) Within thirty (30) days after renewal, certificates of insurance evidencing fire, liabilities, workers' compensation and other forms of insurance owned or held by or on behalf

of the Company or the Subject Companies, and promptly following receipt, any notices of nonpayment of premium, nonrenewal or cancellation; and

(g) Promptly after execution thereof, a copy of: (i) any amendment, modification, waiver or termination of any Fund Document, (ii) any new, or substitution or replacement of a Fund Document; (iii) any new Contract between the Company or any Subject Company and an Affiliate thereof and any amendment or modification of any existing Contract between the Company or any Subject Company and an Affiliate thereof; and (iv) any new Contract having a term in excess of one year, or providing for payments by, or revenues to, the Company or any Subject Company in excess of $2,000,000.

Section 8.5 Permitted Investments.

(g) All cash of the Company may only be invested and reinvested in one of the following investment alternatives ("**Permitted Investments**"):

(ix) Direct obligations of the United States of America (including obligations issued or held in book-entry form on the books of the Department of the Treasury of the United States of America) or obligations the timely payment of the principal of and interest on which are fully guaranteed by the United States of America;

(x) Obligations, debentures, notes or other evidence of Indebtedness issued or guaranteed by any of the following: Export-Import Bank of the United States, Federal Housing Administration or other agency or instrumentality of the United States;

(xi) Interest-bearing demand or time deposits (including certificates of deposit) that are either (A) insured by the Federal Deposit Insurance Corporation, or (B) held in banks and savings and loan associations, having general obligations rated at least "A-" or equivalent by S&P and Moody's, or if not so rated, secured at all times, in the manner and to the extent provided by Law, by collateral security described in clauses (i) or (iii) of this Section 8.5(a), of a market value of no less than the amount of moneys so invested;

(xii) Obligations of any state of the United States or any agency or instrumentality of any of the foregoing which are rated at least "AA" by S&P or at least "Aa" by Moody's;

(xiii) Commercial paper rated (on the date of acquisition thereof) at least "A-1" or "P-1" or equivalent by S&P or Moody's, respectively (or an equivalent rating by another nationally recognized credit rating agency of similar standing if neither of such corporations is then in the business of rating commercial paper), maturing not more than ninety (90) days from the date of creation thereof but excluding any such commercial paper issued by any Member or any Affiliate of the Manager;

(xiv) Money market mutual funds that are registered with the Securities and Exchange Commission under the Investment Company Act of 1940, as amended, and operated in accordance with Rule 2a-7 and that at the time of such investment are rated "Aaa" by Moody's and/or "AAA" by S&P, including such funds for which the Trustee or an affiliate provides investment advice or other services, each of which must have capital in excess of $500,000,000 and at no point in time will aggregate investments under this Section 8.5(a)(vi) constitute more than five percent (5%) of any such fund's capital; or

(xv) Any other investments agreed to by the Members and the Manager.

Section 8.6 Tax Elections.

(f) The Manager shall make the following federal income tax elections on the appropriate Company tax returns:

(xvi) To the extent permitted under Code Section 706, to elect the calendar year as the Company's Taxable Year;

(xvii) To elect the accrual method of accounting;

(xviii) To elect to amortize any organizational and start-up expenses of the Company ratably over a period of one hundred eighty (180) months as permitted by Code Section 709(b);

(xix) If a valid election to adjust the basis of the Company's properties under Code Section 754 is not already in effect, to elect and to reelect, as necessary, pursuant to Code Section 754, to adjust the basis of the Company's properties, including for any Taxable Year in which a distribution of the Company's property as described in Code Section 734 occurs, or a transfer of a Membership Interest as described in Section 743 of the Code occurs;

(xx) The Company shall file an election under Section 6231(a)(1)(B)(ii) of the Code and the Treasury Regulations thereunder to treat the Company as a partnership to which the provisions of Sections 6221 through 6234 of the Code, inclusive, apply, which election shall be made from time to time in the manner and at the time required by Treasury Regulations Section 301.6231(a)(1)-1 so that the Company is subject to the TEFRA unified audit rules contained in Section 6221 through 6234 of the Code for all Taxable Years ending after the Effective Date; and

The Manager shall not make, or cause the Company or any Subject Company (to the extent the Company has (directly or indirectly) management authority for any Subject Company) to make, any tax election for the Company or any Subject Company, except as otherwise provided herein, without the Consent of the Members if such tax election would materially affect the economic consequences to the Class A Members as set forth in any of the Fund Base Case Models. The Manager, with the Consent of the Members, may elect to extend the time for filing any Company tax return as provided for under the Code and applicable state statutes. Neither the Company nor any Member may make an election for the Company to be excluded from the application of the provisions of subchapter K of chapter 1 of subtitle A of the Code or any similar provisions of applicable state Law. No Member, Manager, officer or agent of the Company is authorized to, or may, file IRS Form 8832 (or alternative or successor form) to elect to have the Company or any Subject Company classified as an association taxable as a corporation for federal income tax purposes under Treasury Regulations Section 301.7701-3. The Manager shall, in addition, affirmatively take such action within its control as may be necessary or required to maintain the status of the Company as a partnership for federal, state and local income tax purposes.

Section 8.7 Tax Matters Person and Company Tax Filings.

(a) The Initial Class B Member shall be, and so long as it continues to be the Manager, shall continue to be, the "tax matters partner" of the Company pursuant to Section 6231 (a)(7) of the Code (the "**Tax Matters Member**"); *provided*, that if the Initial Class B Member is no longer the Manager, the Person selected as the successor Manager pursuant to Section 6.4(c) shall nominate a Member to become the new Tax Matters Member and such Member shall become the new Tax Matters Member if approved by the Consent of the Class A Members. The Tax Matters Member shall take such action as may be necessary to cause, to the extent possible, each other Member to become a "notice partner" within the meaning of Sections 6231(a)(8) and 6223 of the Code. In the event of any pending tax action, investigation, claim or controversy involving the Company which proposes or may result in an adjustment to any item reported on a federal tax return of the Class A Members, the Tax Matters Member, shall keep the other Members fully and timely informed by written notice of any audit, administrative or judicial proceedings, meetings or conferences with the IRS or other similar matters that come to its attention in its capacity as Tax Matters Member. Furthermore, the Class A Members shall have the right to review and comment on any submissions to the IRS, and attend and jointly participate in any meetings or conferences with the IRS at their own expense. In any such proceedings, the Tax Matters Member shall take any action or omit to take any action reasonably requested by the Consent of the Class A Members to the extent such action or omission of action affects any tax item reported to the Class A Member on a Schedule K-1 from the Company and / or reported on any federal income tax return of the Class A Member or would materially affect the economic consequences to the Class A Members as set forth in any of the Fund Base Case Models, and is otherwise consistent with this Agreement and the Fixed Tax Assumptions and is consistent with applicable Law.

(b) The Tax Matters Member shall not take any action contemplated by Code Sections 6221 through 6233 unless the Tax Matters Member has first given the Members timely written notice of the contemplated action. Other than as provided in Section 8.7(e), for any issue or matter relating to any Taxable Year, the Tax Matters Member shall not (i) commence a judicial action (including filing a petition as contemplated in Section 6226(a) or 6228 of the Code) with respect to a federal income tax matter or appeal any adverse determination of a judicial tribunal; (ii) enter into a settlement agreement with the IRS relating to any Company Item for any Taxable Year; (iii) intervene in any action as contemplated by Section 6226(b) of the Code; (iv) file any request contemplated in Section 6227 of the Code; or (v) enter into an agreement extending the period of limitations as contemplated in Section 6229(b)(1)(B) of Code, or (vi) take or not take any action in respect of an audit, contest or other tax matter or proceeding, in each case, the taking or omission of which, respectively, materially and adversely affects any tax item reported to the Class A Member on a Schedule K-1 and/or reported on any tax return of the Class A Member or in any manner materially delays the expected timing of the Class A Member's achieving the Target IRR on the Target Flip Date. Subject to the immediately preceding sentence, the Tax Matters Member shall have the right to defend against any proposed adjustments with respect to any "partnership item" (as defined in Section 6231(a)(3) of the Code) in the manner provided, and to the extent consistent with, Sections 6221 through 6223 of the Code and the Treasury Regulations issued thereunder. With respect to any other partnership item of the Company not covered by the two preceding sentences, if any Member intends to file, pursuant to Section 6227 of the Code, a request

for an administrative adjustment of any such partnership item of the Company, or to file a petition under Sections 6226, 6228 or other Sections of the Code with respect to any such partnership item or any other tax matter involving the Company, such Member shall, at least thirty (30) days prior to any such filing, notify the other Members of such intent, which notification must include a reasonable description of the contemplated action and the reasons for such action. Any cost or expense incurred by the Tax Matters Member in connection with its duties, including, if relevant, the preparation for or pursuance of administrative or judicial proceedings, shall be paid by the Company. The Class A Member will use commercially reasonable efforts to ensure that any Tax Matter relating to the Company is properly addressed as a "partnership item", within the meaning of Section 6231(a)(3) of the Code, at the Company level. In the event that the Class A Member is unsuccessful in such efforts to cause the IRS to address such claim as a "partnership item," the Class A Member shall, to the extent practicable under the circumstances, provide notification, information, documents, correspondence and a reasonable opportunity for the Class B Member to control such matter in the same degree as provided for under this Section 8.7.

(c) Tax Returns.

(x) Preparation of Tax Returns. The Tax Matters Member shall prepare, or cause to be prepared by the Certified Public Accountant, and timely file (on behalf of the Company) all federal, state and local tax returns required to be filed by the Company. Each Member shall furnish to the Tax Matters Member all pertinent information in its possession relating to the Company's operations that is reasonably necessary to enable the Company's tax returns to be timely prepared and filed.

(xi) Furnishing Returns. The Tax Matters Member shall use commercially reasonable efforts to furnish to the Members, (A) by no later than March 10th of each year, an estimate of all items of Company income, gain, loss, deduction, and credit (including ITCs) of the Company and the Members' respective allocable shares thereof expected by the Tax Matters Member to be reported on the Tax Return to be filed by the Tax Matters Member for the immediately preceding Taxable Year, and (B) by no later than June 30 of each Taxable Year (or, if earlier, thirty (30) days prior to the date on which the Tax Matters Member intends to file the Tax Return), the Tax Return proposed to be filed by the Tax Matters Member.

(xii) Costs of Preparation. The Company shall bear the costs of the preparation and filing of its returns, including the fees of the independent public accounting firm.

(d) The provisions of this Article VIII will survive the termination of the Company or the termination of any Member's interest in the Company and will remain binding on the Member for the period of time necessary to resolve with the IRS or other federal tax agency any and all federal income tax matters relating to the Company that are subject to Code Sections 6221 through 6233.

(e) Additional Requirements for an Indemnified Tax Claim.

(xxi) The Class B Member will notify the Class A Member of (A) any written communication it receives from the IRS or a Subject Company that, if sustained may require the Class B Member to make a contribution to the Company or otherwise indemnify the Class A Member or any counterparty to any Fund Document or Subject Company (an "Indemnified Tax Claim").

(xxii) Notwithstanding anything in this Agreement to the contrary, after consulting with the Class A Member, the Class B Member may in its sole discretion exercise in good faith control any Indemnified Claim, including controlling any IRS audit (including selection of counsel) determining whether to settle or to commence a judicial action or to appeal any adverse determination of a judicial tribunal with respect to an Indemnified Claim.

Section 8.8 Financial Accounting.

Each Member may report the transactions contemplated hereby for financial accounting purposes in such manner as the Member and its accountants may determine appropriate.

Section 8.9 Membership Interest Legend.

(a) Until (i) the securities representing ownership of membership interests in the Company are effectively registered under the Securities Act, or (ii) the holder of such securities delivers to the Company a written opinion of counsel of such holder to the effect that such legend is no longer necessary under the Securities Act, the Company will cause each certificate representing its securities to be stamped or otherwise imprinted with the following legend:

> THE MEMBERSHIP INTEREST REPRESENTED BY THIS CERTIFICATE HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR UNDER THE SECURITIES LAW OF ANY STATE. SUCH MEMBERSHIP INTEREST MAY NOT BE SOLD OR TRANSFERRED UNLESS SUBSEQUENTLY REGISTERED OR UNLESS AN EXEMPTION FROM REGISTRATION IS AVAILABLE.

(b) The Company will also cause each certificate representing its securities to be stamped or otherwise imprinted with the following legend:

> THE MEMBERSHIP INTEREST AND UNITS REPRESENTED BY THIS CERTIFICATE ARE, AND SHALL BE, FOR ALL PURPOSES, "CERTIFIED SECURITIES" UNDER AND GOVERNED BY ARTICLE 8 (INCLUDING SECTION 8-103(c) THEREOF) AND ALL OTHER PROVISIONS OF THE UNIFORM COMMERCIAL CODE IN EFFECT FROM TIME TO TIME IN THE STATE OF DELAWARE.

Section 8.10 Representations, Warranties and Covenants of the Members.

Each Member, severally but not jointly, represents, warrants, and with respect to clauses (f) and (g) below, covenants to the Company and each other Member with respect to itself only, that: (I) (x) the following statements are true and correct as of, with respect to the Member, the Effective Date, (y) the following statements are true and correct as of, with respect to any other Person hereafter admitted as a Member pursuant to this Agreement, the date such Person is so admitted as a Member, and (II) with respect to clauses (f) and (g) below, shall be true and correct at all times that such Person is a Member:

(a) It is an entity duly organized, validly existing and in good standing under the laws of its jurisdiction of organization.

(b) It has the full right, power and authority to perform its obligations hereunder.

(c) The execution and delivery of this Agreement by the Member and the consummation by such Member of the transactions contemplated hereby have been duly authorized

by all necessary entity action required on the part of such Member, its respective members and their respective managing members (as applicable). This Agreement has been duly executed and delivered by such Member. This Agreement is a legal valid and binding obligation of such Member enforceable against it in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency or similar laws affecting creditors' rights generally and by general equitable principles.

(d) It has such sophistication, knowledge and experience in financial and business matters that it is capable of evaluating the merits, risks and suitability of entering into the Transaction. It is acquiring its Membership Interest for its own account and not as a nominee or agent. It understands its Membership Interest have not been, and will not be, registered under the Securities Act and are being acquired in a transaction not involving a public offering by reason of a specific exemption from the registration provisions of the Securities Act, the availability of which depends upon, among other things, the *bona fide* nature of each Member's investment intent and the accuracy of the Members' respective representations as expressed herein. It understands that no public market now exists for the Membership Interests or any of the securities of the Company and that neither the Company nor any Member or Affiliate thereof has made any assurances that a public market will ever exist for the Membership Interests or the Company's securities.

(e) It has discussed the Transaction and the accounting and tax treatment that it intends to accord the Transaction with its independent advisors. It is solely responsible for deciding to enter into the Transaction and has not relied on any other party (save for any representations made in this Agreement), other than its independent advisors, in respect of the accounting or tax treatment to be applied to the Transaction, or the overall suitability of the Transaction. It is an "accredited investor" within the meaning of Rule 501(a)(1), (2), (3) or (7) of the Securities Act, and is able to bear the economic risk of losing its entire investment in the Company.

(f) It will report the Transaction in accordance with this Agreement and its own applicable regulatory requirements, including the accounting and tax treatment to be accorded to the Transaction.

(g) It is not now and it shall not become a Disqualified Entity or Related Party.

(h) That no part of the aggregate Capital Contributions made by such Member and used by such Member to acquire any Units, constitutes Assets of any "employee benefit plan" within the meaning of Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended ("**ERISA**"), or other "benefit plan investor" (as defined in U.S. Department of Labor Reg. §§ 2510.3-101 *et seq.* and Section 3(42) of ERISA) or Assets allocated to any insurance company separate account or general account in which any such employee benefit plan or benefit plan investor (or related trust) has any interest.

(i) It (or, if it is a disregarded entity for federal income tax purposes, the Person treated for federal income tax purposes as the owner of its assets) is a "United States person" as defined in Section 7701(a)(30) of the Code and is not subject to withholding under Section 1446 of the Code.

(j) It will not take any action or change its status if such action or change would result in a breach of a Company covenant or is otherwise prohibited by the terms of the Fund Documents.

Section 8.11 Survival.

The representations, warranties and covenants herein shall be continuing agreements of the Members that made them and shall survive the termination of this Agreement and the Company.

Article IX

TRANSFERS OF INTERESTS; PURCHASE OPTION

Section 9.1 Transfer Restrictions.

A Member may not Transfer or Encumber all or any portion of its Membership Interest, except in strict accordance with this Article IX. References in this Agreement to Transfers or Encumbrances of a "Membership Interest" shall also refer to Transfers or Encumbrances of a portion of a Membership Interest. Any attempted Transfer or Encumbrance of any Membership Interest, other than in strict accordance with this Article IX, shall be, and is hereby declared, null and void *ab initio*. The Members agree that a breach of the provisions of this Article IX may cause irreparable injury to the Company and to the other Members for which monetary damages (or other remedy at Law) are inadequate in view of (a) the complexities and uncertainties in measuring the actual damages that would be sustained by reason of the failure of a Member to comply with such provision and (b) the uniqueness of the Company's business and the relationship among the Members. Accordingly, the Members agree that the provisions of this Article IX may be enforced by specific performance.

Section 9.2 Permitted Transfers.

Prior to the expiration of the Investment Period, a Member may only Transfer (other than a Transfer pursuant to an Encumbrance entered into in accordance with Section 9.4) all or part of its Units (and the Class A Interest represented thereby) with the Consent of the Members. Following the expiration of the Investment Period, a Member may Transfer all or part of its Units (and Membership Interest represented thereby) to a Person that is not a Disqualified Transferee, *provided* that it satisfies the requirements of Section 9.3. Notwithstanding anything in this Section 9.2 to the contrary, the following Transfers shall not require the approval by the Consent of the Members:

(d) a Transfer to an Affiliate of such Member; or

(e) a Transfer upon foreclosure (or in lieu of such foreclosure) under an Encumbrance on such Member's Units permitted in accordance with Section 9.4.

Section 9.3 Conditions to Transfers.

Except as otherwise provided in this Article IX, all Transfers permitted hereby shall be subject to the satisfaction of the following requirements:

(h) Transfer Documents. The following documents shall have been delivered by the Transferring Member to the Manager and each other Member:

(xxiii) Notice. Written notice not less than ten (10) Business Days prior to the proposed effective date of such Transfer.

(xxiv) Transfer Instrument. An instrument executed by the Transferring Member and the Transferee implementing the Transfer, in substantially the form of Exhibit C hereto or such other form that is reasonably satisfactory to the Manager (which approval shall not be unreasonably withheld or delayed) and which contains: (A) the notice address of the Transferee; (B) if applicable, the Parent of the Transferee; (C) the number of Units as to each class of Membership Interest held by the Transferring Member and held by the Transferee after the Transfer (which must total the number of Units as to each class of Membership Interest held by the Transferring Member before the Transfer); (D) the Transferee's ratification of this Agreement and its confirmation that the representations and warranties in Article VIII applicable to it are true and correct with respect to it; (E) the Transferee's ratification of the Investment Documents to which the Transferring Member is a party and agreement to be bound by them to the same extent that the Transferring Member was bound by them prior to the Transfer, including the assumptions of all liabilities and obligations thereunder with respect to the Transferred Membership Interest (including, without limitation and for the avoidance of doubt, each Member's indemnification obligations under Article XI in connection with any Indemnification Claims arising out of or resulting from actions of the Member (or any successor thereto) as Manager prior to any replacement of the Manager pursuant to Section 6.4); and (F) representations and warranties by the Transferring Member and its Transferee that the Transfer and the admission of the Transferee as a Member is being made in accordance with all applicable Law, and that the applicable conditions set forth in this Section 9.3 have been satisfied. Upon any such Transfer, the Manager shall update Annex I and the Register appropriately, and shall provide such updated Register to each Member.

(i) Fund Documents. Such Transfer does not breach any provision of any Fund Document or any other Project Document.

(j) Applicable Law; Securities Law. Such Transfer does not violate any provision of applicable Law, including, without limitation, applicable securities Law.

(k) Tax Consequences.

(i) Entity Classification. Such Transfer does not cause the Company to be classified as an entity other than a partnership (or cause the Company to be treated as a publicly traded partnership taxable as a corporation) for purposes of the Code.

(ii) Recapture. If such Transfer would occur prior to the end of the Recapture Period, such Transfer does not and will not result in the Recapture of any ITCs previously accrued to the Company.

(iii) Termination. Such Transfer would not result in the Company's termination within the meaning of Section 708 of the Code unless the transferee has indemnified the other Members against any adverse tax effects that result from such termination.

(iv) Tax-Exempt Entity. Such Transfer is not to a tax-exempt entity (or, if the transferee is a disregarded entity for federal income tax purposes, the Person treated for federal income tax purposes as the owner of its assets is not a tax-exempt entity) (within the meaning of Section 168(h)(2) of the Code) and such Transfer, in the reasonable determination of the Company, does not present a material risk that any property of the Company or any Subject Company would thereby become "tax-exempt use property" within the meaning of Section 168(h)(6) of the Code.

(l) Payment of Expenses. The Transferring Member and the Transferee shall have paid or reimbursed the Company and each Member for all reasonable costs and expenses incurred by the Company and such Members in connection with the Transfer and admission, on or before the tenth (10^{th}) day after the receipt by such Persons of the Company's or any such Member's invoice for the amount due.

(m) No Release. Such Transfer shall not effect a release of the Transferring Member from any liabilities to the Company or the other Members arising from events occurring prior to or in connection with the Transfer.

(n) Regulatory Matters. Such Transfer shall not result in (a) any Project ceasing to be or a Qualifying Facility, to the extent applicable, (b) any Subject Company becoming subject to regulation under PUHCA other than with respect to regulations pertaining to maintaining Qualifying Facility status or (c) any Subject Company ceasing to hold any other Energy Regulatory Approval.

(o) Consents and Permits. All consents, approvals and Licenses and Permits with respect to such Transfer shall have been obtained.

(p) Investment Company Act. Such Transfer does not require the Company to register as an "investment company" under the Investment Company Act of 1940, as amended.

Section 9.4 Encumbrances of Membership Interest.

A Member may Encumber its Membership Interest, and any Parent of a Member may Encumber such Membership Interest indirectly, so long as the instrument creating such Encumbrance provides that any Transfer upon foreclosure of such Encumbrance (or Transfer in lieu of such foreclosure) shall, and the actual Transfer relating to such Encumbrance (whether through foreclosure or in lieu of foreclosure) shall (a) not be to a Disqualified Transferee, (b) during the Investment Period, shall only be to a Qualified Transferee and (c) otherwise comply with the requirements of Section 9.3. Notwithstanding the foregoing provisions of this Section 9.4 (a) the Members agree to act in a commercially reasonable manner in connection with a financing in which a Member intends to grant a security interest in its Units and take such actions (or refrain from taking such actions) as are reasonably requested by such Member to facilitate the closing of such financing, including reasonably cooperating with such Member to enter into a consent to assignment, provided that such consent to assignment is reasonably acceptable to the Members, with such Member's financing parties and (b) such Member may Encumber its Membership Interests pursuant to and subject to the terms of any such consent.

Section 9.5 Admission of Transferee as a Member.

Any Transferee in a Transfer permitted under Section 9.2 shall be admitted to the Company as a Member, with the Membership Interest so transferred to such Transferee, to the extent that (a) the Transferring Member making the Transfer has granted the Transferee the Transferring Member's entire Membership Interest, or, in the case of Transfer of a part of such Member's Membership Interest, the express right to be so admitted as a Member and (b) such Transfer is effected in strict compliance with Section 9.3.

Section 9.6 Purchase Option.

(f) The Class B Members shall have an exclusive and irrevocable option to purchase all, but not less than all, of the Class A Units, for a period of one hundred eighty (180) days after the Flip Date (each such period, a "**Purchase Option Period**"), and otherwise upon the terms and conditions set forth herein (the "**Purchase Option**"). The purchase price of the Class A Units during the Purchase Option Period shall be the Fair Market Value of such Class A Units (determined in accordance with this Section 9.6) (the "**Purchase Option Price**").

(g) The Purchase Option may be exercised by a Class B Member by giving written notice (which notice shall be non-binding on such Class B Member and may only be given one time during the Purchase Option Period) (the "**Preliminary Intent Notice**") to the Manager and the Class A Members of an intent to determine the Fair Market Value of such Class A Units. The Preliminary Intent Notice may be delivered as early as the first day of the Purchase Option Period and shall be delivered not later than fifteen (15) days prior to the end of the Purchase Option Period.

(h) Within twenty (20) days after the date of the Preliminary Intent Notice, the Class A Members and any participating Class B Members will meet to discuss and negotiate in good faith to determine and agree upon the Fair Market Value of the Class A Units. If the Members agree upon such Fair Market Value, such value will be deemed to be the Fair Market Value for purposes hereof. If they fail to agree upon such value within thirty (30) days after the date of the Preliminary Intent Notice, the Company and the Class B Members shall, promptly thereafter, mutually select an appraiser for purposes of establishing such Fair Market Value.

(i) Upon determining the Fair Market Value of the Class A Members' Class A Units pursuant to Section 9.6(c), if the Class B Members desire to exercise the Purchase Option at such Fair Market Value, the Class B Members must deliver written notice (the "**Intent Notice**") of such intent to exercise the Purchase Option to the Manager and the Class A Members within sixty (60) days of such determination of the Fair Market Value, specifying (subject to the time periods set forth in Section 9.6(e)) the effective date of the purchase. Once the Intent Notice has been delivered, the Purchase Option shall be irrevocable; *provided* that if the Class B Members fail to deliver an Intent Notice prior to the expiration of such 60-day time period, the Purchase Option shall be deemed to have expired and the Class A Members shall have no further obligations pursuant to this Section 9.6.

(j) The closing for purchase and sale shall occur, subject to the receipt of applicable Licenses and Permits and any necessary approvals from any Governmental Authority, including the approvals, if any, required under the HSR Act or required by FERC or any Energy Regulatory Authority, on the later of the thirtieth (30^{th}) Business Day following the date of the Intent Notice, the twentieth (20^{th}) Business Day following the determination of the Fair Market Value of the Class A Units, and the fifth (5^{th}) Business Day after the receipt of such Licenses and Permits and necessary approvals from any Governmental Authority. At the closing, each Class A Member shall convey all of its Class A Units to the participating Class B Members (or their designee(s)) on an "as is, where is" basis without representations or warranties, expressed or implied, other than valid title that no Encumbrance against its Class A Units then exists that has been created by, through or under the Class A Members or any Affiliate thereof other than those created pursuant to this Agreement. At the closing, (a) the Class B Members shall expressly assume any and all obligations and liabilities of the Class A Members under this Agreement and any other Investment Document, as applicable (except those obligations and liabilities accrued through the date of such closing), (b) the Members shall amend this Agreement to reflect the withdrawal of the Class A Members and the transfer of the Class A Units effective as of the date of such closing, and (c) the Class B Members shall pay the Purchase Option Price of the Class A Units to the Class A Members by wire transfer of immediately available funds.

Section 9.7 Terminated Member.

Upon the closing of a Transfer by a Member of all of its Membership Interest in the Company in accordance with this Article IX, the following provisions shall apply to the Transferring Member (now a "**Terminated Member**"):

(a) The Terminated Member shall cease to be a Member immediately upon the occurrence of such closing.

(b) The Terminated Member shall no longer be entitled to receive any distributions (including liquidating distributions pursuant to Section 12.2) or allocations from the Company, and it shall not be entitled to exercise any voting or consent rights or to receive any further information (or access to information) from the Company (other than any required tax information).

(c) The Terminated Member must pay (i) to the Company all amounts owed to the Company by the Terminated Member and (ii) to each other Member all amounts owed to such Member by the Terminated Member.

(d) The Terminated Member shall remain obligated for all liabilities it may have under this Agreement or otherwise with respect to the Company that accrue prior to the closing.

(e) The Membership Interest, including the Capital Account balance attributable thereto, of the Terminated Member shall be allocated among the applicable Transferees in proportion to the relative Transferred Units acquired by such Transferee.

Article X

AGGREGATE TRACKING MODEL AND FLIP DATE

Section 10.1 Aggregate Tracking Model.

(f) The Manager will calculate at least annually whether the Flip Point has occurred and will send the Members, within one hundred twenty (120) days after the date of the Tax Return for the immediately preceding Fiscal Year was filed, a report in the form of the Aggregate Tracking Model showing where it believes the Class A Units are in relation to the Flip Point. If the report suggests that the Flip Point will occur within the next two (2) Fiscal Years, then the Manager will calculate for each Fiscal Quarter thereafter whether the Flip Point has occurred, and will send the Class A Members such report within forty-five (45) days after the end of the applicable Fiscal Quarter.

(g) If the Manager calculates and determines that the Flip Point will occur upon the distribution of Available Cash Flow at the next Distribution Date, then no less than thirty (30) days prior to the Distribution Date, the Manager shall provide such calculation to the Class A Members in the Aggregate Tracking Model specifying the Flip Date, and the portion of the Available Cash Flow to be distributed to the Class A Members under Article V and the portion of Company Items to be allocated to the Class A Members under Article IV prior to the Flip Date and after the Flip Date.

(h) Prior to making any liquidating distribution pursuant to Section 12.2, the Manager shall calculate and determine as to whether the Flip Point will occur in connection with the liquidation of the Company. No less than thirty (30) days prior to making such distribution, the Manager shall provide such calculation to the Members in the Aggregate Tracking Model specifying the Flip Date (or stating that the Manager has concluded that the Flip Date will not occur), and the portion of the liquidation proceeds to be distributed to the Class A Members and the portion of the Company Items to be allocated to the Class A Members under Section 12.2 prior to the Flip Date and after the Flip Date.

(i) The Manager will make its advisers (if any) available to answer any questions about its calculations and reports made under this Section 10.1. Any Class A Member may invoke the dispute resolution procedures in Section 10.3 to resolve any item or procedure that is in dispute. In the event no objection to a calculation provided to the Class A Members under subsection (b) or (c) is received by the Manager from the Members immediately prior to the Distribution Date or the date of the liquidating distribution, as the case may be, then the Flip Date shall be deemed to have occurred or not to have occurred, as the case may be, as specified in such calculation, and the distributions and allocations as reflected in such calculations and reports shall govern for the applicable taxable period. In the event such an objection is received by the Manager, then the determination of the Flip Date and the making of the distributions (and all subsequent distributions of Available Cash Flow or liquidation proceeds) shall be suspended until the Flip Date and corresponding distributions and allocations are finally determined as provided in Section 10.3.

Section 10.2 Calculation Rules and Conventions.

In performing the calculations and making the determinations with respect to the Flip Point as described in Section 10.1, the Manager shall employ the following calculation rules and conventions:

(q) Basis. The calculation shall be made on the basis of each Class A Unit issued to the Class A Members and any Capital Contribution made pursuant to this Agreement.

(r) Continuity of Ownership. The Manager shall treat ownership of the Class A Units as being continuous from the Effective Date to the Distribution Date (or, if applicable, the date of distribution of liquidation proceeds) as of which the calculation is being made, without regard to any change in ownership of the Class A Units during such period.

(s) Cash Distributions. The cash distributions taken into account in determining the After-Tax IRR with respect to each Class A Unit shall consist solely of distributions to the Holder of such Class A Unit made on any Distribution Date or date of distribution of liquidation proceeds (or to be made on the Distribution Date or date of distribution of liquidation proceeds as of which date the After-Tax IRR is being determined) (the "**Cash Distributions**"). Also taken into account in determining the After-Tax IRR are any amounts received by the Holder of the Class A Unit as proceeds from the sale of RECs or a recovery or replacement of, or indemnity or compensation for the loss of, an item which would otherwise be taken into account in the foregoing.

(t) Tax Payment Dates. The distributive share of Company items of income, gain, loss, deduction, and ITCs as determined for federal income tax purposes allocated by the Company to the Holder of such Class A Unit and any gain recognized by such Holder under Section 731(a) of the Code, shall be calculated in accordance with a set of Tax Assumptions specified in the Fund Addendum applicable to all Projects within each particular Fund.

(u) Tax Costs and Tax Benefits.

(i) Tax Benefits and Tax Costs shall be calculated on the basis of certain specified Tax Assumptions set forth in the Fund Addendum. The Tax Assumptions set forth in a Fund Addendum shall apply to all Tax Benefits and Tax Costs relating to or arising from all the Projects subject to the applicable Fund Addendum. With respect to all Projects in any Fund, Tax Benefits shall be recalculated to include any federal income tax benefit, deduction, and credit that would have been realized by the Class A Member, but which is not so recognized as the result of the breach of the representations, warranties or covenants of the Class A Member in this Agreement.

(ii) For the avoidance of doubt, in all respects outside those described in Section 10.2(e)(i) the After-Tax IRR shall be based upon the present value of the Tax Costs and Tax Benefits (in accordance with the definition of After-Tax IRR), without any adjustment or recalculation, in accordance with the federal income tax accounting methods and tax elections actually used with respect to such period by the Company in the preparation of its Tax Returns, and as subsequently adjusted as a result of any amended Tax Return or

a final determination in any federal income tax audit or subsequent administrative or judicial proceeding.

(v) Method of Determining the Flip Date; Pro Ration of Distributions.

(i) If, as of any Distribution Date, the Manager calculates that the Flip Point has occurred during the calendar month preceding such Distribution Date (taking account of the distribution of the Available Cash Flow on such Distribution Date) the Manager will calculate the lowest percentage (the "**Trigger Percentage**") which, when applied to such Available Cash Flow, will result in a Class A Unit receiving an amount of Available Cash Flow (such amount of cash calculated using such Trigger Percentage, the "**Cash Trigger Amount**") which will cause the Flip Point to occur. The Cash Trigger Amount shall be deemed to precede the Flip Date and shall be distributed to the Holders of Class A Units (notwithstanding anything to the contrary contained in Section 5.1(a)) and the remainder of such Available Cash Flow shall be distributed to the Holders of Class A Units and Class B Units under Section 5.1(a)(ii).

(ii) If, prior to a distribution of liquidation proceeds, the Manager calculates that the Flip Point will occur (taking into account the expected distribution of liquidation proceeds), the Manager will calculate, using an iterative process, the percentage of the liquidation proceeds which, if distributed in accordance with Section 12.2(a)(v), will cause the sum of (A) the cash distributions to be made pursuant to Section 12.2(a)(v) on the date of distribution of liquidation proceeds to the extent such distributions are attributable to pro rata allocations pursuant to Section 12.2(a)(iv)(A) and (B) the Tax Benefits or Tax Costs arising from the allocation of tax attributes of the Company for the taxable period in which the date of distribution of liquidation proceeds occurs as a result of such cash distribution, to cause the Flip Point to occur. Such calculation shall be taken into account in making the allocations under Section 12.2(a)(iv) in such manner as to ensure that, to the greatest extent feasible, the balances in the Capital Accounts of the Members are expected to result in distributions pursuant to Section 12.2(a)(v) in accordance with the target liquidation distributions contemplated in Section 12.2(a)(iv)(A) and Section 12.2(a)(iv)(B).

(w) End of Year True Up.

(i) Prior to filing the Tax Return for the Taxable Year which includes the Flip Date, the Manager shall compare the Tax Benefits and Tax Costs for the portion of the Taxable Year through the calendar month in which such Flip Date was determined to have occurred, as taken into account in the calculation of such Flip Date, with the Tax Benefits and Tax Costs for such period as determined using the amounts reflected in the Tax Return as proposed to be filed, other than to the extent of any difference in such calculation of the Flip Date and such amounts reflected in the Tax Returns as the result of the application of the provisions of Section 10.2(e) or the calculation assumptions and conventions in this Section 10.2. In the event of any difference (disregarding *de minimis* amounts) the Manager shall apply such adjustments ratably to the Tax Payment Dates for such Taxable Year and shall re-calculate the Trigger Percentage based upon the amounts reflected in such return and shall (A) adjust the Flip Date accordingly (including by advancing or retarding the Flip

Date to a prior or subsequent calendar month), and (B) determine the difference (the "**Cash Difference**") between the actual cash distribution to the Class A Members on the Distribution Date immediately following the month in which such Flip Date was originally determined to have occurred (and any subsequent Distribution Dates, if relevant) and the cash distribution which would have been made on such Distribution Date(s) based on the recalculated Trigger Percentage (it being acknowledged that any difference between the Tax Benefits and Tax Costs assumed to be allocable to the Class A Interest at the time such Flip Date was first determined and the amounts of such Tax Benefits and Tax Costs reflected in the allocations pursuant to the Tax Return actually filed has been reflected in the final determination of such Flip Date under this paragraph (i)).

(ii) Upon becoming final pursuant to this Section 10.2(g), the Manager shall apply the adjusted Flip Date for all purposes of this Agreement. On the Distribution Date immediately following the calculation becoming final, the sharing percentages set forth in Section 4.2(a)(ii) and Section 5.1(a)(ii) shall be adjusted to the maximum extent necessary so as to correct the Cash Difference on a present value basis calculated at the Target IRR, which adjusted sharing percentages shall remain in effect until elimination of the Cash Difference.

Section 10.3 Flip Date, Tax Return Dispute.

If any Class A Member shall dispute any item or procedure or calculation of, or which affects, the Flip Date contained in any notice or report delivered to such Class A Member under this Article X, such Class A Member shall notify the Manager within ten (10) days following receipt of the notice or report disputed. In such case, such Class A Member's notification will set forth in reasonable detail such Class A Member's objections or disagreements, and the Parties shall attempt in good faith to promptly resolve any differences as to the matters so disputed. If the Parties are unable to resolve any such differences within ten (10) days after the date of such Class A Member's notice, then the actual determination shall be finally referred to a nationally recognized independent public accounting firm (which may or may not be the Certified Public Accountant) selected by the Class A Members (by vote of the Consent of the Class A Members), which accounting firm will be asked to designate one of its partners to act as an independent expert for purposes of this Section 10.3 (the "**Independent Expert**"). Such Class A Member and the Manager shall submit the Aggregate Tracking Model, the proposed Tax Return and pertinent information, books and records, as applicable, and all other data necessary for the Independent Expert to make his determination, including any additional data requested by the Independent Expert. The Independent Expert shall keep confidential all information submitted to him in connection with his resolution of the dispute(s) hereunder. The Independent Expert shall be requested to render his determination as promptly as possible after he receives all necessary data and materials. The determination of the Independent Expert resolving a dispute pursuant to this Section 10.3 shall be final and binding upon the disputing parties, and such determination shall apply for all subsequent periods to any item or procedure substantially similar to that determined hereunder. The Company shall pay the fees of the Independent Expert incurred for such determination.

Article XI

INDEMNIFICATION

Section 11.1 Indemnification by the Members.

(x) Indemnification by the Class B Member. Subject to the terms and conditions of this Article XI, each Class B Member shall indemnify, defend, reimburse and hold harmless each Class A Member and its respective parent or subsidiary companies, shareholders, partners, members and other Affiliates, and each of their respective officers, directors, managers, employees, attorneys, contractors and agents (collectively, the "**Class A Parties**"), from and against any and all claims, actions, causes of action, demands, assessments, losses, damages, liabilities, judgments, settlements, Taxes, penalties, costs, and expenses (including reasonable attorneys' fees and expenses, including such fees and expenses at trial and on any appeal), of any nature whatsoever (collectively, "**Damages**") asserted against, resulting to, imposed upon, or incurred by the Class A Parties, directly or indirectly, by reason of or resulting from (i) any breach or failure by a Class B Member (whether in its capacity as a Class B Member, the Manager, the Tax Matters Member or otherwise), of any of its respective representations, warranties, covenants, obligations or agreements contained in any Investment Document or any certificate delivered thereunder or hereunder, or (ii) any indemnity obligation due and payable to a Fund Investor under the Fund Documents (unless caused by the breach or failure by the a Class A Member of any of its representations, warranties, covenants, obligations or agreements contained in this Agreement or any other Investment Document) (collectively, "**Class A Claims**"). To the extent that any such Damages relating to an Investor Claim remain unpaid after a claim has been properly made therefor pursuant to this Article XI that is not a bona fide dispute, any distributions otherwise payable to the Class B Members under this Agreement shall be used to satisfy the obligations of each Class B Member (whether in its capacity as a Class B Member, the Manager, the Tax Matters Member or otherwise), hereunder.

(y) Indemnification by the Class A Member. Subject to the terms and conditions of this Article XI, each Class A Member shall indemnify, defend, reimburse and hold harmless each Class B Member and its respective parent or subsidiary companies, shareholders, partners, members and other Affiliates, and each of their respective officers, directors, managers, employees, attorneys, contractors and agents (collectively, the "**Class B Parties**" and together with the Class A Parties, the "**Indemnified Parties**"), from and against any and Damages asserted against, resulting to, imposed upon, or incurred by the Class B Parties, directly or indirectly, by reason of or resulting from (i) any breach or failure by the Class A Member of any of its representations, warranties, covenants, obligations or agreements contained in this Agreement or any other Investment Document or any certificate delivered thereunder or hereunder, or (ii) any indemnity obligation due and payable to a Fund Investor under the Fund Documents only if caused by the breach or failure by the a Class A Member of any of its representations, warranties, covenants, obligations or agreements contained in this Agreement or any other Investment Document (collectively, "**Class B Claim**" and together with an Investor Claim, an "**Indemnity Claim**"). To the extent that any such Damages relating to a Class B Claim remain unpaid after a claim has been properly made therefor pursuant to this Article XI that is not a bona fide dispute, any distributions otherwise payable

to the Class A Members under this Agreement shall be used to satisfy the obligations of each Class A Member hereunder.

Section 11.2 Limitation on Liability.

The indemnification obligations pursuant to this Article XI shall be subject to the following limitations:

(h) The amount of Damages for which a Member is obligated to indemnify with respect to any Indemnity Claim shall be reduced to the extent of any amounts actually received by the applicable Class A Parties or Class B Parties, as applicable, after the Effective Date pursuant to the terms of the insurance policies obtained and maintained by the Company or any Subject Company (if any) covering such claim or any insurance proceeds from policies obtained and maintained by or for the benefit of any such Person or any Affiliate thereof be considered in connection with a reduction of Damages pursuant to this Section 11.2(a).

(i) Damages paid pursuant to this Article XI shall be treated as a non-taxable adjustment to purchase price or return of capital for federal income tax purposes unless the Class A Member receives an opinion at a "more likely than not" level or higher from a nationally-recognized law firm that such amount is taxable. If such opinion is received, Damages paid pursuant to this Article XI shall be grossed-up and paid on an After-Tax Basis. To the extent an Indemnified Party subsequently recovers all or a part of the Damages indemnified under this Article XI, the Indemnified Party shall promptly refund the applicable Member(s) that paid such Damages the recovered Damages on an After-Tax Basis; *provided* that any such refund shall not exceed the original amount paid to the Indemnified Party by the applicable Member(s) (on an After-Tax Basis) hereunder.

(j) The indemnification obligations under this Article XI shall be limited to actual Damages and shall not include special, incidental, consequential, indirect, punitive, or exemplary Damages (including lost profits and damages for a lost opportunity); *provided*, that any incidental, consequential, indirect, punitive, or exemplary Damages recovered by a third party (including Governmental Authorities) against a Person entitled to indemnity pursuant to this Article XI shall be included in the Damages recoverable under such indemnity; and *provided*, *further*, that the loss, disallowance or reduction of ITCs shall not be considered as special, incidental, consequential, indirect, punitive or exemplary Damage and shall be included in the Damages recoverable under this indemnity, but, with respect to Damages for the loss, disallowance or reduction of ITCs, only with respect to a loss, disallowance or reduction arising after the Effective Date and prior to the ten (10) year anniversary of the latest Placed in Service Date for any Project.

(k) No Indemnified Party may receive compensation for Damages suffered by such Person to the extent that such Damages are attributable to (i) the gross negligence or willful misconduct of such Indemnified Party or (ii) the breach of any representation or warranty by such Indemnified Party in this Agreement to the extent such representation or warranty was false when made.

Section 11.3 Procedure for Indemnification.

After receipt by an Indemnified Party under Section 11.1 of notice of the commencement of any action, or any other actual or potential Indemnity Claim, such Indemnified Party shall, if a claim in respect thereof is to be made against a Member (the "**Indemnifying Member**"), give written notice thereof to such Indemnifying Member. The failure to promptly notify the Indemnifying Member shall not relieve such Indemnifying Member of any liability that it may have to any Indemnified Party with respect to such action; *provided that*, to the extent that any such failure to provide prompt notice is responsible for an increase in the indemnity obligations of the Indemnifying Member, the Indemnifying Member shall not be responsible for any such increase. In the case of any such action brought against an Indemnified Party for which the Indemnified Party has given written notice to the Indemnifying Member of the commencement thereof, the Indemnifying Member shall be entitled to participate therein and, to the extent that it may wish, to assume the defense thereof with counsel reasonably satisfactory to such indemnified party. If the Indemnifying Member elects to assume the defense of such action, the Indemnified Party shall have the right to employ separate counsel at its own expense and to participate in the defense thereof. If the Indemnifying Member elects not to assume (or fails to assume) the defense of such action, or at any time fails diligently to pursue such defense, the Indemnified Party shall be entitled to assume the defense of such action with counsel of its own choice, at the expense of the Indemnifying Member. If the action is asserted against both the Indemnifying Member and the Indemnified Party and (a) there is a conflict of interests which renders it inappropriate for the same counsel to represent both the Indemnifying Member and the Indemnified Party or (b) such action could reasonably be expected to result in the imposition of criminal liability, the Indemnifying Member shall be responsible for paying for separate counsel for the indemnified party; *provided*, *however*, that if there is more than one Indemnified Party and it is practical for all such parties to be represented by common counsel, the Indemnifying Member shall not be responsible for paying for more than one separate firm of attorneys to represent the indemnified parties, regardless of the number of indemnified parties. If the Indemnifying Member elects to assume the defense of such action, (y) no compromise or settlement thereof may be effected by the Indemnifying Member without the indemnified party's written consent (which shall not be unreasonably withheld) unless the sole relief provided is monetary damages that are paid in full by the Indemnifying Member and (z) the Indemnifying Member shall have no liability with respect to any compromise or settlement thereof effected without its written consent (which shall not be unreasonably withheld) unless the Indemnifying Member has failed to defend such Indemnified Party against such action.

Section 11.4 Exclusivity.

The Parties agree that, (a) except with respect to fraud or willful misconduct, in relation to any breach, default, or nonperformance of any representation, warranty, covenant, or agreement made or entered into by a Member (whether in its capacity as a Member, the Manager, the Tax Matters Member or otherwise) pursuant to this Agreement or any certificate, instrument, or document delivered pursuant hereto or arising out of the transactions contemplated herein, the only relief and remedy available to the other Members in respect of Damages fully recoverable and addressed by the payment of money shall be as set forth in this Article XI, but only to the extent properly claimable hereunder and as limited pursuant to this Article XI or otherwise hereunder. For

the avoidance of doubt, no Party has waived any rights to pursue equitable remedies under this Agreement or the other Investment Documents.

Section 11.5 No Right of Contribution.

After the Effective Date, the Company shall have no liability to indemnify a Member on account of the breach of any representation or warranty or the nonfulfillment of any covenant or agreement of the Company; and no Member shall have any right of contribution against the Company.

Section 11.6 Entire Agreement.

Article XI of this Agreement constitutes the entire agreement and understanding of the parties with respect to indemnification hereunder.

Article XII

DISSOLUTION, LIQUIDATION AND TERMINATION

Section 12.1 Dissolution.

(l) The Company will dissolve and its business and affairs will be wound up on the first to occur of the following (the "**Liquidating Events**"):

(i) The unanimous consent of the Members to dissolve the Company;

(ii) Any other event upon the occurrence of which dissolution is required by the Act (that the Act does not allow to be waived by agreement of the Parties), unless, to the extent permitted by the Act, Members (other than the Member with respect to which such event occurs) unanimously elect in writing, within ninety (90) days of the date such event described in this Section 12.1(a)(ii) occurs, to continue the business of the Company, in which case the Company will not dissolve; or

(iii) The sale, transfer or other disposition by the Company of all or substantially all of its business and Assets.

(m) Each Member agrees that, to the fullest extent permitted by Law, it will not dissolve itself or the Company or withdraw from the Company except as set forth in Section 12.1 (a).

Section 12.2 Liquidation and Termination.

(g) On dissolution of the Company, the Manager shall, with the Consent of the Class A Members, act as liquidator. The liquidator shall proceed diligently to wind up the affairs of the Company and make final distributions as provided in this Agreement. The costs of liquidation will be borne as a Company expense. Until final distribution, the liquidator shall continue to operate the Company with all of the power and authority of the Members. The steps to be accomplished by the liquidator are as follows:

(xi) As promptly as reasonably practicable after dissolution and again after final liquidation, the liquidator shall cause a proper accounting to be made by the Certified Public Accountant of the Company's Assets, liabilities, and operations through the last day of the calendar month in which the dissolution occurs or the final liquidation is completed, as applicable.

(xii) The liquidator shall pay from Company funds all of the debts and liabilities of the Company or otherwise make adequate provision for them (including the establishment of a cash escrow fund for contingent, conditional or unmatured liabilities in such amount and for such term as the liquidator may reasonably determine).

(xiii) With respect to the remaining Assets of the Company:

(A) the liquidator shall use all commercially reasonable efforts to obtain the best possible price and may sell any or all Company Assets (subject to any and all restrictions to which any Project is subject), including to the Members at such price, but in no event lower than the Fair Market Value thereof; and

(B) with respect to all Company Assets that have not been sold, the Values of such Assets shall be determined pursuant to subparagraph (b) of the definition of Value.

(xiv) Any Company Items of income and gain (including any such items attributable to the disposition or deemed disposition of Assets pursuant to Section 12.2(a)(iii) for the Taxable Year during which the distribution of liquidation proceeds occurs that have not been allocated pursuant to the Regulatory Allocations shall first be allocated to each Member having a deficit balance in its Capital Account, in the proportion that such deficit balance bears to the total deficit balances in the Capital Accounts of all Members, until each Member has been allocated Company Items of income and gain equal to any such deficit balance in its Capital Account and such deficit balance has thereby been eliminated. Any remaining Company Items for such Taxable Year during which the distribution of liquidation proceeds occurs shall be allocated among the Members in such manner as to ensure that, to the greatest extent feasible, following these allocations, the balances in the Capital Accounts of the Members are expected to result in distributions pursuant to Section 12.2(a)(v) in accordance with the following target liquidation distributions:

(A) *first*, to the Class A Members and the Class B Members in accordance with the sharing ratios set forth in Section 5.1(a)(i), until the Flip Point shall occur; and

(B) *thereafter*, to the Class A Members and the Class B Members in accordance with the sharing ratios set forth in Section 5.1(a)(ii) hereof as being applicable after the Flip Date.

(xv) After giving effect to all allocations (including those under Section 4.2 and Section 12.2(a)(iv)), all prior distributions (including those under Section 5.1) and all Capital Contributions (including those under Section 3.1, Section 3.2 and Section 3.3) for all periods, all remaining cash and property (including any Available Cash Flow and liquidation proceeds) shall be distributed to the Members in accordance with the positive balances in their Capital Accounts.

(xvi) Any distribution to the Members in respect of their Capital Accounts pursuant to this Section 12.2 shall be made by the end of the Company taxable year in which a Liquidating Event occurs (or if later, within ninety (90) days after the date of such Liquidating Event).

(h) The distribution of cash or property to a Member in accordance with the provisions of this Section 12.2 constitutes a complete return to the Member of its Capital Contributions and a complete distribution to the Member on account of its Membership Interest

and all the Company's property and constitutes a compromise to which all Members have consented pursuant to Section 18-502(b) of the Act.

Section 12.3 Deficit Capital Accounts.

(k) Except as expressly provided in this Section 12.3, no Member shall be obligated to contribute cash to restore a deficit in its Capital Account balance.

(l) In the event the Class A Member's interests in the Company are "liquidated" within the meaning of Treasury Regulations Section 1.704-1(b)(2)(ii)(g), if the Class A Member has a deficit Capital Account balance in excess of the amount such Class A Member is deemed obligated to restore pursuant to the penultimate sentences of Treasury Regulations Section 1.704-2 (g)(1) and 1.704-2(i)(5) (an "Adjusted Deficit Capital Account Balance"), then the Class A Member shall be obligated to pay and restore to the Company cash in an amount equal to such Adjusted Deficit Capital Account Balance by the end of the Taxable Year during which the liquidation of the Company occurs, or if later, within ninety (90) days after the date of such liquidation; *provided*, *however*, that such restoration obligation of the Class A Member shall not, under any circumstances be more than its DRO Amount.

Section 12.4 Termination.

On completion of the satisfaction of liabilities and distribution of Assets as provided in this Agreement, the Manager (or such other Person or Persons as the Act may require or permit) shall file a certificate of cancellation with the Secretary of State of the State of Delaware and cancel any other filings made as provided in Section 2.1, and shall take such other actions as may be necessary to terminate the existence of the Company. Upon the filing of such certificate of cancellation, the existence of the Company shall terminate (and the term of the Company shall end), except as may be otherwise provided by the Act or other applicable Law. All costs and expenses in fulfilling the obligations under this Section 12.4 shall be borne by the Company.

Article XIII

GENERAL PROVISIONS

Section 13.1 Offset.

Whenever the Company (or another Person on behalf of the Company) is to pay any sum to any Member, any amounts then owed by such Member to the Company may be deducted from such sum before payment, *provided* that no Member's obligation to make Capital Contributions may be deducted from any payment amounts without such Member's consent..

Section 13.2 Notices.

All notices, consents, demands, requests or other communications which may be or are required to be given under this Agreement shall be in writing and shall (a) be sent by overnight courier, facsimile, electronic mail or United States mail, addressed to the recipient, postage paid, and registered or certified, return receipt requested, or delivered to the recipient in person and (b) be sent or delivered, in each case, at the addresses set forth on the signature page of this Agreement or such other address as a Member may specify by notice to the Company and the other Members; *provided*, that any Fund Documents, financial models or reports required to be delivered under this Agreement shall be emailed to (i) with respect to residential Projects, NRGRPVHoldCo1LLC@nrg.com, and (ii) with respect to commercial or industrial Projects, NRGDGPVHoldCo1LLC@nrg.com, and additionally, may be uploaded to a data site mutually agreed to by the Members, including by allowing access to a Member to a Fund Company data site, as long as such Members are delivered notice by one of the other means allowed hereunder when and where such documents are available. Any notice, request or consent to the Company must be given to the Manager. Notices, consents, demands, requests and other communications shall be deemed effective or served on the date of receipt at the address of the Person to receive it.

Section 13.3 Counterparts.

This Agreement may be executed in one or more counterparts, each bearing the signatures of one or more Members. Each such counterpart shall be considered an original and all of such counterparts shall constitute a single agreement binding all the parties as if all had signed a single document. Facsimile, electronic mail or pdf signatures shall be accepted as original signatures for purposes of this Agreement.

Section 13.4 Governing Law and Severability.

This Agreement shall be construed, interpreted and enforced in accordance with the internal laws and decisions of the State of Delaware without giving effect to any choice of law or conflict of law rules or provisions of any other state or jurisdiction that would cause the application of the laws of any jurisdiction other than the State of Delaware. If any provision of this Agreement shall be contrary to any other applicable Law, at the present time or in the future, such provision shall be deemed null and void, but this shall not affect the legality of the remaining provisions of this Agreement. This Agreement shall be deemed to be modified and amended so as to be in

compliance with applicable Law and this Agreement shall then be construed in such a way as will best serve the intention of the Parties at the time of the execution of this Agreement.

Section 13.5 Entire Agreement.

This Agreement, including any Annexes, Schedules and Exhibits, together with the other Investment Documents, constitutes the entire agreement among the Members regarding the terms and operations of the Company, except as amended in writing pursuant to the requirements of this Agreement, and supersedes all prior and contemporaneous agreements, statements, understandings and representations of the Parties.

Section 13.6 Effect of Waiver or Consent.

A waiver or consent, express or implied, to or of any breach or default by any Person in the performance by that Person of its obligations under this Agreement, or any Investment Document is not a consent or waiver to or of any other breach or default in the performance by that Person of the same or any other obligations of that Person under this Agreement, or any Investment Document. Failure on the part of a Person to complain of any act of any Person or to declare any Person in default with respect to its obligations under this Agreement, or any Investment Document, irrespective of how long that failure continues, does not constitute a waiver by that Person of its rights with respect to that default until the applicable statute of limitations period has run.

Section 13.7 Amendment or Modification.

Except as otherwise provided herein, this Agreement may be amended or modified from time to time only by a written instrument executed by all Members.

Section 13.8 Binding Effect.

Subject to the restrictions on Transfers set forth in this Agreement, this Agreement is binding on and inures to the benefit of the Members and their respective legal representatives, permitted successors and permitted assigns.

Section 13.9 Further Assurances.

In connection with this Agreement and the transactions contemplated hereby, each Member shall execute and deliver any additional documents and instruments and perform any additional acts that may be necessary or appropriate to effectuate and perform the provisions of this Agreement and those transactions contemplated here, including all filing, recording, publishing and other acts appropriate to comply with all requirements for the operation of a limited liability company under the laws of all jurisdictions where the Company shall conduct business.

Section 13.10 Jurisdiction.

The Parties agree to submit to the exclusive jurisdiction of the Supreme Court of the State of New York and the Federal District Court located in the Borough of Manhattan, State of New York, and any court of appeal from either thereof, in connection with any action or other

proceeding relating to this Agreement or the transactions contemplated hereby. Each Party irrevocably waives and agrees not to make, to the fullest extent permitted by Law, any objection which it may now or hereafter have to the jurisdiction of any such court or to the laying of venue of any such action or proceeding brought in any such court and any claim that any such action or proceeding brought in any such court has been brought in an inconvenient forum.

Section 13.11 LIMITATION ON LIABILITY.

EXCEPT AS PROVIDED IN SECTION 11.2, NO DAMAGES SHALL BE MADE BY ANY PARTY HERETO OR ANY OF ITS AFFILIATES, DIRECTORS, EMPLOYEES, ATTORNEYS OR AGENTS AGAINST ANY OTHER PARTY HERETO OR ANY OF ITS AFFILIATES, DIRECTORS, EMPLOYEES, ATTORNEYS OR AGENTS FOR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, OR EXEMPLARY DAMAGES (INCLUDING DAMAGES FOR LOST OPPORTUNITY, LOST PROFITS OR REVENUES OR LOSS OF USE OF SUCH PROFITS OR REVENUES) (WHETHER OR NOT THE CLAIM THEREFORE IS BASED ON CONTRACT, TORT, DUTY IMPOSED BY LAW OR OTHERWISE), IN CONNECTION WITH, ARISING OUT OF OR IN ANY WAY RELATED TO THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT OR THE OTHER INVESTMENT DOCUMENTS OR ANY ACT OR OMISSION OR EVENT OCCURRING IN CONNECTION THEREWITH; AND EACH PARTY HEREBY WAIVES, RELEASES AND AGREES NOT TO SUE UPON ANY SUCH CLAIM FOR ANY SUCH SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, OR EXEMPLARY DAMAGES, WHETHER OR NOT ACCRUED AND WHETHER OR NOT KNOWN OR SUSPECTED TO EXIST IN ITS FAVOR, *PROVIDED*, *HOWEVER*, THAT TO THE EXTENT A BREACH RESULTS IN THE LOSS, DISALLOWANCE OR REDUCTION OF ITCS, THE VALUE OF SUCH LOST, DISALLOWED OR REDUCED ITCS TO THE EXTENT PROVIDED IN SECTION 11.2 SHALL NOT CONSTITUTE SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, OR EXEMPLARY DAMAGES.

[Signature Pages Follow.]

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

CLASS B MEMBER:

NRG RESIDENTIAL SOLAR SOLUTIONS LLC

By: /s/ Chad Plotkin

Name: Chad Plotkin

Title: Senior Vice President

Address: 211 Carnegie Center
Princeton, NJ 08540

Attention: Office of the General COunsel

Phone: 609-524-4500

Fax: 609-524-4501

Email: ogc@nrg.com

CLASS A MEMBER:

NRG YIELD RPV HOLDING LLC

By: /s/ Gaetan Frotte

Name: Gaetan Frotte

Title: Vice President and Treasurer

Address: 211 Carnegie Center
Princeton, NJ 08540

Attention: Office of the General COunsel

Phone: 609-524-4500

Fax: 609-524-4501

Email: ogc@nrg.com

Copies of the notices to the Class B Member shall also be sent to:

NRG RPV HOLDCO 1 LLC

Address: 211 Carnegie Center
Princeton, NJ 08540
Attention: Office of the General Counsel
Phone: 609-524-4500
Facsimile: 609-524-4501
Email: ogc@nrg.com

ANNEX I

Members

Member Name	Address for Notices	Initial Capital Contribution	Capital Account Balance	Number and Class of Units
NRG Yield RPV Holding LLC	Office of the General Counsel 211 Carnegie Center Blvd. Princeton, NJ 08540 Telephone: 609-524-4500 Facsimile: 609-524-4501 Email: ogc@nrg.com	$6,933,379.26	$6,933,379.26	1000 Class A Units
NRG Residential Solar Solutions LLC	Office of the General Counsel 211 Carnegie Center Blvd. Princeton, NJ 08540 Telephone: 609-524-4500 Facsimile: 609-524-4501 Email: ogc@nrg.com	$7,375,752.26	$7,375,752.26	1000 Class B Units

Portions of this Exhibit, indicated by the mark "[***]," were omitted and have been filed separately with the Secretary of the Commission pursuant to the Registrant's application requesting confidential treatment pursuant to Rule 24b-2 of the Securities Exchange Act of 1934.

EXHIBIT A

Form of Fund Addendum

[See Attached]

FUND ADDENDUM

This FUND ADDENDUM (this "**Fund Addendum**") dated as of [_____] (the "**Effective Date**"), is entered into pursuant to that certain Amended and Restated Limited Liability Company Agreement of NRG RPV HOLDCO 1 LLC dated as of April 9, 2015 (the "**Agreement**"), by and between NRG YIELD RPV HOLDING LLC, a Delaware limited liability company (the "**Class A Member**"), and NRG RESIDENTIAL SOLAR SOLUTIONS LLC, a Delaware limited liability company (the "**Class B Member**"). Capitalized terms used and not otherwise defined herein have the respective meanings assigned thereto in the Agreement.

Pursuant to Section 6.3 of the Agreement, [_____] (the "Fund Company"), has become an Approved Acquisition. The Members are entering into this Fund Addendum to set forth certain specific agreed terms with respect to Company's acquisition of the Fund Company. Attached hereto (a) as Exhibit A is the updated Aggregate Tracking Model, (b) as Exhibit B is the Fund Base Case Model, (c) as Exhibit C is the updated Annual Budget, (d) as Exhibit D is the Fund Credit Profile and (e) as Exhibit E is the Form of Officer's Certificate, in each case reflecting the Approved Acquisition. The Officer's Certificate must be delivered by the Manager to the Members on or prior to each Equity Capital Contribution Date. Upon execution, this Fund Addendum shall supplement the Agreement as set forth herein.

Fund Company:

[_____]
a [ENTITY]

Notice Address:

Street: _____

City: _____

Zip: _____

Phone: _____

Fascimile: _____

Topic	**Agreed Supplement**
Target Flip Date	[**INSERT DATE**]
Tax Assumptions *All of the following to be finalized with appropriate revisions for each Fund Addendum.*	The Highest Marginal Rate Applicable to the Class A Member is [[***]**%]**
	The Class A Member desires to provide a DRO Notice in accordance with Section 12.3. The DRO Amount for all purposes of the Agreement is [**$**_____]
	(a) The distributive share of Company items of income, gain, loss, deduction, and ITCs as determined for federal income tax purposes allocated by the Company to the Class A Member and any gain recognized by such Holder under Section 731(a) of the Code, shall be treated as recognized ratably during the Taxable Year, with the result that the Tax Benefit or Tax Cost with respect to such items allocated to the Class A Members shall be treated as having been paid or received in four equal installments on [April 30], [June 30], [September 30], and [December 31] during the Taxable Year (the **"Tax Payment Dates**"). (b) In the Taxable Year in which the Flip Date occurs, such items allocated to the Class A Members for the period prior to the Flip Date and after the Flip Date will be treated as allocated ratably to each of the Tax Payment Dates during the Tax Year. (c) The ITC for any Project shall be recognized [ratably under the Tax Payment Dates remaining in such Taxable Year] following the Placed in Service Date for such Project.
Computation of Tax Benefits and Tax Costs Full Taxpayer Assumption	For purposes of calculating and determining Tax Costs and Tax Benefits, each Class A Member shall be treated as able to use immediately and fully any Tax Benefits at the Highest Marginal Tax Rate without regard to (X) whether the Class A Member has any income, gains, or tax liability against which it is permitted to offset such losses, deductions, or credits, (Y) any provision of Law limiting, restricting, deferring or disallowing such loss, deduction or credit that is applicable to any Class A Member as opposed to the Company.

Topic	**Agreed Supplement**
Self-Utilization Sheltering Assumption	For purposes of calculating and determining Tax Benefits, each Class A Member shall be treated as able to use all or any portion of a Tax Benefit only to the extent that such Class A Member is allocated a Tax Cost for such Taxable Year in at least an equal amount. Any excess of Tax Benefits over Tax Costs in any Taxable Year shall be carried forward to subsequent Taxable Years as a Tax Benefit Carryforward. For purposes of calculating and determining Tax Costs, each Class A Member shall be treated as taxable at the Highest Marginal Tax Rate with respect to any Tax Cost allocated to it during a Taxable Year in excess of the sum of (x) Tax Benefits allocated to it in such Taxable Year, plus (y) any Tax Benefit Carryforward available to it from a previous Taxable Year.
Deferral to 2020	For purposes of calculating and determining Tax Costs and Tax Benefits, each Class A Member shall be treated as unable to utilize any Tax Benefits and not responsible to pay any Tax Costs for any Taxable Year prior to any Taxable Year that begins in calendar year 2020 (the "Initial Taxable Year") . In the Initial Taxable Year, Tax Benefits and Tax Costs shall be taken into account by the Class A Member by assuming that the Class A Member will incur on the first day of such Taxable Year the aggregate amount of all Tax Costs and Tax Benefits accrued in all previous Taxable Years at the Highest Marginal Tax Rate. Thereafter, each Class A Member shall be treated as able to use immediately and fully any Tax Benefits without regard to (X) whether the Class A Member has any income, gains, or tax liability against which it is permitted to offset such losses, deductions, or credits, (Y) any provision of Law limiting, restricting, deferring or disallowing such loss, deduction or credit that is applicable to any Class A Member as opposed to the Company.
Deferral to 2025	For purposes of calculating and determining Tax Costs and Tax Benefits, each Class A Member shall be treated as unable to utilize any Tax Benefits and not responsible to pay any Tax Costs for any Taxable Year prior to any Taxable Year that begins in calendar year 2025 (the "Initial Taxable Year") . In the Initial Taxable Year, Tax Benefits and Tax Costs shall be taken into account by the Class A Member by assuming that the Class A Member will incur on the first day of such Taxable Year the aggregate amount of all Tax Costs and Tax Benefits accrued in all previous Taxable Years at the Highest Marginal Tax Rate. Thereafter, each Class A Member shall be treated as able to use immediately and fully any Tax Benefits without regard to (X) whether the Class A Member has any income, gains, or tax liability against which it is permitted to offset such losses, deductions, or credits, (Y) any provision of Law limiting, restricting, deferring or disallowing such loss, deduction or credit that is applicable to any Class A Member as opposed to the Company.

IN WITNESS WHEREOF, each of the undersigned has duly executed this Fund Addendum as of the date first above written.

CLASS A MEMBER:
NRG YIELD RPV HOLDING LLC
By: _____
Name:
Title:

CLASS B MEMBER:
NRG RESIDENTIAL SOLAR SOLUTIONS LLC

By: _____
Name:
Title:

EXHIBIT A
Aggregate Tracking Model

[See Attached]

EXHIBIT B
Fund Base Case Model

[See Attached]

Portions of this Exhibit, indicated by the mark "[***]," were omitted and have been filed separately with the Secretary of the Commission pursuant to the Registrant's application requesting confidential treatment pursuant to Rule 24b-2 of the Securities Exchange Act of 1934.

EXHIBIT C
Annual Budget

[See Attached]

EXHIBIT D
Fund Credit Profile

For all counterparties to the offtake and/or lease agreements in the fund as a whole:

1. The expected average FICO Score is [____].

2. The minimum average FICO Score permitted under the Fund Documents is [____].

3. The minimum individual FICO Score for each counterparty permitted under the Fund Documents is [____].

4. The actual minimum individual FICO Score for any counterparty known to the Class B Member as of the date of the Fund Addendum is [____].

5. The maximum allowable percentage of counterparties with FICO Scores below [____] is 10%, as agreed upon by the Members.

All averages have been weighted by the STC DC nameplate MWs of the Purchased System leased by such counterparty.

EXHIBIT E
Form of Officer's Certificate

[See Attached]

Portions of this Exhibit, indicated by the mark "[***]," were omitted and have been filed separately with the Secretary of the Commission pursuant to the Registrant's application requesting confidential treatment pursuant to Rule 24b-2 of the Securities Exchange Act of 1934.

OFFICER'S CERTIFICATE

This Certificate is furnished pursuant to that certain Amended and Restated Limited Liability Agreement of NRG RPV Holdco 1 LLC, a Delaware limited liability company (the "Company"), dated as of April 9, 2015 (the "LLC Agreement"), between NRG Residential Solar Solutions LLC, a Delaware limited liability company and NRG Yield RPV Holding LLC, a Delaware limited liability company. Unless otherwise defined herein, terms defined in the LLC Agreement and used herein shall have the meanings given to them in the LLC Agreement.

I, the undersigned officer of NRG Residential Solar Solutions, LLC, acting in its capacity as the Manager of the Company, DO HEREBY CERTIFY on and as of the date hereof that, upon due inquiry, to the best of my knowledge:

1. All of the lease agreements and PPAs for the tranche of Projects presented to NRG RPV Fund 11 LLC (the "Fund Company") are located in one or more of the following states only: Arizona, California, Colorado, Connecticut, Hawaii, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, and Texas.

2. Immediately upon investing in the tranche of Projects presented to the Fund Company (the "Tranche"), (a) the average FICO Score of all natural persons who are counterparties to lease agreements (the "Customers") in the Fund Company's portfolio will be no less than [***], (b) the number of Customers with a FICO Score between [***] and [***] will not represent more than [***]% of all Customers in the Fund Company's portfolio, and (c) the number of Customers with a FICO Score between [***] and [***] will not (i) represent more than [***]% of all Customers in the Fund Company's portfolio or (ii) be counterparties to lease agreements in the Fund Company's portfolio with an aggregate value greater than $[***] million.

3. For customer agreements that generate merchant cash flows (e.g. from SRECs or energy sales), the Fund Company reasonably expects to hedge the merchant risk through contractual arrangements with NRG Residential Solar Solutions LLC, NRG Power Marketing LLC or other acceptable third parties. Customer agreements that generate merchant cash flows but are not reasonably expected to be hedged as described in the previous sentence have *not* been taken into account for purposes of sizing the Class A Capital Contribution.

4. The Class A Capital Contribution has been determined in accordance with the most recent Fund Base Case Model such that, based on the model (i) the Class A Member achieves the Target IRR on the Target Flip Date; (ii) the Fund Company is over-collateralized by at least [***]%, and (iii) NRG Yield RPV Holding LLC shall receive a minimum [***]% return based on Available Cash Flow until the Target Flip Date and no less than a [***]% return based on Available Cash Flow during the first ten years following the date on which the Class A Capital Contribution has been made.

The statements in this Certificate are based on the assumptions contained in the Fund Base Case Model. For purposes of investment sizing, the leases with Customers with FICO Scores between [***]-[***] have been assumed to have a [***]% annual default rate. Over-collateralization, for purposes of investment sizing, is defined as 1 minus the ratio of "Total after-tax cash flows needed to achieve the Class A Member Target IRR" as numerator and "Maximum total cash flows available to the Class A Member during the Contracted/Hedged period ([***]% of total after-tax portfolio cash flows)" as denominator.

[Signature page follows]

IN WITNESS WHEREOF, I have hereunto set my hand on the ___ day of _____.

By: _____
Name:
Title: _____ of NRG Residential Solar Solutions LLC

[Signature page of Officer Certificate of Manager]

EXHIBIT B

Form of Certificate

THE INTERESTS REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "***ACT***") OR ANY APPLICABLE STATE SECURITIES LAWS. ACCORDINGLY, SUCH INTERESTS MAY NOT BE SOLD, TRANSFERRED, ASSIGNED OR OTHERWISE DISPOSED OF WITHOUT COMPLIANCE WITH SUCH ACT AND SUCH STATE SECURITIES LAWS, AND THE COMPANY MAY REQUIRE AN OPINION OF COUNSEL SATISFACTORY TO IT THAT NO VIOLATION OF SUCH ACT AND SUCH STATE SECURITIES LAWS WILL RESULT FROM ANY PROPOSED SALE, TRANSFER, ASSIGNMENT OR OTHER DISPOSITION OF SUCH INTERESTS.

THIS CERTIFICATE EVIDENCES AN INTEREST IN NRG RPV HOLDCO I LLC AND SHALL BE A SECURITY FOR THE PURPOSES OF ARTICLE 8 OF THE UNIFORM COMMERCIAL CODE AS IN EFFECT IN THE STATE OF NEW YORK.

No. 1 [_____] Class **[A] [B]** Units

NRG RPV HOLDCO I LLC
a Limited Liability Company
under the laws of the State of Delaware
Certificate of Interest

This certifies that **[_____]** is the owner of a Class **[A] [B]** membership interest in NRG RPV HOLDCO I LLC (the "***Company***"), represented by **[_____]** Class **[A] [B]** Units, which membership interest is subject to the terms of the Amended and Restated Limited Liability Company Agreement of NRG RPV Holdco I LLC, dated as of April 9, 2015, as the same may be further amended from time to time in accordance with the terms thereof (the "***Limited Liability Company Agreement***").

This Certificate of Interest may be transferred by the lawful holders hereof only in accordance with the provisions of the Limited Liability Company Agreement.

IN WITNESS WHEREOF, the said Company has caused this Certificate of Interest to be signed by its duly authorized officer this **[___]** day of **[_____]**, 20**[●]**.

NRG RPV HOLDCO I LLC

By: _____
Name:
Title:

Portions of this Exhibit, indicated by the mark "[***]," were omitted and have been filed separately with the Secretary of the Commission pursuant to the Registrant's application requesting confidential treatment pursuant to Rule 24b-2 of the Securities Exchange Act of 1934.

Form of Disposition Instrument

INSTRUMENT OF DISPOSITION OF
MEMBERSHIP INTEREST IN
NRG RPV HOLDCO I LLC

FOR VALUE RECEIVED, the undersigned does hereby sell, assign and transfer unto _____ (print or type name of assignee) the membership interest evidenced by and within the Certificate of Interest herewith, and does hereby irrevocably constitute and appoint _____ as attorney to transfer said interest on the books of NRG RPV HOLDCO I LLC, and to cancel said Certificate of Interest, with full power of substitution in the premises.

Dated as of: **[**_____**]**

[_____**]**

By: _____
Name:
Title:

EXHIBIT C

Form of Assignment and Assumption Agreement

This ASSIGNMENT AND ASSUMPTION AGREEMENT (this "Agreement") is made as of _____, _____, by and among _____ (the "Assignor"); and _____ (the "Assignee"). Capitalized terms used herein but not defined herein shall have the meanings ascribed to such terms in the LLC Agreement (defined below).

W I T N E S S E T H:

WHEREAS, the Assignor is a Member of NRG RPV Holdco LLC (the "Company");

WHEREAS, Section 9.3 of the Amended and Restated Limited Liability Company Agreement of NRG RPV Holdco LLC, dated as of April 9, 2015 (the "LLC Agreement") by and among the Members party thereto, permits, under certain circumstances and subject to certain restrictions, the Disposition of the Assignor's Membership Interest in the Company;

WHEREAS, the Assignor has agreed to sell, grant, convey, transfer, assign and deliver to the Assignee (or its designee), and the Assignee has agreed to purchase, accept and assume (or will cause its designee to purchase, accept and assume), all [or a portion thereof] of the rights, duties and obligations of the Assignor with respect to its Membership Interest in the Company.

NOW, THEREFORE, for value received, in consideration of the mutual agreements herein contained and other good and valuable consideration, receipt and sufficiency thereof being hereby acknowledged, the parties hereto hereby agree as follows:

1. Assignment. The Assignor hereby irrevocably sells, grants, conveys, transfers, assigns, and delivers unto Assignee (or its designee), without recourse to the Assignor, all [or a portion thereof] of the Assignor's rights, title and interest in and to the Assignor's Membership Interest in the Company (the "Assigned Interest"). The Assignor hereby irrevocably delegates, without recourse to the Assignor, any and all duties, obligations, responsibilities, claims, demands and other commitments in connection with the Assigned Interest, as applicable, unto Assignee.

2. Acceptance of Assignment. Assignee hereby irrevocably purchases, accepts and assumes the Assigned Interest and from the date hereof agrees to perform and be bound by all the terms, conditions and covenants of and assumes the duties and obligations of the Assignor with respect to the Assigned Interest.

3. Representations and Warranties of the Assignor. The Assignor hereby represents and warrants to the Assignee as follows:

(a) The Assignor (i) is duly organized and validly existing under the laws of its jurisdiction of organization or incorporation, (ii) is in good standing under such laws and (iii) has full power and authority to execute, deliver and perform its obligations under this Agreement.

(b) The rights and duties assigned by the Assignor pursuant to this Agreement are not subject to any prior sale, transfer, assignment or participation by the Assignor or any agreement to assign, convey, transfer or participate, in whole or in part.

4. Representations and Warranties of Assignee. Assignee hereby represents and warrants to the Assignor that the Assignee (a) is duly organized and validly existing under the laws of its jurisdiction of organization or incorporation, (b) is in good standing under such laws, (c) has full power and authority to execute, deliver and perform its obligations under this Agreement and (d) is able to make all representations and warranties contained in and perform its obligations under the LLC Agreement.

5. LLC Agreement Requirements.

(a) As required by Section 9.3(a)(ii)(A) of the LLC Agreement, Assignee's notice address for purposes of the LLC Agreement is:

[_____]

(b) As required by Section 9.3(a)(ii)(B) of the LLC Agreement, [the Parents/guarantor] of Assignee are: [_____]

(c) As required by Section 9.3(a)(ii)(C) of the LLC Agreement, after the Disposition contemplated by this Agreement, Assignor shall own [_____] Class [___] Units in the Company and Assignee shall [_____] Class [___] Units.

(d) As required by Section 9.3(a)(ii)(D) of the LLC Agreement, Assignee hereby ratifies the LLC Agreement and confirms that the representations and warranties in Article VIII of the LLC Agreement are true and correct with respect to it and this Disposition.

(e) As required by Section 9.3(a)(ii)(E) of the LLC Agreement, Assignee hereby ratifies the Invsestment Documents to which Assignor is a party and agrees to be bound by them to the same extent that Assignor was bound by them prior to the Disposition contemplated by this Agreement.

(f) As required by Section 9.3(a)(ii)(F) of the LLC Agreement, each of Assignor and Assignee hereby represents and warrants that the Disposition contemplated by this Agreement is being made in accordance with all applicable Laws and that all conditions set forth in Section 9.3 (other than (A)) are true and correct.

6. Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OR CHOICE OF LAWS OTHER THAN SECTION 5-1401 OF THE NEW YORK GENERAL OBLIGATIONS LAW.

7. Counterparts. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall constitute an original, but all of which counterparts together shall constitute one and the same instrument.

[Signature page to follow]

IN WITNESS WHEREOF, the parties hereto have each caused this Agreement to be duly executed by their respective officers thereunto duly authorized as of the date set forth above.

ASSIGNOR: [INSERT ASSIGNOR]

By: _____
Name:
Title:

ASSIGNEE: [INSERT ASSIGNEE]

By: _____
Name:
Title:

EXHIBIT D

Initial Approved Budget

Calendar Year **2015**

[***]

Portions of this Exhibit, indicated by the mark "[***]," were omitted and have been filed separately with the Secretary of the Commission pursuant to the Registrant's application requesting confidential treatment pursuant to Rule 24b-2 of the Securities Exchange Act of 1934.

EXHIBIT 10.2

NRG DGPV HOLDCO 1 LLC

a Delaware Limited Liability Company

AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT

Dated as of May 8, 2015

THE SECURITIES (MEMBERSHIP INTERESTS) REPRESENTED BY THIS AGREEMENT HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933 OR REGISTERED OR QUALIFIED UNDER ANY SECURITIES OR BLUE SKY LAWS OF ANY STATE OR JURISDICTION. THEREFORE, THE SECURITIES MAY NOT BE SOLD, PLEDGED, HYPOTHECATED OR OTHERWISE TRANSFERRED UNTIL A REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR THE APPLICABLE STATE SECURITIES OR BLUE SKY LAWS SHALL HAVE BECOME EFFECTIVE WITH REGARD TO THE PROPOSED TRANSFER, OR UNLESS REGISTRATION OR QUALIFICATION UNDER THE SECURITIES ACT OR BLUE SKY LAWS IS NOT REQUIRED IN CONNECTION WITH THE PROPOSED TRANSFER.

Portions of this Exhibit, indicated by the mark "[***]," were omitted and have been filed separately with the Secretary of the Commission pursuant to the Registrant's application requesting confidential treatment pursuant to Rule 24b-2 of the Securities Exchange Act of 1934.

NRG DGPV HOLDCO 1 LLC
Limited Liability Company Agreement

TABLE OF CONTENTS

Portions of this Exhibit, indicated by the mark "[***]," were omitted and have been filed separately with the Secretary of the Commission pursuant to the Registrant's application requesting confidential treatment pursuant to Rule 24b-2 of the Securities Exchange Act of 1934.

Portions of this Exhibit, indicated by the mark "[***]," were omitted and have been filed separately with the Secretary of the Commission pursuant to the Registrant's application requesting confidential treatment pursuant to Rule 24b-2 of the Securities Exchange Act of 1934.

Annexes, Schedules and Exhibits:

Annex I Members

Exhibit A	Form of Fund Addendum
Exhibit B	Form of Membership Interest Certificate
Exhibit C	Form of Assignment Agreement
Exhibit D	Initial Operating Budget

Portions of this Exhibit, indicated by the mark "[***]," were omitted and have been filed separately with the Secretary of the Commission pursuant to the Registrant's application requesting confidential treatment pursuant to Rule 24b-2 of the Securities Exchange Act of 1934.

NRG DGPV HOLDCO 1 LLC

AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT

THIS AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT, dated as of May 8, 2015 (this "**Agreement**"), is made and entered into by and among **NRG YIELD DGPV HOLDING LLC**, a Delaware limited liability company (the "**Initial Class A Member**"), as a Class A Member, **NRG RENEW LLC**, a Delaware limited liability company (the "**Initial Class B Member**"), as a Class B Member, and NRG Energy, Inc., a Delaware corporation, solely for the purpose of acknowledging the amendment and restatement of the Original Agreement (as defined below). This Agreement supersedes all prior and contemporaneous agreements, statements, understandings and representations regarding the terms and operations of the Company, including without limitation that certain Limited Liability Company Agreement of the Company dated April 2, 2015 (the "**Original Agreement**").

RECITALS

A. NRG DGPV HOLDCO 1 LLC, a Delaware limited liability company (the "**Company**"), was formed by the Members pursuant to the Act on April 2, 2015, by virtue of its Certificate of Formation (the "**Delaware Certificate**") filed with the Secretary of State of the State of Delaware.

B. The Company has been formed by the Members to own interests in subsidiary companies (each a "**Fund Company**" and collectively the "**Fund Companies**") that either own or will purchase solar power generation projects and other ancillary related assets (each a "**Project**" and collectively, the "**Projects**");

C. The Company will hold its interest in the Fund Companies through one or more intermediate wholly-owned companies (each an "**Intermediate Company**" and collectively the "**Intermediate Companies**"). An Intermediate Company may be the sole owner of a Fund Company or it may be the managing member of such Fund Company if such Fund Company is jointly owned with one or more investors (each, a "**Fund Investor**" and collectively, the "**Fund Investors**");

D. Upon the approval of the Members for acquisition by the Company of a Fund Company, the Members will each make capital contributions to the Company to fund the Company's purchase of such Fund Company, if such Fund Company is a going concern, and to fund the ongoing obligations of each Intermediate Company with respect to its Fund Company subsidiaries in accordance with the Company's Approved Budget.

E. The Company adopted the Original Agreement on April 2, 2015 and now wishes to replace such Original Agreement.

F. The Members desire to enter into this Agreement to describe their respective right and obligations as members of the Company.

NOW, THEREFORE, in consideration of the premises and the mutual undertakings contained herein, the parties hereto hereby agree, as follows:

Article I

DEFINITIONS

Section 1.1 Certain Definitions.

The following initially capitalized terms, as and when used in this Agreement, shall have meanings set forth below:

"Accepted Acquisition" is defined in Section 6.3(b).

"Act" means the Delaware Limited Liability Company Act, 6 Del. Code §§ 18-101 *et seq.*, as amended from time to time, and any successor to such statutes.

"Additional Project Document" means, collectively, any Contract (or series of related Contracts) entered into by the Company or any Subject Company subsequent to the Effective Date.

"Adjusted Capital Account Deficit" means, with respect to any Member, the deficit balance, if any, in the Capital Account established and maintained for such Member, as the same is specially computed as of the end of the Taxable Year after giving effect to the following adjustments:

(a) Credit to such Member's Capital Account any amounts (including unpaid Capital Contributions expected to be paid by the end of the relevant tax year) which such Member is obligated to contribute to the Company or to restore pursuant to Section 12.3 of this Agreement or is deemed obligated to restore pursuant to the penultimate sentences in Treasury Regulations Sections 1.704-2(g)(1) and 1.704-2(i)(5), and

(b) Debit to such Member's Capital Account any items described in Treasury Regulations Sections 1.704-1(b)(2)(ii)(d)(4), (5) and (6).

The foregoing definition of Adjusted Capital Account Deficit is intended to comply with the provisions of Treasury Regulations Section 1.704-1(b)(2)(ii)(d) and shall be interpreted consistently with the Treasury Regulations.

"Adjusted Deficit Capital Account Balance" has the meaning set forth in Section 12.3.

"Advisors" is defined in Section 7.7(a).

"Affiliate" means, with respect to any designated 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 designated Person. Any Person shall be deemed to be an Affiliate of any specified Person if such Person owns more than fifty percent (50%) of the voting securities of the specified Person, if the specified Person owns more than fifty percent (50%) of the voting securities of such Person, or if more than fifty percent (50%) of the voting securities of the specified Person and such Person are under common Control. Notwithstanding anything to the contrary

herein, the Initial Class A Member and the Initial Class B Member shall not be considered Affiliates for purposes of this Agreement.

"After-Tax Basis" means, with respect to any payment to be actually or constructively received by any Person, the amount of such payment (the "base payment") supplemented by a further payment (the "additional payment") to that Person so that the sum of the base payment plus the additional payment shall, after deduction of the amount of all federal income taxes required to be paid by such Person in respect of the receipt or accrual of the base payment and the additional payment, using an assumed rate equal to the Highest Marginal Rate (and ignoring state and local taxes), taking into account any federal income tax savings realized (or likely to be realized in the future as a result of such base payment) at a discount rate equal to the Target IRR by the recipient as a result of the payment or the event giving rise to the payment, using an assumed rate equal to the Highest Marginal Rate, equals the amount required to be received.

"After-Tax IRR" means, with respect to the Holder of a Class A Unit and at the time of any determination, the annual effective discount rate (calculated and compounded on a daily basis using the Microsoft Excel XIRR function on all after-tax cash flows) which sets A equal to B, where A is the sum of (a) the present value of all Cash Distributions in respect of such Class A Unit, *plus* (b) the present value of all Tax Benefits in respect of such Class A Unit, *plus* (c) the present value of all indemnity payments (net of any tax gross-up payments) received in respect of such Class A Unit, that compensate for loss of any item listed in the foregoing clauses (a) and (b), *minus* (d) the present value of all Tax Costs in respect of such Class A Unit; and B is the present value of all Capital Contributions made in respect of Class A Units.

"Aggregate Tracking Model" means the base case model for the Company, to be prepared and approved in connection with the execution of the second Fund Addendum and updated (a) to reflect each Accepted Acquisition, (b) monthly during the Investment Period and (c) as otherwise required by this Agreement from time to time, in each case, to reflect actual results of the Company, in accordance with and subject to the assumptions, conventions and procedures set forth in Article X as such assumptions, conventions and procedures may be supplemented or modified by the applicable Fund Addendum. The updated Aggregate Tracking Model shall be delivered by the Manager to the Members, each time it is updated as set forth above.

"Agreement" means this Amended and Restated Limited Liability Company Agreement.

"Alternative Investment Grade" shall have the meaning given to it in each applicable Fund Credit Profile.

"Anti-Corruption Laws" means (a) anti-bribery or anti-corruption Laws, including the U.S. Foreign Corrupt Practices Act of 1977, as amended, and the U.K. Bribery Act 2010, and (b) Laws relating to financial record keeping and reporting, currency transfer and money laundering, including, as applicable, the US PATRIOT Act of 2001 and all "know your customer" rules and other applicable regulations.

"Approved Budget" means the annual operating budget prepared and approved (or deemed approved) by the Members in accordance with Section 6.7 and updated upon each Accepted Acquisition.

"Accepted Acquisition" means the acquisition by the Company, indirectly through an Intermediate Company, of membership interests in a Fund Company, with the Consent of the Members in accordance with Section 6.3.

"Assets" means all right, title and interest of a Person in land, properties, buildings, improvements, fixtures, foundations, assets and rights of any kind, whether tangible or intangible, real, personal or mixed, including contracts, leases, easements, equipment, systems, books, data, reports, studies and records, proprietary rights, intellectual property, Licenses and Permits, rights under or pursuant to all warranties, representations and guarantees, cash, accounts receivable, deposits and prepaid expenses.

"Available Cash Flow" means, with respect to any Distribution Date, Company Revenues less the amount of Company Expenses for such period. For the avoidance of doubt, Available Cash Flow will not include the Capital Contributions by the Members, which shall be applied by the Manager to fund Company obligations and expenses in accordance with this Agreement.

"Bankrupt" means, with respect to any Person: (a) that such Person (i) files in any court pursuant to any statute of the United States or of any state a voluntary petition in bankruptcy or insolvency, (ii) files a petition or answer seeking for such Person a reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any Law or the appointment of a receiver or a trustee of all or a material portion of such Person's Assets, (iii) makes a general assignment for the benefit of creditors, (iv) becomes the subject of an order for relief or is declared insolvent in any federal or state bankruptcy or insolvency proceedings, (v) files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against such Person in a proceeding of the type described in (i) through (iv), (vi) admits in writing its inability to pay its debts as they fall due, or (vii) seeks, consents to or acquiesces in the appointment of a trustee, receiver or liquidator of any material portion of its Assets; or (b) a petition in bankruptcy or insolvency, or a proceeding seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any Law has been commenced against such Person, and sixty (60) days have expired without dismissal thereof or with respect to which, without such Person's consent or acquiescence, a trustee, receiver, or liquidator of such Person or of all or any substantial part of such Person's properties has been appointed and sixty (60) days have expired without the appointment's having been vacated or stayed, or sixty (60) days have expired after the date of expiration of a stay, if the appointment has not previously been vacated; or (c) if a Member, the whole or any material portion of such Person's Membership Interest is levied or attached, and such levy or attachment is not released or discharged within sixty (60) days.

"Business Day" means any day except Saturday, Sunday and any day that is a legal holiday in New York City or a day on which banking institutions are authorized or required by Law or other government action to close in New York City.

"Capital Account" means the capital account established and maintained for a Member pursuant to Section 4.1.

"Capital Call Amount" is defined in Section 3.3(b).

"Capital Contribution" means any cash or the initial Value of any other property (net of liabilities secured by such property that the Company is considered to assume or take subject to under Code Section 752) that a Member directly or indirectly contributes to the Company with respect to the Units held or purchased by such Member, including any capital contributions made by such Member pursuant to Article III hereof, and any reference to the Capital Contributions of a Member shall include the Capital Contributions of any predecessor Holder of the Member's Units.

"Capital Contribution Request" is defined in Section 3.3(b).

"Cash Difference" is defined in Section 10.2(g)(i).

"Cash Distributions" is defined in Section 10.2(c).

"Cash Trigger Amount" is defined in Section 10.2(f)(i).

"Certified Public Accountant" means a firm of independent public accountants (a) that is one of Ernst & Young, Deloitte & Touche, PricewaterhouseCoopers or KPMG LLC, as selected from time to time by the Manager or (b) with respect to any other firm, as selected from time to time with the Consent of the Members.

"Class A Claims" is defined in Section 11.1.

"Class A Capital Contribution Amount" is defined in Section 3.3(c).

"Class A Eligible Cash-Flow" means Class A Eligible Revenue *minus* Class A Eligible Expenses.

"Class A Eligible Expense Percentage" means, with respect to each Distribution Date, a percentage derived by *dividing* the amount of Class A Eligible Revenue for such period by the amount of all Company Revenue for such period.

"Class A Eligible Expenses" means, for the relevant period, the Class A Eligible Expense Percentage for such period *multiplied* by the sum of (a) Company Expenses for that period, (b) distributions to 3rd party investors in Subject Companies made during that period, and (c) distributions made under Section 5.1(c) and Section 5.1(d) during that period.

"Class A Eligible Revenue" means Company Revenue generated from offtake agreements with Investment Grade and Alternative Investment Grade offtakers, as described in the Fund Credit Profile for each Fund Company.

"Class A Ineligible Cash-Flow" means Class A Ineligible Revenue *minus* Class A Ineligible Expenses.

"Class A Ineligible Expenses" means, for the relevant period, all Company Expenses (and all other items in the second subpart of Class A Eligible Expenses) not considered Class A Eligible Expenses.

"Class A Ineligible Revenue" means all Company Revenuethat is not Class A Eligible Revenue.

"Class A Interest" means, with respect to any Class A Member: (a) that Class A Member's status as a Class A Member; (b) that Class A Member's share of Company Items and the right to receive distributions from the Company; (c) all other rights, benefits and privileges enjoyed by that Class A Member (under the Act, this Agreement, or otherwise) in its capacity as a Class A Member, including that Class A Member's right to vote, consent and approve and otherwise to participate in the management of the Company, to the extent provided in this Agreement; and (d) all obligations, duties and liabilities imposed on that Class A Member (under the Act, this Agreement or otherwise) in its capacity as a Class A Member, including any obligations to make Capital Contributions.

"Class A Member" means each Member holding a Class A Interest.

"Class A Member Capital Contribution Commitment" means $100,000,000, as the same may be increased from time to time by the Class A Members upon delivery of written notice to the Class B Members and the Manager. If the Manager determines that the Class A Member Capital Contribution Commitment is insufficient to meet the projected contribution requirements of the Company under any Fund Documents, then the Class A Member shall use its good faith diligent efforts to obtain the necessary approvals to increase the then current Class A Member Capital Contribution Commitment to the amounts projected by the Manager that are so required.

"Class A Parties" is defined in Section 11.1.

"Class A Unit" means a unit representing a Class A Interest having the rights, preferences and designations provided for such class in this Agreement.

"Class B Capital Contribution Amount" is defined in Section 3.3(d).

"Class B Claim" is defined in Section 11.1(b).

"Class B Interest" means, with respect to any Class B Member: (a) that Class B Member's status as a Class B Member; (b) that Class B Member's share of Company Items, and the right to receive distributions from the Company; (c) all other rights, benefits and privileges enjoyed by that Class B Member (under the Act, this Agreement, or otherwise) in its capacity as a Class B Member, including that Class B Member's right to vote, consent and approve and otherwise to participate in the management of the Company to the extent provided in this Agreement; and (d) all obligations, duties and liabilities imposed on that Class B Member (under the Act, this Agreement or otherwise) in its capacity as a Class B Member, including any obligations to make Capital Contributions.

"Class B Member" means each Member holding a Class B Interest.

"Class B Parties" is defined in Section 11.1(b).

"Class B Unit" means a unit representing a Class B Interest having the rights, preferences and designations provided for such class in this Agreement.

"Code" means the Internal Revenue Code of 1986, as amended from time to time, and any corresponding provisions of any successor tax statute.

"Company" is defined in the recitals to this Agreement.

"Company Expenses" means expenses of the Company and of the Subject Companies, including Company Reimbursable Expenses and amounts required to establish reserves (as determined in the reasonable judgment of the Manager in accordance with the Approved Budget).

"Company Items" means the separate items of income, gain, loss, deduction and credit of the Company for purposes of subchapter K of the Code, as determined for Capital Account maintenance purposes consistent with the principles of Treasury Regulations Section 1.704-1(b)(2)(iv).

"Company Minimum Gain" has the meaning given the term "partnership minimum gain" set forth in Treasury Regulations Section 1.704-2(b)(2) and will be determined as provided in Treasury Regulations Section 1.704-2(d).

"Company Reimbursable Expenses" means all reasonable and documented Third Party costs and expenses incurred in the ordinary course of business by the Manager on behalf of the Company in performing the duties hereunder or relating to the Company's activities and business, including all reasonable and documented costs and expenses incurred for legal, accounting and auditing fees paid or payable to Third Parties in accordance with this Agreement and as provided for in the Approved Budget, but excluding such costs and expenses attributable to the gross negligence, willful misconduct or fraud of the Manager or a breach by the Manager (or a Member if such Member is, or is an Affiliate of, the Manager).

"Company Revenue" means the gross cash receipts from Company operations (including sales and dispositions of Company Assets (including Contracted RECs), insurance payments, warranty payments, cash previously reserved).

"Competitor" means any Person directly or indirectly engaged in owning, managing, operating, maintaining or developing facilities utilizing solar power for the production of electricity for sale to others; provided that a Person who is involved in owning, managing, developing, maintaining or operating such facilities solely as a result of such Person, directly or through an Affiliate, making passive investments in such facilities shall not be considered a "Competitor" hereunder so long as such Person certifies in a manner reasonably acceptable to the Class B Members that it has in place procedures to prevent any Affiliate of such Person that is not

a passive owner, manager, operator, maintenance provider or developer from acquiring confidential information relating to its investment in the Company.

"Confidential Information" is defined in Section 7.7(a).

"Consent of the Class A Members" means the written consent or approval of the Class A Members who own in the aggregate more than fifty percent (50%) of the Class A Units, which consent may be included as part of a Fund Addendum.

"Consent of the Class B Members" means the written consent or approval of the Class B Members who own in the aggregate more than fifty percent (50%) of the Class B Units.

"Consent of the Members" means both the Consent of the Class A Members and the Consent of the Class B Members, which consent may be included as part of a Fund Addendum.

"Contracted RECs" means any REC projected to be generated by a Project in the future, that, as of the date on which the Class A Member is making a Capital Contribution with respect to the associated Project, is subject to a contract with either NRG Power Marketing LLC or Boston Energy Trading and Marketing LLC or another third party to be agreed upon with the Consent of the Members, providing for such REC to be sold at a fixed or determinable price.

"Contracts" means contracts, agreements, leases, licenses, notes, indentures, obligations, reinsurance treaties, bonds, mortgages, instruments, and other binding commitments, arrangements, undertakings and understandings (whether written or oral).

"Contribution Event" is defined in Section 3.3(e).

"Control" and the terms **"Controlled by"** and **"under common Control"** mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through ownership, by contract, or otherwise.

"Damages" is defined in Section 11.1.

"Delaware Certificate" is defined in the recitals to this Agreement.

"Depreciation" means, for each Taxable Year, an amount equal to the depreciation, amortization (including pursuant to Code Sections 197 and 709) or other cost recovery deduction allowable for federal income tax purposes with respect to an Asset for such period, except that if the Value of any Asset differs from its adjusted basis for federal income tax purposes at the beginning of such period, Depreciation shall be an amount which bears the same ratio to such beginning Value as the federal income tax depreciation, amortization or other cost recovery deduction allowable for such Taxable Year bears to such beginning adjusted tax basis; *provided*, *however*, that if such Asset has a zero beginning adjusted basis for such Taxable Year, Depreciation shall be determined with reference to such beginning Value using any method selected by the Manager with the Consent of the Members.

"Disqualified Entity" means at any time during the Recapture Period, an entity that is referred to in Section 50(b)(3) or 50(b)(4) of the Code, *provided*, *that* if any indirect owner owns its indirect interest through a taxable C corporation (as defined in the Code), but excluding any entity that is a "tax exempt controlled entity" defined in Section 168(h)(6)(F)(iii) of the Code, then such Person will not be deemed to be a Disqualified Entity.

"Disqualified Transferee" means (a) any Person that is, or whose Affiliate is, then a party adverse in any pending or threatened (in writing or other reasonably satisfactory evidence of such threat) action, suit or proceeding to the Company or any Member or an Affiliate thereof, if the Company (with the Consent of the Members) or such Member (in its sole and absolute discretion), as applicable, shall not have consented to the Transfer to such Person; *provided*, *however*, that any foreclosure upon any Membership Interests pursuant to an Encumbrance permitted hereunder shall not be an action, suit or proceeding for the purposes of this clause (a), (b) with respect to any Transfer of a Class A Interest, a Person that is, or whose Affiliate is, a Competitor, (c) a Related Party or a Disqualified Entity, (d) a Person who is, or who is an Affiliate of any Person that is, then Bankrupt, or (e) a Person who, or is an Affiliate of any Person who, is a Sanctioned Person, in each case, other than an existing Member.

"Distribution Date" means each day that is five (5) Business Days following a distribution of cash from a Fund Company to the Intermediate Company; *provided* that the Members may mutually agree in writing to regular monthly or quarterly Distribution Dates for administrative ease.

"DRO Amount" means $0 on the Effective Date, and from and after the Effective Date means $0 unless such amount is increased pursuant to a Fund Addendum.

"Effective Date" means the date of this Agreement.

"Encumbrances" means encumbrances, liens, pledges, charges, collateral assignments, options, mortgages, warrants, deeds of trust, security interests, claims, restrictions (whether on voting, sale, transfer, disposition, or otherwise), assessments, easements, variances, purchase rights, rights of first refusal, reservations, encroachments, irregularities, deficiencies, defaults, defects, adverse claims, interests, and other matters of every type and description whatsoever, whether voluntary or involuntary, choate or inchoate or imposed by Law, agreement (including any agreement to give any of the foregoing or any conditional sale or other title retention agreement), understanding, or otherwise, and whether or not of record, impairing or affecting the title to real or personal property (including membership interests), and **"Encumber"** means any action or inaction creating an Encumbrance.

"Energy Regulatory Approvals" means any License and Permit issued by or filed with an Energy Regulatory Authority that is required to be maintained by any Project or any Subject Company.

"Energy Regulatory Authority" a Governmental Authority with jurisdiction over public utilities, energy, natural resources or any similar subject matter.

"Environmental Law" means any Law imposing liability, standards or obligations of conduct concerning pollution or protection of human health and safety (including the health and safety of workers under the U.S. Occupational Safety and Health Act of 1970 (29 U.S.C. §§ 651 *et seq.*)), flora and fauna, any Environmental Media, including (a) any Law relating to any actual or threatened emission, discharge, release, manufacture, processing, distribution, use, treatment, storage, disposal, transport, or handling of any hazardous waste (as defined by 42 U.S.C. § 6903 (5)), hazardous substance (as defined by 42 U.S.C. § 9601(14)), hazardous material (as defined by 49 U.S.C. § 5102(2)), toxic pollutant (as listed pursuant to 33 U.S.C. § 1317), or pollutant or contaminant (as pollutant or contaminant is defined in 42 U.S.C. § 9601(33)), any oil (as defined by 33 U.S.C. § 2701(23)); and (b) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. §§ 9601 *et seq*.) ("CERCLA"), the Federal Water Pollution Control Act (33 U.S.C. §§ 1251 *et seq*.) and the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*) with any amendments or reauthorization thereto or thereof, and any and all regulations promulgated thereunder, and all analogous state and local counterparts or equivalents.

"Equity Capital Contribution Date" means (a) each day that a capital contribution is required to be made to a Fund Company by the Intermediate Company, or (b) as required to be made by the Members to fund the Company or the Intermediate Company, in each case, as set forth in a Capital Contribution Request delivered by the Manager to the Members.

"ERISA" is defined in Section 8.10(h).

"Fair Market Value" means, with respect to any Asset, the price at which the Asset would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell, and both having reasonable knowledge of the relevant facts, and specifically with respect to any Project or any Membership Interest.

"FERC" means the Federal Energy Regulatory Commission and any successor agency.

"FICO® Score" means a score based on the credit risk rating system established and maintained by the Fair Isaac Corporation.

"Fiscal Quarter" means the calendar quarters each ended March 31st, June 30th, September 30th and December 31st during each Fiscal Year.

"Fiscal Year" means (a) the period commencing on the Effective Date and ending on the immediately succeeding December 31, (b) any subsequent calendar year, and (c) the final Fiscal Year of the Company shall end on the date on which the Company is terminated under Article XII hereof.

"Flip Date" means the end of the last day of the month in which the Flip Point occurs.

"Flip Point" means the point in time at which the Class A Units are determined, under the procedures set forth in Article X, to have realized an After-Tax IRR equal to the Target IRR.

"FPA" means the Federal Power Act, as amended, and the regulations of the FERC thereunder.

"Fund Addendum" means an addendum in the form of Exhibit A that includes Fund Company specific agreements of the Members that, upon execution, will be deemed to supplement this Agreement with respect to the Members' and the Company's investment in such Fund Company. Each executed Fund Addendum will include the agreed upon updated Approved Budget, the Fund Base Case Model, the Fund Credit Profile, the Tax Assumptions and the form of Officer's Certificate applicable to the respective Fund Company, in each case reflecting the acquisition of the applicable Fund Company and the Capital Contributions made, or to be made, by the Members thereto.

"Fund Base Case Model" means the base case financial model in connection with each Fund Company, which will be attached to the applicable Fund Addendum, which shall specifically set forth the Capital Contributions required to be made by each Member to the Company in order to fund the Company's capital contribution to such Fund Company, in each case computed so that the Class A Members are projected to achieve the Target IRR on the Target Flip Date. For clarity, following the Investment Period, the Fund Base Case Model will not be used by the Members for purposes of this Agreement.

"Fund Company" and **"Fund Companies"** are defined in the recitals to this Agreement.

"Fund Company Call Event" means an option to purchase a Fund Investor's membership interest in a Fund Company is then available pursuant to the applicable Fund Documents in favor of an Intermediate Company (whether through a purchase option or buyout event or otherwise).

"Fund Company Presentation Package" means the following information and documentation regarding a proposed investment in a Fund Company: (a) a proposed Fund Addendum with the Fund Base Case Model and proposed amended Approved Budget attached as exhibits, (b) a summary of the proposed transaction and (c) all relevant Fund Documents; *provided* that if not all Fund Documents are in final form, all current drafts thereof shall be provided with the initial Fund Company Presentation Package and final drafts shall be provided to the Members prior to the Intermediate Company's execution of such documents.

"Fund Company Presentation Notice" is defined in Section 6.3(b).

"Fund Company Put Event" means that an Intermediate Company is required to purchase a Fund Investor's membership interest in a Fund Company pursuant to the applicable Fund Documents.

"Fund Credit Profile" means, with respect to each Fund Company, the Fund Credit Profile attached to the relevant Fund Addendum.

"Fund Documents" means, with respect to each Fund Company, the material documents in connection with the ownership and operation of such Fund Company, including, if applicable, the purchase agreement whereby the applicable Intermediate Company acquired its interest in such Fund Company, the Fund Company's operating agreement, the purchase and sale agreement or other similar document pursuant to which the Fund Company purchased or will purchase Projects, any operations and maintenance agreements, administrative service agreements or similar documents providing for the administration of such Fund Company and the operation and maintenance of the Projects, and any other material documents contemplated by any of the foregoing. For the avoidance of doubt, customer leases and offtake agreements are not Fund Documents.

"Fund Investor" and **"Fund Investors"** are defined in the recitals to this Agreement.

"Fund Investor Interests" is defined in Section 6.3(e).

"Funding Notice" is defined in Section 3.4(a).

"GAAP" means United States generally accepted accounting principles, as amended, consistently applied.

"Good Management Standard" means that a Person will perform its management functions in good faith and in a manner it reasonably believes to be in the best interests of the Company. Good Management Standard is not intended to be limited to a single set of practices, methods and acts.

"Governmental Authority" means any foreign, domestic, federal, territorial, state or local governmental authority, court, commission, board, bureau, agency or instrumentality, or any regulatory, administrative or other department, agency, or any political or other subdivision, department or branch of any of the foregoing, any Taxing Authority and any electric reliability organization, regional transmission organization or independent system operator or any successor thereto.

"Highest Marginal Rate" means, with respect to any Member, the then highest marginal federal income tax rate applicable to such Member. The Highest Marginal Rate applicable to the Class A Member shall be 37.6%, as such rate may be adjusted with respect to any Fund Company if specified otherwise in a Fund Addendum.

"Holder" means, as to a Class A Unit, the Class A Member holding such Class A Unit, and, as to a Class B Unit, the Class B Member holding such Class B Unit.

"HSR Act" means the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended.

"Indebtedness" means indebtedness for borrowed money and any lease of any property as lessee the obligations of which are required to be classified or accounted for as a capital lease on the balance sheet of the applicable Person, off-balance sheet leases, but expressly does not include short-term (*i.e.*, less than one (1) year in maturity) trade payables incurred in the ordinary course of business.

"Indemnified Party" is defined in Section 11.1.

"Indemnifying Member" is defined in Section 11.3.

"Initial Capital Contribution" means a Capital Contribution made on the Effective Date.

"Initial Class A Member" means NRG Yield DGPV Holding LLC, a Delaware limited liability company.

"Initial Class B Member" means NRG Renew LLC, a Delaware limited liability company.

"Intent Notice" is defined in is defined in Section 9.6(d).

"Intermediate Company" and **"Intermediate Companies"** are defined in the recitals to this Agreement.

"Investment Documents" means this Agreement and any other documents entered into by the Company in connection with the Members acquiring and maintaining their Membership Interests in the Company.

"Investment Grade" means (a) a credit rating of "BBB-" or higher by Standard & Poor's, "Baa3" or higher by Moody's Investors Service or an equivalent rating by a nationally recognized rating agency or (b) an equivalent rating by NRG's Risk Management division, in each case on the later of (a) the date they enter into an offtake agreement or (b) within 6 months prior to the Equity Capital Contribution Date for the purchase of the related Project.

"Investment Response Notice" is defined in Section 6.3(b).

"Investment Period" means the period from the Effective Date until the later of (a) December 31, 2016 and (b) the final capital contribution required in connection with the purchase of Projects under any Fund Document entered into prior to such date.

"IRS" means the Internal Revenue Service and any successor Governmental Authority.

"Issued Interest" is defined in the recitals to this Agreement.

"ITC" means the energy tax credit provided for under Section 48 of the Code.

"Law" means any applicable constitution, statute, law, ordinance, regulation, rate, ruling, order, judgment, legally binding guideline, restriction, requirement, writ, injunction or decree that has been enacted, issued or promulgated by any Governmental Authority.

"Licenses and Permits" means filings and registrations with, and licenses, permits, notices, approvals, grants, easements, exemptions, variances and authorizations from, any Governmental Authority.

"Liquidating Events" is defined in Section 12.1(a).

"Manager" means the Person appointed by the Members pursuant to Article VI to manage the affairs of the Company and any other Person hereafter appointed as a successor Manager of the Company as provided in Article VI. Pursuant to its appointment by the Members in Section 6.1, the Initial Class B Member shall be the initial Manager of the Company.

"Master Services Provider" means NRG Solar Asset Management LLC, a Delaware limited liability company. For purposes of this Agreement the Master Services Provider shall be considered an Affiliate of the Initial Class B Member but not an Affiliate of the Initial Class A Member.

"Member" means any Person who executes the signature page of this Agreement as of the Effective Date or thereafter agrees to be bound hereby and is admitted to the Company as a Member pursuant to this Agreement, excluding any Person that has ceased to be a Member.

"Member Contribution Event" means an event requiring a Member to make a Capital Contribution to the Company in connection with a liability of a Subject Company under a Fund Document or otherwise that is the obligation of that Member (a) as a result of such Member's indemnity obligations to the other Members under Article XI, or (b) with respect to the Class B Member, non-utilization fees, non-deployment fees or commitment fees that are payable to a Fund Investor arising under the Fund Documents or any legal or other fees and costs in connection with the negotiation and entry by the Intermediate Company or any other Person into any Fund Documents, which obligation shall be borne solely by the Class B Member.

"Member Loan" is defined in Section 3.4(a).

"Member Nonrecourse Debt" has the meaning given the term "partner nonrecourse debt" in Treasury Regulations Section 1.704-2(b)(4).

"Member Nonrecourse Debt Minimum Gain" has the meaning given the term "partner nonrecourse debt minimum gain" set forth in Treasury Regulations Section 1.704-2(i)(2), and will be computed as provided in Treasury Regulations Section 1.704-2(i)(3).

"Member Nonrecourse Deductions" has the same meaning as the term "partner nonrecourse deductions" in Treasury Regulations Sections 1.704-2(i)(1) and 1.704-2(i)(2).

"Membership Interest" means either the Class A Interest or the Class B Interest or both, as the context requires.

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

"Nonrecourse Deductions" has the meaning given to such term in Treasury Regulations Sections 1.704-2(b)(1) and 1.704-2(c).

"Nonrecourse Liability" has the meaning given such term in Treasury Regulations Section 1.704-2(b)(3).

"Officers" is defined in Section 6.7(a).

"Original Agreement" has the meaning given that term in the introductory paragraph.

"Party" means the Class B Member, the Company or the Class A Member, as the context requires.

"Permitted Investments" is defined in Section 8.5.

"Person" means an individual, a corporation, a limited liability company, a partnership, an association, joint venture, a labor union, a trust or any other entity or organization, including a Governmental Authority.

"Placed-in-Service" means, with respect to any Project that is owned by a Fund Company, the applicable definition of "placed in service" provided in such Fund Documents, and, for any other Project, that (a) all necessary permits and licenses for operating such Project (including, for the avoidance of doubt, the permission to operate letter) have been obtained , (b) all critical commissioning and testing activities necessary for proper operation of such Fund Company have been performed, (c) legal title and control to such Project has been transferred to the Company, (d) initial synchronization of such Project to the grid has occurred and (e) daily operation of such Project has begun.

"Placed-in-Service Date" in respect of a Project means the date such Project is Placed in Service.

"Portfolio Material Adverse Effect" means any act, event, condition or circumstance that, individually or in the aggregate, has, or could reasonably be expected to have, a material adverse effect on (a) the Projects, taken as a whole, (b) the business, earnings, Assets, liabilities (contingent or otherwise), results of operations, prospects, condition (financial or otherwise) or properties of the Projects, taken as a whole, or any of the following Persons: the Company, the Subject Companies (taken as a whole) or, to the extent expressly specified, any Member, or on the ability of any such Person to timely perform any of its respective obligations under any Investment Document, (c) the rights and remedies of any Class A Member under any Investment Document or (d) the legality, validity, binding effect or enforceability of any Investment Document.

"Post Investment Period Contribution Percentage" means, with respect to each Member opting or required to participate in a Contribution Event following the Investment Period

in accordance with this Agreement, the percentage of the Capital Call Amount required in connection with such Contribution Event (for clarity, not including amounts required in connection with a Member Contribution Event) derived by *dividing* the total amount of Capital Contributions made by such Member during the Investment Period by the total amount of Capital Contributions made by all Members during the Investment Period that are opting or required to participate in such Contribution Event in accordance with this Agreement, in each case, excluding Capital Contributions made with respect to Member Contribution Events.

"Preliminary Intent Notice" is defined in Section 9.6(b).

"Project" is defined in the recitals to this Agreement.

"Project Documents" means collectively, with respect to each Fund Company, all Fund Documents and all other Contracts with respect to such Fund Company to which the Company or any Subject Company is a party or by which it or its Assets are bound.

"PUHCA" means the Public Utility Holding Company Act of 2005, 42 U.S.C. §§ 16451 *et seq.* (2013) and the regulations of the FERC thereunder at 18 C.F.R. §§ 366.1, *et seq.* (2013).

"Purchase Option" is defined in Section 9.6.

"Purchase Option Period" is defined in Section 9.6(a).

"Purchase Option Price" is defined in Section 9.6(a).

"Qualified Transferee" means a nationally recognized Person (or a direct or indirect subsidiary of a Person): (a) that, with respect to an Encumbrance on a Class B Unit, (i) owns and manages or operates (before giving effect to any Transfer hereunder) not less than 100 MWs of solar projects in the United States, and such Person (or such Person's direct or indirect Parent) must have done so for a period of at least three (3) years prior to the Transfer or (ii) engages a Person (at its own cost and expense) meeting the qualifications of clause (i) above to act as a non-member manager hereunder, and (b) that (i) has a credit rating of "BBB" or higher by S&P and "Baa2" or higher by Moody's, or (ii) has a direct or indirect parent with a credit rating of "BBB" or higher by S&P and "Baa2" or higher by Moody's, and such parent provides a guaranty in favor of the Members not party to such Encumbrance, in form and substance reasonably acceptable to such Members.

"Qualifying Facility" means a "qualifying small power production facility" as defined in PURPA and the implementing regulations of the FERC thereunder.

"Recapture Event" means an event within the meaning of Section 50 of the Code and the Treasury Regulations thereunder that results in a reduction, denial or recapture of the ITC, or a portion thereof, by any Governmental Authority, at either the Company level or from any individual Member.

"Recapture Period" means the period from the date that the first Project is Placed in Service until the date that is five (5) years from the date that the last Project is Placed in Service.

"RECs" means any credits, credit certificates, green tags or similar environmental or green energy attributes (such as those for greenhouse reduction or the generation of green power or renewable energy) created by a Governmental Authority or independent certification board or group generally recognized in the electric power generation industry, and generated by or associated with a Project or electricity produced therefrom, but excluding ITCs or any other tax benefits.

"Reference Rate" means the rate of interest published in The Wall Street Journal as the prime lending rate or "prime rate", with adjustments in that varying rate to be made on the same date as any change in that rate is so published.

"Register" is defined in Section 2.8.

"Regulatory Allocations" is defined in Section 4.3(i).

"Rejected Acquisition" is defined in Section 6.3(b).

"Related Party(ies)" means at any time during the Recapture Period, any Person who is considered for federal income tax purposes to be purchasing electricity generated by the applicable Project and who is related to the Company or the applicable Fund Company within the meaning of Section 267(b) or Section 707(b) of the Code or any successor provision, but excluding any Person that so purchases electricity generated by such Project to the extent such Person resells the electricity to another Person who is not related to the Company or the applicable Fund Company within the meaning of Section 267(b) or Section 707(b) of the Code or any successor provision.

"Representatives" is defined in Section 7.7(a).

"Review Period" is defined in Section 6.3(b).

"S&P" means Standard & Poor's Ratings Group, a division of McGraw Hill, Inc., or any successor entity.

"Sanctioned Country" means, at any time, a country or territory which is itself the subject or target of any Sanctions.

"Sanctioned Person" means, at any time, (a) any Person listed in any Sanctions-related list of designated Persons maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury, the U.S. Department of State, the United Nations Security Council, the European Union or any European Union member state, (b) any Person operating, organized or resident in a Sanctioned Country or (c) any Person owned or controlled by any such Person or Persons.

"Sanctions" mean (a) all U.S. and applicable international economic and trade sanctions and embargoes, including any sanctions or regulations administered and enforced by the U.S. Department of State, the U.S. Department of the Treasury (including the Office of Foreign Assets Control) and any executive orders, rules and regulations relating thereto, (b) all applicable Laws concerning exportation, including rules and regulations administered by the U.S. Department of Commerce, the U.S. Department of State or the Bureau of Customs and Border Protection of the

U.S. Department of Homeland Security, and (c) any anti-boycott Laws, including any executive orders, rules and regulations.

"Securities" means, with respect to any Person, such Person's capital stock or limited liability company interests or any options, warrants or other securities which are directly or indirectly convertible into, or exercisable or exchangeable for, such Person's capital stock or limited liability company interests, whether or not such derivative securities are issued by such Person, and any reference herein to **"Securities"** refers also to any such derivative securities and all underlying securities directly or indirectly issuable upon conversion, exchange or exercise of such derivative securities.

"Securities Act" means the Securities Act of 1933 or any successor statute, as amended from time to time.

"Special DRO Allocations" is defined in Section 4.2(a).

"Sub-Investment Grade" means a credit rating that is neither Investment Grade nor Alternative Investment Grade.

"Subject Companies" means, collectively, the Fund Companies and the Intermediate Companies (and each Fund Company and each Intermediate Company individually, a "**Subject Company**").

"Subject Company Material Adverse Effect" means any act, event, condition or circumstance that, individually or in the aggregate, is, or could reasonably be expected to be, materially adverse to the business, earnings, Assets, liabilities (contingent or otherwise), results of operations, prospects, condition (financial or otherwise) or properties of any Subject Company, or on the ability of any such Subject Company to timely perform any of its respective obligations under any Fund Document to which it is a party or the legality, validity, binding effect or enforceability of any such Fund Document.

"Target Flip Date" means with respect to a calculation to be performed on each Equity Capital Contribution Date, the date when the Members expect the Target IRR to be achieved by the Class A Equity Investors, which shall be the earlier of (a) the date specified in the most recent Fund Addendum and (b) twenty (20) years following the date of the first Capital Contribution made by a Member following the Effective Date with respect to capital contributions required by a Fund Company.

"Target IRR" means an After-Tax IRR of [***] and [***] percent ([***]%).

"Tax" or **"Taxes"** means all taxes, charges, fees, levies, penalties or other assessments imposed by any federal, state or local or foreign taxing authority, including, but not limited to, income, excise, ad valorem, real or personal property, sales, transfer, franchise, payroll, withholding, social security, gross receipts, license, stamp, occupation, employment or other taxes, including any interest, penalties or additions attributable thereto.

"Tax Assumptions" means for each Fund Company or Intermediate Company the applicable tax methods, conventions and assumptions that will be used by the Company to calculate the Tax Costs and Tax Benefits accruing to each Class A Member for purposes of determining the Class A Member's After-Tax IRR at any point in time as specified in the Fund Addendum.

"Tax Benefits" means, with respect to a Class A Unit, the periodic federal income tax savings resulting from (a) the distributive share of ITCs allocated by the Company to the Holder of such Class A Unit, and (b) the distributive share of tax losses and deductions allocated by the Company to the Holder of such Class A Unit, in each case, as such federal income tax savings is determined in accordance with Section 10.2(e) as such determination may be supplemented or modified by the applicable Fund Addendum.

"Tax Costs" means, with respect to a Class A Unit, the periodic federal income tax liability (after taking into account any suspended losses of the Class A Members under Section 704 (d)) resulting from (a) the distributive share of taxable income and gain allocated by the Company to the Holder of such Class A Unit (including expected chargebacks of Company Minimum Gain pursuant to Section 4.3(a), expected chargebacks of Member Nonrecourse Debt Minimum Gain pursuant to Section 4.3(b), and expected allocations of Items of income pursuant to the first sentence of Section 12.2(a)(iv)), and (b) any gain recognized by such Holder under Sections 731(a) of the Code from Cash Distributions, in each case, as such federal income tax liability is determined in accordance with Section 10.2(e), as such determination may be supplemented or modified by the applicable Fund Addendum.

"Tax Information" is defined in Section 7.7(b).

"Tax Matters Member" is defined in Section 8.7(a).

"Tax Payment Dates" is defined in Section 10.2(d).

"Tax Return" means the Company's federal income tax return for each Taxable Year, including Schedule K-1s (the "**Tax Return**").

"Taxable Year" means the taxable year of the Company for federal income tax purposes, which shall be (a) the period commencing on the Effective Date and ending on the immediately succeeding December 31, (b) any subsequent calendar year or (c) any portion of the period described in clause (a) or (b) for which the Company is required to allocate Company Items pursuant to Article IV or Section 12.2(a)(iv).

"Taxing Authority" means, with respect to a particular Tax, the agency or department of any Governmental Authority responsible for the administration and collection of such Tax.

"TEFRA" means Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97-248).

"Terminated Member" is defined in Section 9.7.

"Third Party" means a Person other than a Member or an Affiliate of a Member.

"Transaction" means the transactions contemplated and provided for in the Investment Documents.

"Transfer" means the sale, transfer, assignment, conveyance, gift, exchange or other disposition of Class A Units or Class B Units (and the Membership Interests represented thereby), whether directly by the Member or indirectly, excluding the creation of an Encumbrance, but including any such sale, transfer, assignment, conveyance, gift, exchange or other disposition in connection with, or in lieu of, the foreclosure of an Encumbrance.

"Transferee" means a Person to which a Transfer is or would be made.

"Transferring Member" means the Member effecting a Transfer.

"Treasury Regulations" means the regulations promulgated under the Code by the United States Department of Treasury, as such regulations may be amended from time to time. All references herein to specific sections of the regulations shall be deemed also to refer to any corresponding provisions of succeeding regulations, and any reference to temporary regulations shall be deemed also to refer to any corresponding provisions of final regulations.

"UCC" or **"Uniform Commercial Code"** means the Uniform Commercial Code in effect in the State of Delaware from time to time.

"Uncontracted RECs" means any REC projected to be generated by a Project in the future, that, as of the date on which the Class A Member is making a Capital Contribution with respect to the associated Project, is not a Contracted REC.

"Units" means either the Class A Units or the Class B Units or both, as the context requires.

"Value" means, with respect to any Asset of the Company, such Asset's adjusted basis for federal income tax purposes, except as follows:

(a) the initial Value of any Asset contributed by a Member to the Company shall be the gross fair market value of such Asset, as agreed to by the Members;

(b) the Value of all Assets of the Company shall be adjusted to equal their respective gross fair market values (taking Code Section 7701(g) into account), as determined by the Members, in accordance with Treasury Regulations Section 1.704-1(b)(2)(iv)(f), as of the following times: (i) the acquisition of an additional Membership Interest in the Company by any new or existing Member in exchange for more than a *de minimis* Capital Contribution; (ii) the distribution by the Company to a Member of more than a *de minimis* amount of Company Assets as consideration for the acquisition of a Membership Interest in the Company; (iii) the grant of a Membership Interest in the Company (other than a *de minimis* interest) as consideration for the provision of services to or for the benefit of the Company by an existing Member acting in a Member capacity or a new Member acting in a Member capacity or in anticipation of being a Member; and (iv) the liquidation of the

Company within the meaning of Treasury Regulations Section 1.704-1(b)(2)(ii)(g); *provided* that any adjustment described in clauses (i), (ii) or (iii) of this paragraph shall be made only upon the Consent of the Members;

(c) the Value of any Asset distributed to any Member shall be adjusted to equal the gross fair market value of such Asset on the date of distribution (taking Code Section 7701(g) into account), as determined by the Consent of the Members; and

(d) the Value of Company Assets shall be increased (or decreased) to reflect any adjustments to the adjusted basis of such Assets pursuant to Code Section 734 (b) or Code Section 743(b), but only to the extent that such adjustments are taken into account in determining Capital Accounts pursuant to Treasury Regulations Section 1.704-1(b)(2)(iv)(m); *provided*, *however*, that the Value shall not be adjusted pursuant to this clause (d) to the extent the Members determine that an adjustment pursuant to clause (b) of this definition is necessary or appropriate in connection with a transaction that would otherwise result in an adjustment pursuant to this clause (d).

If the Value of an Asset has been determined or adjusted pursuant to clause (a), (b) or (d) of this definition, such Value shall thereafter be adjusted by the Depreciation taken into account with respect to such Asset for purposes of determining Company Items and not by the depreciation, amortization, or other cost recovery deductions taken into account with respect to that asset for federal income tax purposes.

"Working Capital Loan" is defined in Section 3.4(a).

"Working Capital Notice" is defined in Section 3.4(a).

Section 1.2 Other Definitional Provisions

(a) Construction. As used herein, the singular shall include the plural, the masculine gender shall include the feminine and neuter and the neuter gender shall include the masculine and feminine unless the context otherwise indicates.

(b) References. References to Articles and Sections are intended to refer to Articles and Sections of this Agreement, and all references to Annexes, Exhibits and Schedules are intended to refer to Annexes, Exhibits and Schedules attached to this Agreement, each of which is made a part of this Agreement for all purposes. The terms "include," "includes" and "including" mean "including, without limitation." Any date specified for action that is not a Business Day shall mean the first Business Day after such date. Any reference to a Person shall be deemed to include such Person's successors and permitted assigns. Any reference to any document or documents shall be deemed to refer to such document or documents as amended, modified, supplemented or replaced from time to time in accordance with the terms of this Agreement. References to laws refer to such laws as they may be amended from time to time, and references to particular provisions of a Law include any corresponding provisions of any succeeding Law. The words "herein," "hereof" and "hereunder" and words of similar import shall refer to this Agreement as a whole and not to any

particular section or subsection of this Agreement. References to money refer to legal currency of the United States of America.

(c) Accounting Terms. As used in this Agreement and in any certificate or other documents made or delivered pursuant hereto, accounting terms not defined in this Agreement or in any such certificate or other document, and accounting terms partly defined in this Agreement or in any such certificate or other document to the extent not defined, will have the respective meanings given to them under GAAP. To the extent that the definitions of accounting terms in this Agreement or in any such certificate or other document are inconsistent with the meanings of such terms under GAAP, the definitions contained in this Agreement or in any such certificate or other document will control.

Article II

THE COMPANY

Section 2.1 Continuation of Limited Liability Company.

As of the date hereof, the Original Agreement is hereby superseded in its entirety by this Agreement, which has been executed in renewal, amendment, restatement and modification of, but not in extinguishment of, the obligations under the Original Agreement. The Initial Class A Member is hereby admitted as a Class A Member of the Company and the Initial Class B Member is hereby admitted as a Class B Member. The parties hereto hereby continue the Company, which was formed as a Delaware limited liability company by the filing of the Delaware Certificate pursuant to the Act. The rights and obligations of the Members shall be as provided in the Act, except as otherwise expressly provided herein. The Manager shall from time to time execute or cause to be executed all such certificates, instruments and other documents, and cause to be done all such filings and other actions, as the Manager may deem necessary or appropriate to operate, continue, or terminate the Company as a limited liability company under the laws of the State of Delaware and to qualify the Company to do business in all jurisdictions other than the State of Delaware in which the Company conducts or proposes to conduct business and in any other jurisdiction where such qualification is necessary or appropriate.

Section 2.2 Name.

The name of the Company is, and the business of the Company shall continue to be conducted under the name of, "NRG DGPV HOLDCO 1 LLC" or such other name or names as the Manager may designate from time to time, with the Consent of the Members. The Manager shall take any action that it determines is required to comply with the Act, assumed name act, fictitious name act, or similar statute in effect in each jurisdiction or political subdivision in which the Company conducts or proposes to conduct business and the Members agree to execute any documents reasonably requested by the Manager in connection with any such action.

Section 2.3 Principal Office.

The Company shall maintain a principal office at 5790 Fleet Street, Suite 200, Carlsbad, CA 92008. The Manager may change the principal office of the Company from time to time upon prior written notice to the Members. The Manager shall maintain all records of the Company at its principal office or such location designated by the Manager in a notice to the Members.

Section 2.4 Registered Office; Registered Agent.

The name of the registered agent of the Company in the State of Delaware is CT Corporation System. The address of the Company's registered office in the State of Delaware is at Corporation Trust Center, 1209 Orange Street, Wilmington, DE 19801.

Section 2.5 Purposes.

The purpose of the Company is to directly or indirectly (a) own the Intermediate Companies and the Fund Companies (collectively, the "**Subject Companies**") that may (i) own, finance, lease, occupy, equip, test, operate, maintain and repair the Projects for the purpose of producing electricity and RECs and (ii) sell electricity produced by the Projects and to sell RECs generated from the Projects; (b) enter into, comply with and perform its obligations and enforce its rights under this Agreement and each other Investment Document to which it is a party and to cause each Subject Company to comply with, and perform its obligations and enforce its rights under each Fund Document and each other Project Document to which such Subject Company is a party; and (c) engage in and perform any and all activities necessary, incidental, related or appropriate to accomplish the foregoing that may be engaged in by a limited liability company formed under the Act. The Company shall not engage in any activity or own any Assets that are not directly related to the Company's purpose as set forth in the first sentence of this Section 2.5.

Section 2.6 Term.

The Company was formed on April 2, 2015, and shall continue in existence until dissolved and terminated in accordance with this Agreement or the Act.

Section 2.7 Title to Property.

Title to Company Assets, whether tangible or intangible, shall be held in the name of the Company, and no Member, individually, shall have title to or any interest in such property by reason of being a Member. Membership Interests of each Member shall be personal property for all purposes.

Section 2.8 Units; Certificates of Membership Interest; Applicability of Article 8 of UCC.

Membership Interests shall be represented by Units, *divided* into Class A Units (in the case of Class A Interest) and Class B Units (in the case of Class B Interest). The Membership Interests represented by Class A Units and Class B Units shall have the respective rights, powers

and preferences ascribed to Class A Units and Class B Units in this Agreement. The class of Membership Interest of a Member shall be as provided in Annex I. The Members hereby specify, acknowledge and agree that all Units (and the Membership Interests represented thereby) are securities governed by Article 8 and all other provisions of the Uniform Commercial Code, and pursuant to the terms of Section 8-103(c) of the Uniform Commercial Code, such interests shall be "certificated securities" for all purposes under such Article 8 and under all other provisions of the Uniform Commercial Code. All Units (and the Membership Interests represented thereby) shall be represented by certificates substantially in the form attached hereto as Exhibit B, shall be recorded in a register (the "**Register**") thereof maintained by the Company, and shall be subject to such rules for the issuance thereof in compliance with this Agreement and applicable Law.

Section 2.9 No Partnership.

The Members intend that the Company not be a partnership (including a limited partnership) or joint venture, and that no Member be a partner or joint venturer of any other Member, for any purposes other than tax purposes, and this Agreement may not be construed to suggest otherwise.

Article III

CAPITAL CONTRIBUTIONS

Section 3.1 Class A Interest.

On the Effective Date, the Class A Member has made its Initial Capital Contribution in cash in exchange for its Class A Units in an amount set forth in Annex I, which Class A Units comprise one hundred percent (100%) of the Class A Interest. Each Class A Member shall be entitled to the allocations, distributions and other rights as are prescribed for a Class A Member in this Agreement. Each Class A Member's Capital Account balance as of the Effective Date with respect to its Class A Interest is as indicated on Annex I. The number of Class A Units held by each Class A Member with respect to its Class A Interest as of the Effective Date is the number indicated on Annex I.

Section 3.2 Class B Interest.

On the Effective Date, the Class B Member has made its Class B Initial Capital Contribution in cash in exchange for its Class B Units in an amount set forth in Annex I, which Class B Units comprise one hundred percent (100%) of the Class B Interest. Each Class B Member shall be entitled to the allocations, distributions and other rights as are prescribed for a Class B Member in this Agreement. Each Class B Member's Capital Account balance as of the Effective Date with respect to its Class B Interest is as indicated on Annex I. The number of Class B Units held by each Class B Member with respect to its Class B Interest as of the Effective Date is the number indicated on Annex I.

Section 3.3 Other Required Capital Contributions.

(a) Except as provided in this Section 3.3, Section 3.1, Section 3.2 and Section 12.3, no Member shall be obligated to make Capital Contributions.

(b) Immediately upon receipt of (i) the presentation made to a Fund Company of a tranche of Projects for purchase or (ii) a formal capital contribution request from a Fund Company with respect to a tranche of Projects, that in either case sets forth an amount of capital contributions that will be required from the members of such Fund Company and a date by which contributions to a Fund Company must be made or (iii) any notice delivered to the Company in connection with a Contribution Event pursuant to Section 3.3(e), the Manager shall deliver to the Members a request for Capital Contributions (the "**Capital Contribution Request**"), consisting of, with respect to clauses 3.3(b)(i) and (ii), (A) the amount of capital that a Fund Company or other Subject Company requires (the "**Capital Call Amount**"), (B) a reasonably detailed explanation of the intended use of such capital by the Company and each applicable Subject Company, (C) the Fund Base Case Model used to calculate the Capital Contributions being requested, (D) the Equity Capital Contribution Date when the requested Capital Contributions must be made, which shall be the same date as the capital contributions are made by the Fund Investors of such Fund Company, if applicable, but in all cases, shall be at least three (3) days following delivery of the Capital Contribution Request, (E) the Class A Capital Contribution Amount, as determined in accordance with Section 3.3(c), and (F) the Class B Capital Contribution Amount, as determined in accordance with Section 3.3(d).

(c) On each Equity Capital Contribution Date other than with respect to a Contribution Event, the Class A Members shall each make a Capital Contribution in cash equal to the percentage of the Capital Call Amount required so that each Class A Member is projected to: (i) achieve the Target IRR on the Target Flip Date, (ii) receive a minimum [***]% per annum return based on Available Cash Flow until the Target Flip Date, and (iii) receive no less than an average [***]% per annum return based on Available Cash Flow during the first ten years following the date on which the Class A Capital Contribution Amount has been made (the "**Class A Capital Contribution Amount**"), as determined pursuant to the applicable Fund Base Case Model.

(d) On each Equity Capital Contribution Date other than with respect to a Contribution Event, the Class B Members shall make a Capital Contribution (if more than one, then *pro rata* in accordance with their Class B Units) in cash equal to the Capital Call Amount *minus* the Class A Capital Contribution Amount (the "**Class B Capital Contribution Amount**"), as determined pursuant to the applicable Fund Base Case Model.

(e) In addition to the Capital Contributions contemplated by Section 3.3(b), the Manager may (or, in the case of clause (iv), shall) request from the Members, and the Members shall be obligated to make, as applicable, Capital Contributions to fund (i) the purchase price of an Accepted Acquisition, (ii) a Fund Company Put Event, (iii) a Fund Company Call Event approved in accordance with Section 6.3 or (iv) a Member Contribution Event (each a "**Contribution Event**"), in each case, by delivering a Capital Contribution Request to the applicable Member(s) (with a copy to the other Members) in accordance with the time requirements of Section 3.3(b), consisting of (A) a detailed explanation of the Contribution Event and the total capital required from the Company

in connection therewith, (B) the amount of such Capital Contribution requested of each such Member, and (C) all notices and other documentary evidence received by the Intermediate Company in connection with such Contribution Event. In the case of an Accepted Acquisition, the Manager shall determine the Members' respective Capital Contribution amounts in accordance with Section 3.3(c) and Section 3.3(d) respectively. In the event that a Contribution Event other than a Member Contribution Event occurs following the Investment Period, the Capital Contribution to be made by each Member shall be the applicable Capital Call Amount *multiplied* by such Member's Post Investment Period Contribution Percentage.

(f) Notwithstanding anything herein to the contrary, but subject to the Class A Members' obligation to make further Capital Contributions in connection with a Contribution Event if and as required by this Agreement, (i) in no event shall the Class A Members be obligated to make Capital Contributions to the Company that in the aggregate exceed the Class A Member Capital Contribution Commitment or if the credit profile of the tranche of projects intended to be funded by the Capital Contributions is substantially different than the Fund Credit Profile defined in the applicable Fund Addendum (as determined by the Class A Members in their reasonable discretion) and (ii) the obligation of the Class A Members under this Section 3.3 with respect to the acquisition of Projects by a Fund Company are subject to receipt by the Class A Members of evidence satisfactory to them that the Fund Investors under any applicable Fund Documents has agreed to make its required capital contribution pursuant to the terms of the Fund Documents. If the Class A Members do not fund any portion of the Capital Contribution requested of them contained in a Capital Contribution Request because such amount exceeds Class A Member Capital Contribution Commitment, then, in addition to funding such shortfall amount as a Member Loan pursuant to Section 3.4 below, the Class B Members may fund such shortfall as a Capital Contribution (if more than one Class B Member desires to do so, then *pro rata* in accordance with their Class B Units), and the Members shall work together in good faith to adjust to the allocations under Section 4.1 and the distributions under Section 5.1 to reflect such increased Capital Contributions made by the Class B Members.

(g) If any Member disputes the amount of its Capital Contribution set forth in a Capital Contribution Request, then such Member shall immediately deliver notice to the other Members and the Manager and all Members and the Manager shall, within three (3) Business Days, meet in good faith to resolve any discrepancies causing such dispute and if they are not able to resolve such dispute, then such matter will be handled pursuant to the dispute resolution mechanisms set forth in Section 10.3.

Section 3.4 Member Loans.

(a) In the event that, from time to time after the Effective Date, additional working capital is needed to enable the Company to cause the Assets of the Company and any Subject Company to be properly operated and maintained (and to pay and perform the costs, expenses, obligations and liabilities of the Company or any Subject Company), but not in connection with a Contribution Event, then, at the discretion of the Manager, the Manager may give notice to the Members thereof (the "**Working Capital Notice**"), and each Member shall have the right (but not the obligation) to advance all or part of the needed funds to the Company. Within ten (10)

Business Days following the date of the Working Capital Notice, the participating Members shall give notice to the Manager and the other Members stating their election whether to provide such funding to the Company (the "**Funding Notice**"). If more than one Member states in the Funding Notice that it elects to provide such funds, then each Member shall provide an equal amount of funds (or such other amount as the Members decide) to the Company within five (5) Business Days after the date of the Funding Notice. Amounts advanced by any Member pursuant to this Section 3.3(g) shall be considered "**Member Loans**".

(b) Any Member Loan shall be unsecured and shall bear interest at a rate equal to the lesser of (A) the Reference Rate *plus* four percent (4%) or (B) the highest rate of interest that may be charged by a Member in accordance with applicable Law, unless a lower rate of interest is otherwise agreed to by such Member in its sole discretion. Member Loans shall be repaid by the Company out of Available Cash Flow in accordance with the provisions of Section 5.1(c). Interest on each Member Loan pursuant to this Section 3.4 shall accrue and, if not paid in accordance with the immediately preceding sentence of this Section 3.4(b), be compounded to the principal amount thereof on each Distribution Date.

Section 3.5 No Right to Return of Capital Contributions.

Except as otherwise provided in this Agreement, no Member may require a return of any part of its Capital Contributions or the payment of interest thereon from the Company or from another Member. An unrepaid Capital Contribution is not a liability of the Company or any Member.

Article IV

CAPITAL ACCOUNTS; ALLOCATIONS

Section 4.1 Capital Accounts.

(a) The Company shall maintain for each Member a separate Capital Account in accordance with the rules of Treasury Regulations Section 1.704-l(b)(2)(iv).

(b) A Member's Capital Account will be increased by (i) such Member's Capital Contributions, (ii) the income and gain the Member is allocated by the Company, including any income and gain that is exempted from tax and including any income and gain described in Treasury Regulations Section 1.704-1(b)(2)(iv)(g), but excluding tax items of income and gain described in Treasury Regulations Section 1.704-1(b)(4)(i), and (iii) an amount equal to an allocation of upward basis adjustment to such Member as a result of a Recapture of ITCs as described in Treasury Regulations Section 1.704-1(b)(2)(iv)(j). A Member's Capital Account will be decreased by (i) the amount of money distributed to the Member by the Company, (ii) the net value of any property other than money distributed to the Member by the Company (*i.e.*, the fair market value of the property net of any liabilities secured by the property that the Member is considered to assume or take subject to under Section 752 of the Code), (iii) any expenditures of the Company described in Section 705(a)(2)(B) of the Code (*i.e.*, that cannot be capitalized or deducted in computing taxable income) that are allocated to the Member, (iv) losses and deductions that are allocated to the Member, but excluding tax items of loss or deduction described in Treasury Regulations Section 1.704-1(b)

(4)(i), and (v) an amount equal to an allocation of downward basis adjustment to such Member as described in Treasury Regulations Section 1.704-1(b)(2)(iv)(j).

(c) In the event Units are Transferred in accordance with the terms of this Agreement, the Transferee shall succeed to the Capital Account of the Transferring Member to the extent it relates to the Units so Transferred.

(d) In determining the amount of any liability for purposes of Section 4.2(b) there shall be taken into account Code Section 752(c) and any other applicable provisions of the Code and Treasury Regulations.

(e) The Members' Initial Capital Contributions and initial Capital Accounts are set forth on Annex I.

(f) This Section 4.1 and the other provisions of this Agreement relating to the maintenance of Capital Accounts are intended to comply with Treasury Regulations Section 1.704-1(b), and shall be interpreted and applied in a manner consistent with such Treasury Regulations.

Section 4.2 Allocations.

For purposes of maintaining Capital Accounts, all Company Items, which, for the avoidance of doubt, shall be separately determined for each Project, for any Taxable Year shall be allocated among the Members as follows:

(h) General Allocations. Subject to Section 4.2(b), Section 4.3 and Section 12.2(a)(iv), all Company Items attributable to each Project for any Taxable Year or relevant portion thereof shall be allocated among the Members as follows:

(i) *first*, from and after the Effective Date and through the Flip Date, ninety-five percent (95%) to the Class A Members, *pro rata* in accordance with their Class A Units, and five percent (5%) to the Class B Members, *pro rata* in accordance with their Class B Units; and

(ii) *thereafter*, five percent (5%) to the Class A Members, *pro rata* in accordance with their Class A Units, and ninety-five percent (95%) to the Class B Members, *pro rata* in accordance with their Class B Units.

Notwithstanding the foregoing, if a Class A Member would have a deficit in its Capital Account balance as of the end of any Taxable Year ending on or after the Flip Date, income and gain of the Company (but not loss or deductions of the Company) shall be allocated ninety-nine percent (99%) to the Class A Members, pro rata among the Class A Members in accordance with the deficit in its Capital Account balances in excess of the amount such Class A Member is deemed obligated to restore pursuant to the penultimate sentences of Treasury Regulations Section 1.704-2(g)(1) and 1.704-2(i)(5), and one percent (1%) to the Class B Members, in accordance with their Class B Units, until each Class A Member's deficit Capital Account balance is not in excess of the

amounts that such Class A Member is deemed obligated to restore (any such allocations, a "**Special DRO Allocation**").

(i) Items in Connection with Liquidation. Company Items for the Taxable Year in which there is a disposition or deemed disposition of all or substantially all of the Assets of the Company pursuant to Section 12.2(a)(iii) shall be allocated pursuant to Section 12.2(a)(iv).

Section 4.3 Adjustments.

The following adjustments shall be made to the allocations set forth in Section 4.2 in the following order of priority in order to comply with Treasury Regulations Sections 1.704-1 (b) and 1.704-2:

(c) Company Minimum Gain Chargeback. Notwithstanding the other provisions of this Article IV, except as provided in Treasury Regulations Section 1.704-2(f), if there is a net decrease in Company Minimum Gain during any taxable year of the Company, each Member shall be allocated Company Items of income and gain for such taxable year (and, if necessary subsequent taxable years) in an amount equal to such Member's share of the net decrease in Company Minimum Gain, determined in accordance with Treasury Regulations Section 1.704-2(g). Allocations pursuant to the previous sentence shall be made in proportion to the respective amounts required to be allocated to each Member pursuant thereto. The Company Items to be so allocated shall be determined in accordance with Treasury Regulations Sections 1.704-2(f)(6) and 1.704-2(j)(2). This Section 4.3(a) is intended to comply with the minimum gain chargeback requirement in Treasury Regulations Section 1.704-2(f) and shall be interpreted consistently therewith.

(d) Chargeback of Minimum Gain Attributable to Member Nonrecourse Debt. Notwithstanding the other provisions of this Article IV, except as provided in Treasury Regulations Section 1.704-2(i)(4), if there is a net decrease in Member Nonrecourse Debt Minimum Gain attributable to a Member Nonrecourse Debt during any taxable year of the Company, each Member who has a share of the Member Nonrecourse Debt Minimum Gain attributable to such Member Nonrecourse Debt, determined in accordance with Treasury Regulations Section 1.704-2(i)(5), shall be allocated Company Items of income and gain for such taxable year (and, if necessary, subsequent taxable year) in an amount equal to such Member's share of the net decrease in Member Nonrecourse Debt, determined in accordance with Treasury Regulations Section 1.704-2(i)(4). Allocations pursuant to the previous sentence shall be made in proportion to the respective amounts required to be allocated to each Member pursuant thereto. The Company Items to be so allocated shall be determined in accordance with Treasury Regulations Sections 1.704-2(i)(4) and 1.704-2 (j)(2). This Section 4.3(b) is intended to comply with the partner nonrecourse debt minimum gain chargeback requirement in Treasury Regulations Section 1.704-2(i)(4) and shall be interpreted consistently therewith.

(e) Limitation on Losses and Deductions. No items of loss or deduction may be allocated to any Member to the extent the allocation would result in or increase an Adjusted Capital Account Deficit at the end of any Taxable Year. In the event some but not all of the Members would have Adjusted Capital Account Deficits as a consequence of an allocation of items of loss or deduction, this limitation shall be applied on a Member-by-Member basis and items of loss or

deduction not allocable to any Member as a result of such limitation shall be allocated to the other Members in the manner otherwise required pursuant to Section 4.2 and Section 12.2(a)(iv) to the extent such other Members may be allocated such items of loss or deduction without producing an Adjusted Capital Account Deficit.

(f) Qualified Income Offset. In the event any Member unexpectedly receives any adjustments, allocations or distributions described in Treasury Regulations Sections 1.704-1(b)(2)(ii)(d)(4), (5) or (6), Company Items of income and gain shall be allocated to such Member in an amount and manner sufficient to eliminate as quickly as possible, to the extent required by the Treasury Regulations, any Adjusted Capital Account Deficit; *provided* that an allocation pursuant to this Section 4.3(d) shall be made only if and to the extent that such Member would have such a deficit Capital Account after all other adjustments provided for in this Section 4.3 have been tentatively made as if this Section 4.3(d) were not in this Agreement.

(g) Gross Income Allocation. In the event any Member has a deficit Capital Account at the end of any Taxable Year that is in excess of the amount such Member is deemed obligated to restore pursuant to the penultimate sentences of Treasury Regulations Sections 1.704-2(g)(1) and 1.704-2(i)(5), each such Member shall be specially allocated Company Items of income and gain in the amount of such excess as quickly as possible; *provided* that an allocation pursuant to this Section 4.3(e) shall be made only if and to the extent that such Member would have a deficit Capital Account in excess of such sum after all other special allocations provided for in this Section 4.3 have been made as if Section 4.3(d) and this Section 4.3(e) were not in this Agreement.

(h) Section 754 Adjustments. To the extent an adjustment to the adjusted tax basis of any Company Asset pursuant to Code Section 734(b) or Section 743(b) is required pursuant to Treasury Regulations Section 1.704-1(b)(2)(iv)(m)(2) or Section 1.704-1(b)(2)(iv)(m)(4) to be taken into account in determining Capital Accounts as the result of a distribution to a Member in complete liquidation of such Member's interest in the Company or a distribution to a Member other than in complete liquidation of such Member's interest in the Company, the amount of such adjustment to Capital Accounts shall be treated as an item of gain (if the adjustment increases the basis of the Asset) or loss (if the adjustment decreases such basis). Such gain or loss shall be specially allocated to the Members as follows: (A) to the Member to whom such distribution was made in the event the first sentence of Treasury Regulations Section 1.704-1(b)(2)(iv)(m)(4) applies; (B) in accordance with how the corresponding item of "displaced" gain or loss would be allocated to the Members pursuant to Section 4.2 to the extent the second sentence of Treasury Regulations Section 1.704-1(b)(2)(iv)(m)(4) applies; and (C) in accordance with the Members' "interests in the Company" under Treasury Regulations Section 1.704-1(b)(3) in the event Treasury Regulations Section 1.704-1(b)(2)(iv)(m)(2) applies.

(i) Nonrecourse Deductions. Nonrecourse Deductions for any Taxable Year shall be allocated to the Members in accordance with (i) Section 4.2, as in effect at the time the Nonrecourse Deduction arises, or (ii) if applicable, Section 12.2(a)(iv), as in effect at the time the Nonrecourse Deduction arises.

(j) Member Nonrecourse Deductions. Any Member Nonrecourse Deductions for any Taxable Year shall be allocated to the Member who bears the economic risk of loss with

respect to the Member Nonrecourse Debt to which such Member Nonrecourse Deductions are attributable in accordance with Treasury Regulations Section 1.704-2(i)(1).

(k) Regulatory Allocations. The allocations required in Section 4.3(a) through Section 4.3(h) (the "**Regulatory Allocations**") are intended to comply with certain requirements of the Treasury Regulations. It is the intent of the Members that, to the extent consistent with the Treasury Regulations, all Regulatory Allocations shall be offset either with other Regulatory Allocations or with allocations of other Company Items. Therefore, notwithstanding any other provisions of this Article IV, the Regulatory Allocations shall be taken into account in allocating other Company Items among the Members such that, to the extent consistent with the Treasury Regulations, the net amount of allocations of such items and the Regulatory Allocations to each Member shall be equal to the net amount that would have been allocated to each Member if the Regulatory Allocations had not occurred and all Company Items were allocated pursuant to Section 4.2, this Section 4.3 (excluding the Regulatory Allocations) and this Section 4.3(i) and Section 12.2(a)(iv).

Section 4.4 Tax Allocations.

(a) Except as otherwise provided in this Section 4.4, for federal, state and local income tax purposes each item of the Company's income, gain, loss, deduction and credit as determined for federal income tax purposes shall be allocated to the Members in the same manner as the correlative Company Items are allocated for book purposes pursuant to Section 4.2, Section 4.3 and Section 12.2(a)(iv).

(b) In accordance with Code Section 704(c) and the Treasury Regulations thereunder, items of the Company's income, gain, loss, deduction and credit as determined for federal income tax purposes that are attributable to any non-cash property contributed to the capital of the Company shall, solely for tax purposes, be allocated among the Members so as to take account of any variation between the adjusted basis of such property to the Company for federal income tax purposes and its initial Value using the "remedial" method permitted by Treasury Regulations Section 1.704-3(d).

(c) In the event the Value of any Company Asset is adjusted pursuant to subparagraph (b) of the definition of Value, subsequent allocations of Company Items with respect to such Asset shall take account of any variation between the adjusted basis of such Asset for federal income tax purposes and its Value in the same manner as under Code Section 704(c) and the Treasury Regulations thereunder.

(d) Allocations pursuant to this Section 4.4 are solely for federal, state, and local income taxes and shall not affect, or in any way be taken into account in computing, any Member's Capital Account or distributive share of Company Items or distributions pursuant to any provision of this Agreement.

Section 4.5 Other Allocation Rules.

(a) The Members are aware of the income tax consequences of the allocations made by this Article IV and Section 12.2(a) and hereby agree to be bound by the provisions of this Article IV and by Section 12.2(a) in reporting their distributive shares of Company Items for income tax purposes, unless otherwise required by applicable Law. If the respective Membership Interests or allocation ratios described in this Article IV of the existing Members in the Company change or if a Membership Interest is Transferred in compliance with this Agreement to any other Person, then, for the Taxable Year in which the change or Transfer occurs, all Company Items resulting from the operations of the Company shall be allocated, as between the Members for the Taxable Year in which the change occurs or between the Transferring Member and the Transferee, by taking into account their varying interests using the interim closing of the books method permitted by Treasury Regulations Section 1.706-1(c)(2)(ii), unless otherwise agreed in writing by all the Members.

(b) The Members agree that solely for purposes of determining a Member's proportionate share of the "excess nonrecourse liabilities" of the Company within the meaning of Treasury Regulations Section 1.752-3(a)(3), the Members' interests in Company profits are in accordance with Section 4.2 as in effect at the time the excess nonrecourse liability arises.

(c) Each Member agrees to provide the Company with information in connection with a transaction subject to Sections 734 and 743 of the Code and the elections permitted and provisions required thereunder, including Treasury Regulations Section 1.743-1.

Article V

DISTRIBUTIONS

Section 5.1 Distributions of Available Cash Flow.

Available Cash Flow shall be distributed to the Members as follows:

(j) Subject to Sections 5.1(c)-(e), from and after the Effective Date, Class A Eligible Cash Flow shall be distributed to the Members on each Distribution Date on which the Company has Class A Eligible Cash Flow, in the following order and priority:

(i) *first*, from and after the Effective Date until the Flip Date, ninety-five percent (95%) to the Class A Members, *pro rata* in accordance with their Class A Units, and five percent (5%) to the Class B Members, *pro rata* in accordance with their Class B Units;

(ii) *thereafter*, five percent (5%) to the Class A Members, *pro rata* in accordance with their Class A Units, and ninety-five percent (95%) to the Class B Members, *pro rata* in accordance with their Class B Units;

(k) Subject to Sections 5.1(c)-(e), from and after the Effective Date, Class A Ineligible Cash Flow shall be distributed to the Members on each Distribution Date on which the Company has Class A Ineligible Cash Flow, in the following order and priority:

(i) *first*, from and after the Effective Date until the Flip Date, one hundred percent (100%) to the Class B Members;

(ii) *thereafter*, five percent (5%) to the Class A Members, *pro rata* in accordance with their Class A Units, and ninety-five percent (95%) to the Class B Members, *pro rata* in accordance with their Class B Units;

provided, that the Class B Members may, at any time and from time to time, deliver notice to the other Members and the Manager that any component of Class A Ineligible Cash Flow should be included in Class A Eligible Cash Flow to be distributed pursuant to Section 5.1(a) and thereafter such component of Class A Ineligible Cash Flow specified in such notice shall be distributed pursuant to Section 5.1(a) unless and until further notice from the Class B Members instructs otherwise.

(l) Notwithstanding Section 5.1(a)-(b), on any Distribution Date on which there is an unpaid balance on any Member Loan made by a Member in accordance with Section 3.4, Available Cash Flow shall first be distributed to the Members participating in such Member Loan on such Distribution Date in an amount not to exceed the outstanding balance of such Member Loan.

(m) Notwithstanding Section 5.1(a)-(b), if on any Distribution Date within a Taxable Year that begins on or after the Flip Date, the distributions of Available Cash Flow distributed to the Class A Member under 5.1(a) and 5.1(b) above within that Taxable Year are not at least equal to the Tax Costs for the Class A Member to date for such Taxable Year, and all unpaid balances on Member Loans have been repaid in accordance with 5.1(c), then a portion of the Available Cash Flow otherwise distributable to the Class B Member equal to that shortfall shall instead be distributed to the Class A Member.

(n) Notwithstanding Section 5.1(a)-(b), on any Distribution Date that occurs on or after the Target Flip Date, and the Flip Point has not occurred, after all outstanding balances of Member Loans have been paid in accordance with Section 5.1(c), Available Cash Flow shall be distributed ninety-five percent (95%) to the Class A Members, *pro rata* in accordance with their Class A Units, and five percent (5%) to the Class B Members, *pro rata* in accordance with their Class B Units, until sufficient distributions have been made to the Class A Members for the Flip Point to occur.

Section 5.2 Limitation.

The distributions described in this Article V shall be made only from Available Cash Flow and only to the extent that there shall be sufficient Available Cash Flow to enable the Manager to make payments in accordance with the terms hereof. Notwithstanding any provision to the contrary contained in this Agreement, the Company shall not make a distribution to a Member on

account of its Membership Interest if such distribution (including a return of Capital Contributions) would violate the Act or any other applicable Law.

Section 5.3 Withholding.

Notwithstanding any other provision of this Agreement, the Company shall comply with any withholding requirements under any Law and shall remit amounts withheld to, and file required forms with, applicable taxing authorities. To the extent that the Company is required to withhold and pay over any amounts to any taxing authority with respect to distributions or allocations to any Member, the amount withheld shall be treated as a distribution of cash to such Member in the amount of such withholding. The Company shall notify the Member and permit the Member, if permitted by applicable Law, to contest the applicability of the underlying Tax prior to making such withholding, *provided* that the Company shall not incur any interest, penalties or additions to tax (unless the contesting Member shall have agreed to indemnify and hold harmless the Company for any such additional liabilities). If an amount required to be withheld was not withheld from an actual distribution, the Company may reduce subsequent distributions by the amount of such required withholding and any penalties or interest thereon. Each Member agrees to furnish to the Company such forms or other documentation as is reasonably necessary to assist the Company in determining the extent of, and in fulfilling, its withholding obligations.

Article VI

MANAGEMENT

Section 6.1 Manager.

(l) The Initial Class B Member is hereby appointed by the Members as the initial Manager of the Company. Except as provided in Section 6.2 or as otherwise expressly provided in this Agreement, the Manager shall conduct, direct and exercise control over all activities of the Company, and shall have full power and authority on behalf of the Company to manage and administer the business and affairs of the Company and to do or cause to be done any and all acts reasonably considered by the Manager to be necessary or appropriate to conduct the business of the Company (including, without limitation, taking all necessary actions to cause the Company to cause each Subject Company to perform its obligations and enforce its rights under the Project Documents to which it is a party and to otherwise carry out its purposes) without the need for approval by or any other consent from any Member, including the authority to bind the Company in making contracts and incurring obligations in the Company's name in the course of the Company's business. The Manager may delegate its management duties and obligations to third parties, including the Management Services Provider, or Officers but such delegation shall not relieve the Manager of its primary obligation with respect to such duties and obligations. Except to the extent that a Member is also the Manager or authority is delegated from the Manager, no Member shall have any authority to bind the Company. Without limiting the generality of the foregoing, the Manager shall (provided that, in each case as it relates to any Subject Company, only to the extent that the Company has (directly or indirectly) the authority to control the management of such Subject Company):

(i) in accordance with Article VIII hereof, keep and maintain books of account that are true and correct in all material respects and prepare and timely file all necessary tax returns and make all necessary or desirable tax elections for the Company and each Subject Company;

(ii) prepare and submit all filings of any nature that are required to be made by the Company and each Subject Company under any laws, regulations, ordinances or otherwise applicable to the Company, the Subject Companies or the Projects;

(iii) procure and maintain all Licenses and Permits (if any) required for the Company and the Subject Companies;

(iv) comply with the terms and conditions of the Investment Documents, the Project Documents, the Licenses and Permits and applicable Law;

(v) procure and maintain, or cause to be procured and maintained, all insurance required to be maintained pursuant to the Project Documents;

(vi) enforce the Company's and the Subject Companies' and any counterparty's compliance with the terms and conditions of all Contracts under which the Company or any Subject Company has any obligations or rights, including this Agreement and the Project Documents and ensure compliance with applicable Laws, including Environmental Laws, Anti-Corruption Laws and Laws relating to Sanctions;

(vii) manage the Company's and the Subject Companies' cash according to investment guidelines set forth in Section 8.5 and make distributions out of available cash as provided under the relevant provisions of this Agreement, the Fund Documents and the Subject Companies' organizational documents, including the prompt distribution of cash from the Subject Companies to the Company;

(viii) prepare and deliver all of the reports and other information set forth in Section 8.4; and

(ix) create and maintain the Register, including to reflect any Encumbrance on or Transfer of Membership Interests.

(m) In addition to the actions required pursuant to Section 6.1(a), and in no event in limitation thereof, the Manager shall provide the following services to the Company and the Subject Companies, as applicable (provided that, in each case as it relates to any Subject Company, only to the extent that the Company has (directly or indirectly) the authority to control the management of such Subject Company):

(i) Accounting Services. The Manager shall and/or shall cause the Master Services Provider to provide accounting and administrative support for all operations, including the following accounting services, to the Company and the Subject Companies, as applicable:

(A) preparation, filing, storage and dissemination of all necessary documentation of each such Person's actions and transactions as required by law, by the applicable Fund Documents (including all reporting required thereunder) and of all documentation reasonably deemed necessary or appropriate by the Manager;

(B) maintenance of accounting and tax records of each such Person's transactions in accordance with the accounting standards set forth in the applicable Fund Documents and this Agreement;

(C) facilitation of payment by the Company and each Subject Company of all reasonable expenses of the Company and such Subject Company in accordance with the applicable Fund Documents and this Agreement, as reflected in the annual budget for the Company and such Subject Company, or reasonably related thereto;

(D) preparation and distribution of all applicable financial reports, financial models and accompanying certificates in accordance with the applicable Fund Documents and this Agreement;

(E) preparation and distribution of an annual budget for the Subject Companies and as may be required by the Fund Documents and this Agreement (including Section 6.8 hereof);

(F) negotiation and administration of an engagement letter with the Certified Public Accountant for annual audit (if required) and tax return review services; and

(G) preparation, facilitation and / or distribution of all other reports, certificates, or transactional information or analysis as reasonably required by the Subject Companies.

(ii) Taxes. Subject to Article VIII and other more specific provisions of this Agreement and the related provisions contained in the Fund Documents, the Manager shall provide, or cause to be provided, the following tax services to the Company and the Subject Companies in accordance with its obligations required by the Fund Documents, as applicable (provided that, in each case as it relates to any Subject Company, only to the extent that the Company has (directly or indirectly) the authority to control the management of such Subject Company):

(A) preparation and timely filing of all applicable federal, state, local and / or other Tax returns, including income, franchise, excise, gross receipts, sales and use tax returns and / or reports in accordance with the terms and conditions of the Fund Documents and this Agreement, including the performance or coordination of any tax law research to support such filing;

(B) administration, invoicing and coordination of property taxes including preparation of all applicable business property tax returns; the review of any property tax assessment on the Projects; the review and timely payment of property tax bills; and administration of any property tax agreement, if applicable; and

(C) cause the Tax Matters Member to represent the Company, and cause the tax matters member of each Subject Company to represent such Subject Company, in any audit, examination, or review conducted by an appropriate taxing authority of any of the Company's or such Subject Company's federal, state, provincial, or local income, franchise, gross receipts, sales and use, or property tax filings.

(iii) Treasury Services. The Manager shall provide, or cause to be provided, the following treasury services, to the extent necessary, to the Company and the Subject Companies, as applicable (provided that, in each case as it relates to any Subject Company, only to the extent that the Company has (directly or indirectly) the authority to control the management of such Subject Company):

(A) establishment, maintenance, and administration of one or more bank accounts in the name of the Company and the Subject Companies (with respect to the Subject Companies, if and as required) in which to deposit the Company's or the Subject Companies' receipts, and from which to draw upon for the payment of all reasonable expenses of the Company or the Subject Companies;

(B) investment and distribution of the Company and the Subject Companies' funds in association with reasonable and customary cash forecast and cash management practices and in accordance with the terms, conditions, and limitations of all applicable Fund Documents and this Agreement;

(C) maintenance and administration of any revolving lines of credit available to the Company or the Subject Companies subject to the terms and conditions of all applicable Fund Documents and this Agreement;

(D) maintenance and administration of any letters of credit issued by, on behalf of, or for the benefit of the Company or any Subject Company subject to the terms and conditions of all applicable Fund Documents and this Agreement;

(E) maintenance by the Manager of the Company's and the Subject Companies' relationships with its banks, bondholders, rating agencies and / or other financial institutions, and their respective legal counsels; and

(F) periodic maintenance and analysis of the Projects' long-term economic projections.

(iv) Legal. The Manager shall coordinate legal services, in the name of and on behalf of the Company and the Subject Companies for whom the Company has (directly or indirectly) management authority, as it deems necessary to ensure the proper administration and management of the Projects. In coordinating these legal services, the Manager will determine whether such legal services are to be performed by in-house legal staff (if at the time such legal services are performed during the term of this Agreement the Manager has in its employ any in-house legal staff), outside legal counsel, or any combination thereof.

(v) Insurance. If required under the Fund Documents or any of the other Project Documents, the Manager shall procure insurance coverage for, and in the name of, the Company and (to the extent the Company has (directly or indirectly) management authority for any Subject Company) shall cause the Subject Companies to procure, at the Company's or the Subject Companies' expense, as applicable, and shall enforce its rights to such insurance coverage, defense and indemnification; *provided*, *however*, that if any such insurance (after consultation with ta reputable insurance broker) is not available on commercially reasonable terms only such insurance shall then be required to be carried pursuant to this Agreement as is then available on commercially reasonable terms.

(vi) Insurance Claims. The Manager shall adjust insurance claims of the Company and (to the extent the Company has (directly or indirectly) management authority for any Subject Company) the Subject Companies with insurance carriers, as applicable, to ensure equitable recovery for property damage and business interruption claims. Adjustment of such a claim shall include: (A) filing proof of loss with all applicable supporting documentation, (B) site inspection, (C) negotiations with insurance carriers, and (D) ensuring that insurance proceeds be deposited and distributed in accordance with the terms and conditions of this Agreement and the Project Documents. In the event of a liability claim, the Manager shall oversee the defense of the claim.

(vii) Indebtedness. During any such time during which any Company or (to the extent the Company has (directly or indirectly) management authority for any Subject Company) Subject Company Indebtedness remains outstanding, the Manager shall cause the Company and the applicable Subject Companies to:

(A) comply with the applicable financing documents, including, without limitation, by repaying such Indebtedness in the amounts and at the times required under such financing documents; and

(B) as soon as practicable following the occurrence or existence of a default or an event of default under any financing documents, use cash or reserves of the applicable Subject Company or, if such Subject Company does not have sufficient cash or reserves, cash or reserves of the Company, to effect (or make commercially reasonable efforts to effect) a cure (or request a waiver) of such a default or an event of default in accordance with the applicable financing documents. For the avoidance of doubt, any cash used by the Company to cure (or attempt to cure or waive) such default or event of default shall be an expense of the Company

and shall not be Available Cash Flow available for distribution to the Members pursuant to Article V.

(viii) Anti-Corruption Laws and Sanctions. The Manager shall cause the Company to maintain in effect and enforce policies and procedures designed to ensure compliance by the Company and the Subject Companies, and their respective directors, officers, employees and agents, with Anti-Corruption Laws and applicable Sanctions. The Manager shall cause the Company and (to the extent the Company has (directly or indirectly) management authority for any Subject Company) the Subject Companies, and their respective directors, officers, employees and agents, not to use any Company or Subject Company funds (A) in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any Person in violation of any Anti-Corruption Laws, (B) for the purpose of funding, financing or facilitating any activities, business or transaction of or with any Sanctioned Person or in any Sanctioned Country or (C) in any manner that would result in the violation of any Sanctions.

For the avoidance of doubt, all services required to be performed by the Manager pursuant to this Section 6.1 shall be provided by the Manager at no cost or expense to the Company, except to the extent otherwise provided in this Agreement or the Approved Budget, including fees and expenses incurred pursuant to any subcontract entered into for the provision of such services in accordance with this Agreement.

(n) A Member shall not be deemed to be participating in the control of the business of the Company by virtue of its possessing or exercising any rights set forth in this Agreement or the Act or any other Contract relating to the Company.

Section 6.2 Standard of Care; Required Consents.

(e) In carrying out its duties hereunder, the Manager shall perform its duties and obligations hereunder in all material respects in accordance with the Project Documents, Licenses and Permits, applicable Laws, the purposes set forth in Section 2.5 and in accordance with the Good Management Standard.

(f) Notwithstanding any other provision of this Agreement to the contrary, the Manager may not take, or cause or permit the Company or (to the extent the Company has (directly or indirectly) management authority for any Subject Company) any Subject Company to take, any of the following actions without having first obtained the Consent of the Members, taking into account the best interests of the Company and the mutual benefit of its Members; *provided*, that following the Flip Date, the actions described in clauses (xi) (solely to the extent any such action would not adversely affect the rights of the Class A Members), (xiii), (xiv), (xvi), (xxii) and (xxvi) of this Section 6.2(b) shall not require the consent of the Class A Members:

(iii) Do any act in contravention of this Agreement or of the organizational documents of the Company or any Subject Company;

(iv) With respect to (A) the Company, engage in any business or activity that is not within the purpose of the Company, as set forth in Section 2.5, or to change such purpose, and (B) any Subject Company, engage in any business or activity that is not within the purpose of such Subject Company's organizational documents, or to change such purpose;

(v) Cause the Company to be treated other than as a partnership for tax purposes or cause any Subject Company listed to be treated other than as set forth in its Fund Documents, in each case for United States federal income tax purposes (including by electing under Treasury Regulations Section 301.7701-3 to be classified as an association);

(vi) Permit (A) possession of property of the Company or any Subject Company by any Member (unless such action is taken pursuant to the express terms of any Fund Document), (B) the assignment, transfer, Encumbrance or pledge of rights of the Company or any Subject Company in specific property of the Company or any Subject Company for other than a Company or Subject Company purpose, as applicable, or other than for the benefit of the Company or such Subject Company, or (C) any commingling of the funds of the Company or any Subject Company with the funds of any other Person;

(vii) Amend the Delaware Certificate or the certificate of formation, certificate of incorporation or other formation document, as applicable, of any Subject Company, in any way that would be materially adverse to any Member;

(viii) Cause the Company or any Subject Company to be deemed Bankrupt, serve as one of the three (3) petitioning creditors in connection with an involuntary bankruptcy petition against the Company or any Subject Company, cooperate with creditors in an effort to commence an involuntary bankruptcy petition, guarantee such creditors' claims, or take any action to encourage or assist in any way with the commencement of an involuntary bankruptcy petition against the Company or any Subject Company;

(ix) Make any distribution to any Member, except as specified in this Agreement;

(x) Repurchase, redeem or convert any membership interests in, or other securities of, the Company, except pursuant to the Purchase Option;

(xi) Enter into any loan, contract or agreement with any Affiliate of the Manager other than as permitted by this Agreement or to loan any funds of the Company or any Subject Company to any Person or make any advance payments of compensation or other consideration to the Manager or any of its Affiliates;

(xii) Borrow any money in the name or on behalf of the Company or any Subject Company, as applicable, in excess of $1,000,000 in the aggregate, or execute and issue promissory notes and other negotiable or non-negotiable instruments and evidences of indebtedness in excess of $1,000,000 in the aggregate, except the Manager may borrow, or cause the Company or any Subject Company to borrow money in the name and on behalf

of the Company or such Subject Company, as applicable, in such amounts as the Manager shall reasonably determine are necessary: (A) to preserve and protect the Company's or such Subject Company's property upon the occurrence of an accident, catastrophe or similar event, and (B) in connection with the exercise of the Purchase Option so long as such borrowing occurs simultaneously with the closing of such Purchase Option;

(xiii) Mortgage, pledge, assign in trust or otherwise encumber any Company or Subject Company property, or assign any monies owing or to be owing to the Company or any Subject Company except: (A) to secure the payment of any borrowing permitted hereunder, (B) for customary liens contained in or arising under any operating agreements, construction contracts and similar agreements executed by or binding on the Company or such Subject Company with respect to amounts not yet due or not yet delinquent (or, if delinquent, that are being contested by the Manager, the Company or such Subject Company in good faith and for which adequate reserves have been set aside in accordance with GAAP), or (C) for statutory liens for amounts not yet due or not yet delinquent (or, if delinquent, that are being contested by the Manager, the Company or such Subject Company in good faith and for which adequate reserves have been set aside in accordance with GAAP); *provided*, that in no event shall the Manager mortgage, pledge, assign in trust or otherwise encumber the Company's right to receive Capital Contributions from the Members;

(xiv) Sell, lease, transfer, assign or distribute any interest in (A) any Subject Company or any Project or (B) any Asset or related group of Assets with a fair market value in excess of $2,000,000 *per annum* and $10,000,000 in the aggregate in one or a related series of transactions, except for (1) the sale of energy, (2) the sale of RECs (3) otherwise in the ordinary course of the Subject Companies' business and in accordance with the applicable Project Documents, or (4) as required under any security agreement in connection with a borrowing permitted hereunder;

(xv) Guarantee in the name or on behalf of the Company or any Subject Company, the payment of money or the performance of any contract or other obligation of any Person except, (a) with respect to the Fund Documents, for responsibilities customarily assumed under operating agreements considered standard in the solar power industry and (b) guarantees made by any Subject Company for performance by the Company of its obligations under a borrowing permitted hereunder;

(xvi) Amend the Approved Budget to increase projected expenditures or expend funds in excess of the Approved Budget for any Fiscal Year, except for (A) amendments or expenditures that do not increase the aggregate spending under the Approved Budget above one hundred ten percent (110%) of the aggregate expense amount reflected in the Approved Budget for the Fiscal Year, (B) with respect to any Subject Company, expenditures that, after taking into account amounts theretofore paid in such Fiscal Year, do not exceed twenty percent (20%) of the amount budgeted to be expended in such Fiscal Year in the Approved Budget for such Subject Company, (C) expenditures required to be made under Fund Documents and (D) in connection with the Accepted Acquisition of a new Fund Company in accordance with Section 6.3;

(xvii) Merge or consolidate the Company or any Subject Company with any Member or other Person or entity, convert the Company or any Subject Company to a general partnership or other entity, or agree to an exchange of interests with any other Person, or acquire all or substantially all of the assets, stock or interests of any other Person other than the Accepted Acquisition of a new Fund Company in accordance with Section 6.3;

(xviii) Compromise or settle any lawsuit, administrative matter or other dispute where the amount the Company or any Subject Company may recover or might be obligated to pay, as applicable, is in excess of $1,000,000 in the aggregate, or which includes consent to the award of an injunction, specific performance or other equitable relief;

(xix) Admit any additional Member to the Company except as permitted under Article IX hereof, cause any additional member to be admitted to any Subject Company except in accordance with such Subject Company's operating agreement, or otherwise issue, or permit the issuance of, any additional membership interests in the Company or any Subject Company except in accordance with such Subject Company's operating agreement; *provided* that the Manager may not permit the issuance of additional Class A Units at any time during the term of this Agreement without having first obtained the Consent of the Class A Members;

(xx) (A) Hire any employees, enter into or adopt any bonus, profit sharing, thrift, compensation, option, pension, retirement, savings, welfare, deferred compensation, employment, termination, severance or other employee benefit plan, agreement, trust, fund, policy or arrangement for the benefit or welfare of any directors, officers or employees of the Company or any Subject Company, as the case may be or (B) transfer any Company or Subject Company Assets to satisfy any liabilities of any Class B Member or its Affiliates arising from ERISA;

(xxi) Change the Company's or any Subject Company's methods of accounting as in effect on the Effective Date, except as required by GAAP, or take any action, other than reasonable and usual actions in the ordinary course of business or specifically contemplated under the Fund Documents to which it is a party, with respect to accounting policies or procedures, unless required by GAAP;

(xxii) Take any action that would result in a material breach or an event of default, or that would permit or result in the acceleration of any obligation or termination of any right, under any Fund Document, which acceleration or termination would cause a Subject Company Material Adverse Effect.

(xxiii) Enter into: (A) any amendment, modification, waiver or termination of a Fund Document or any Licenses or Permits that could reasonably be expected to have a Subject Company Material Adverse Effect, (B) any substitution or replacement of any Fund Document that could reasonably be expected to have a Subject Company Material Adverse Effect, (C) any Additional Project Document not contemplated by the then current Approved Budget or that could reasonably be expected to have a Subject Company Material Adverse Effect; or (D) any new agreement with an Affiliate other than in accordance with

this Agreement or amend any economic provision or otherwise materially amend any existing contract with an Affiliate;

(xxiv) Remove the Master Services Provider or appoint a new Person to act in a similar capacity to the Master Services Provider or consent to or allow the assignment by the Master Services Provider of the agreement pursuant to which the Master Services Provider provides services to the Company, or any of its rights or obligations thereunder, other than to an Affiliate;

(xxv) Cause an Intermediate Company to make a capital contribution to a Fund Company to purchase Projects unless any applicable Fund Investor has committed to fund its respective portion of such purchase price upon satisfaction or waiver of all of the conditions precedent in favor of such Fund Investor;

(xxvi) Subject to Section 6.3(e), cause an Intermediate Company to exercise a purchase option pursuant to a Fund Company Call Event;

(xxvii) Cause the Company or cause the Company to cause any Subject Company to change its respective legal form, recapitalize, liquidate, wind up or dissolve (other than in accordance with this Agreement), or declare itself Bankrupt; or

(xxviii)Cause the Company or any Subject Company to hire legal advisors to act on such company's behalf; provided that all legal advisors currently used by such company as of the Effective Date are approved.

(g) Prior to the dissolution of the Company under the terms of this Agreement, the Manager shall devote such time and effort to the Company's business as may be necessary to adequately promote the interests of the Company and the mutual interests of the Members.

(h) With respect to any actions described in this Agreement that require the Consent of the Members (including, without limitation, those actions set forth in this Section 6.2), the Manager shall use commercially reasonable efforts to request such consent or approval from each Member no later than ten (10) Business Days prior to the proposed date for the taking of such action, and such request shall include, to the extent applicable, copies of all material documentation relating to the proposed action. The failure of any Member to deliver a response either approving or disapproving any action requiring the Consent of the Members within such ten (10) Business Day period shall be deemed such Member's consent to the proposed action.

Section 6.3 Fund Company Acquisitions; Fund Company Call Events.

(d) During the Investment Period, the Manager shall present each proposed Fund Company to the Members in accordance with Section 6.3(b) to obtain Consent of the Members to either (i) if such proposed Fund Company is a going concern and owns one or more Projects at the time of such acquisition, purchase such Fund Company or (ii) if such proposed Fund Company is a newly formed company that does not yet own any Projects at the time of such acquisition, cause

the applicable Intermediate Company to acquire a membership interest in such Fund Company and enter into the Fund Documents with any applicable Fund Investor.

(e) In order to initiate the Company's investment in a proposed Fund Company, the Manager shall deliver to the Members a Fund Company Presentation Package for their review; *provided*, that such delivery will be considered an informal delivery unless and until a formal notice is sent by the Manager to the Members (a "**Fund Company Presentation Notice**") indicating that such delivery is intended to commence the Review Period set forth below. Following receipt of a Fund Company Presentation Notice, each Member shall respond in writing (each, an "**Investment Response Notice**") within thirty (30) days (the "**Review Period**") indicating whether it accepts (an "**Accepted Acquisition**") or rejects (a "**Rejected Acquisition**") such investment opportunity. A proposed investment shall automatically be treated as a Rejected Acquisition unless all Members deliver Investment Responses approving such acquisition prior to the expiration of the applicable Review Period.

(f) In the case of each Accepted Acquisition, the Members shall be deemed to have consented to the applicable Fund Documents and the Manager will (i) cause the applicable Intermediate Company to enter into the applicable Fund Documents to acquire interests in such Fund Company, (ii) coordinate with each Member any documents required to be executed by such Member in connection with such Accepted Acquisition, if any, including any guarantees required in connection therewith, (iii) the Members shall execute a Fund Addendum and (iv) deliver such Capital Contribution Notices to the Members as are required to fund such acquisition.

(g) If the proposed Fund Base Case Model and proposed amendments to the Approved Budget contained in the Fund Company Presentation Package in connection with a proposed acquisition of a Fund Company require an increase to the Class A Member Capital Contribution Commitment in connection with such acquisition and such acquisition becomes an Accepted Acquisition, then the Class A Member Capital Contribution Commitment shall be automatically increased as agreed to by the Members in connection with the modification of the Approved Budget in connection with such acquisition.

(h) In the event that a Fund Company Call Event arises, the Manager shall send notice to the Members together with a detailed explanation of the mechanics for such event in the applicable Fund Documents. Within five (5) Business Days following receipt of such notice, the Members shall meet to determine whether the Company should cause the Intermediate Company to purchase the applicable Fund Investor's membership interests (the "**Fund Investor Interests**") in such Fund Company; *provided*, that, if such decision is not required to be made under the Fund Documents until an appraisal of such Fund Investor Interests has been completed, then the Members may postpone such decision until such appraisal has been completed. If the Members agree to exercise the option pursuant to the Fund Company Call Event, then each Member's respective Capital Contributions will be determined in accordance with Section 3.3(e). If the Class A Members and the Class B Members cannot reach agreement with respect to exercising such option within the number of days required for such decision contained in the notice from the Manager (to be determined reasonably by the Manager in each case based on the required response period in the underlying Fund Documents), then the Class B Members shall have the right (but not the obligation), to be

exercised within three (3) days following the initial decision period contained in the Manager's notice, to cause the Intermediate Company to exercise such option to purchase the Fund Investor Interests conditioned on the Class B Members funding one hundred percent (100%) of the Capital Contributions required to consummate such purchase. If the Class B Members decline the opportunity to fund one hundred percent (100%) of the Capital Contributions required to consummate such purchase, then the Class A Members shall have the right (but not the obligation), to be exercised within three (3) days following the receipt of the Class B Members' response (or deemed response), to cause the Intermediate Company to exercise such option to purchase the Fund Investor Interests conditioned on the Class A Members funding one hundred percent (100%) of the Capital Contributions required to consummate such purchase. The failure of any Member to respond within the time periods set forth in this Section 6.3(e) shall be deemed such Member's rejection of such opportunity. Following any Member's delivery of notice that it has elected to fund one hundred percent (100%) of the Capital Contributions required to consummate the purchase of the Fund Investor Interests, the Members shall work together in good faith to adjust to the allocations under Section 4.1 and the distributions under Section 5.1 to reflect such increased Capital Contributions made by the Class B Members.

Section 6.4 Removal and Election of Manager.

(a) The Manager shall not have a right to resign unless and until a successor manager is elected or appointed as specified under this Section 6.4 and assumes the obligations of the Manager under this Agreement. If the Manager so resigns, the resigning Manager shall reasonably cooperate with the Members and the replacement Manager to effect an orderly transition of responsibilities and duties to the replacement Manager. Such replacement Manager shall be elected by a majority vote of the Class B Members, subject to subparagraph (b) below.

(b) The Manager will be subject to removal as Manager by Consent of the Members (excluding any Member who is the Manager or an Affiliate of the Manager), if the Manager (in its capacity as Manager or its capacity as Tax Matters Member) (i) is proven to have engaged in gross negligence, willful misconduct or fraud or (ii) is proven to have performed any action that is in breach or violation of this Agreement and that has or is reasonably expected to have a Portfolio Material Adverse Effect; *provided*, *however*, that in the case of this clause (ii), for any breach or violation other than a failure to make a cash distribution when due under this Agreement, the Manager shall have the opportunity to cure such breach or violation within thirty (30) days of receiving notice of such breach; *provided*, *further*, that if such breach cannot be cured within such period, and the Manager is proceeding with diligence to cure such breach, the 30-day cure period shall be extended by an additional sixty (60) days, for a total cure period of ninety (90) days; *provided*, *further*, that during such cure period the Manager may continue as the Manager (and Tax Matters Member). In addition, the Manager shall be removed automatically without further vote, action or notice by any Member in the event of a Bankruptcy of the Manager, the Tax Matters Member (if it is an Affiliate of the Manager) or any Member who is an Affiliate of the Manager, unless those Members who are not Affiliates of the Manager elect otherwise upon written notice.

(c) If the Manager is removed under subparagraph (b) above, the Consent of the Members (excluding any Member who is the Manager or an Affiliate of the Manager) shall be required to elect or appoint a successor Manager to succeed to all the rights, and to perform all of the obligations, set forth for the Manager hereunder. If the Manager is so removed, the removed Manager shall reasonably cooperate with the Members and the replacement Manager to effect an orderly transition of responsibilities and duties to the replacement Manager. The Person selected as the successor Manager shall be an entity that is experienced and reputable in operating solar facilities similar to the Projects and shall execute a counterpart to this Agreement.

Section 6.5 Indemnification and Exculpation.

(a) To the fullest extent permitted by Law, the Manager and its respective officers, directors, employees and agents shall be exculpated from, and the Company shall indemnify, from Available Cash Flow, such Persons from and against, all Damages any of them incur by reason of any act or omission performed or omitted by such Person in a manner reasonably believed to be consistent with its rights and obligations under Law and this Agreement; *provided*, *however*, that this indemnity does not apply to Damages that are attributable to the gross negligence, willful misconduct or fraud of such Person or a material breach by the Manager or any of its Affiliates

of their respective covenants or representations set forth in any of the Investment Documents or any other Fund Document to which it is a party.

(b) To the fullest extent permitted by Law, reasonable and documented expenses to be incurred by an indemnified Person under this Section 6.5 shall, from time to time, be advanced by or on behalf of the Company, from Available Cash Flow, prior to the final disposition of any matter upon receipt by the Company of an undertaking from a Person with sufficient credit capacity to repay such amount if it shall be determined that the indemnified Person is not entitled to be indemnified under this Agreement.

(c) Provided that the same is reflected in the Approved Budget, the Company may purchase from the funds of the Company and maintain insurance on behalf of any Person who is or was an officer, employee, or agent of the Company, against any liability asserted against the Person and incurred by the Person in any capacity, or arising out of the Person's status as such, whether or not the Company would have the power to indemnify the Person against the liability under the provisions of this Section 6.5.

Section 6.6 Company Reimbursement; Fund Formation Expenses.

The Company shall directly pay and reimburse the Manager for all Company Reimbursable Expenses incurred from time to time. Notwithstanding anything to the contrary in this Agreement, the Class A Members shall not be obligated to make Capital Contributions in connection with any legal or other fees and costs in connection with the negotiation and entry by the Intermediate Company or any other Person into any Fund Documents, which obligation shall be borne solely by the Class B Member as a Member Contribution Event, including the repayment of the Manager for any such expenses advanced by the Manger.

Section 6.7 Officers.

(a) Number. The officers of the Company shall be a President, a Secretary and any number of Vice Presidents or Assistant Secretaries or other officers (each an "**Officer**" and collectively "**Officers**") as may be elected by the Manager. Any two (2) or more offices may be held by the same person.

(b) Election and Term of Office. The Officers of the Company shall be elected or appointed by the Manager. Vacancies may be filled or new offices created and filled by the Manager. Each Officer shall hold office until his successor shall have been duly elected or appointed or until his death or until he shall resign or shall have been removed in the manner hereinafter provided. Election of an Officer shall not of itself create contract rights.

(c) Vacancies. A vacancy in any office because of death, resignation, removal, disqualification or otherwise, may be filled by the Manager for the unexpired portion of the term.

(d) Removal. Any Officer elected or appointed by the Manager may be removed by the Manager whenever in its judgment the best interests of the Company would be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed.

(e) Duties; Standard of Care. Each Officer is only authorized to perform the duties specifically enumerated herein or as may be specifically assigned to such Officer in accordance with the terms of this Agreement. Each Officer shall be subject to the same standard of care applicable to the Manager as set forth in Section 6.2(a) in carrying out any of their relevant duties whatsoever and shall be required to obtain the necessary prior consents for actions specified in Section 6.2(b).

(f) Indemnification of Officers. To the greatest extent allowed by the Act, the Officers shall not be liable to the Company or any Member because any taxing authorities disallow or adjust income, deduction or credits in the Company tax returns. Furthermore, the Officers shall not have any liability for the repayment of the capital contributions of any Member. In addition, the doing of any act or the omission to do any act by the Officers the effect of which may cause or result in loss or damage to the Company, if done in good faith and otherwise in accordance with the terms of this Agreement, shall not subject the Officers or their successors and assigns to any liability to the greatest extent allowed by the Act. To the greatest extent allowed by the Act, the Company will indemnify and hold harmless the Officers and their successors, delegees and assigns from any claim, loss, expense, liability, action or damage resulting from any such act or omission, including reasonable costs and expenses of litigation and appeal of such litigation (including reasonable fees and expenses of attorneys engaged by any of the Officers in defense of such act or omission), but the Officers shall not be entitled to be indemnified or held harmless due to, or arising from, their fraud, gross negligence, bad faith or willful malfeasance. The foregoing indemnification is limited to Available Cash Flow, and nothing contained herein is intended to create personal liability for any Member.

Section 6.8 Approved Budgets.

The Manager shall prepare or cause to be prepared for each Fiscal Year of the Company and the Subject Companies an operating budget on a consolidated basis setting forth the anticipated revenues and expenses of the Company and each Subject Company for such Fiscal Year. The initial operating budget for the remainder of the Fiscal Year ending December 31, 2015 is attached as Exhibit D hereto. For a succeeding Fiscal Year (commencing with the fiscal year ending December 31, 2016), the Manager shall, not later than the first day of the month preceding the month in which the then current Fiscal Year ends (currently November 1), submit the proposed operating budget for such succeeding Fiscal Year to the Members for their review. If the aggregate expense amount reflected in the proposed operating budget is not more than the lesser of ten percent (10%) above the annual spending projected in the Aggregate Tracking Model for the applicable Fiscal Year and five percent (5%) above the aggregate expense amount reflected in the Approved Budget for the previous Fiscal Year (and in each case, does not include expenditures exceeding $500,000 in aggregate of a type not included in the Aggregate Tracking Model for the applicable Fiscal Year or in the Approved Budget for the previous Fiscal Year, as the case may be), then the Consent of the Members shall not be required and such proposed operating budget shall be deemed approved by all of the Members. If such Consent of the Members is required and if either the Consent of the Members is received or if no Member objects to such proposed operating budget by the last day of the month preceding the month in which the then current Fiscal Year ends (currently November 30), then not later than such date, such operating budget shall be deemed approved by

all of the Members (each budget as attached hereto, approved or deemed approved, an "**Approved Budget**"). If the Consent of the Members is required and not obtained as provided above, then the Manager shall prepare or cause to be prepared a revised operating budget, which shall be submitted to the Members for their approval as set forth in the preceding sentences, and, upon final approval of such operating budget by the Consent of the Members, such budget shall become an Approved Budget hereunder. To the extent that amounts relating to any items of a proposed budget are not approved, the corresponding amounts for the items in the previous Fiscal Year's Approved Budget will continue as part of the Approved Budget for such year, until a more current amount for such item is approved in accordance with this Section 6.8. The Manager may from time to time during the Fiscal Year propose to amend the Approved Budget to decrease expected expenditures, or, subject to Section 6.2(b)(xiv), to increase expected expenditures and as so amended, any such amended budget shall be the Approved Budget hereunder.

Article VII

RIGHTS AND RESPONSIBILITIES OF MEMBERS

Section 7.1 General.

The rights and responsibilities of the Members shall be as provided in the Delaware Certificate, this Agreement and the Act.

Section 7.2 Member Consent.

Except as provided in Section 6.2(b) and as otherwise expressly provided in this Agreement, the Consent of the Members shall constitute the approval by, or the authorization of, any action by or on behalf of the Company that requires a vote, consent, approval or action of or an election by the Members; *provided*, that, without the prior written approval of each Member adversely affected thereby, no such consent shall (a) modify the limited liability of a Member; (b) require a Member to provide funds to the Company, by loan, contribution or otherwise (or amend any of the conditions to making any loan or contribution); (c) alter the interest of any Member in Capital Accounts, Company Items, ITCs, distributions of Available Cash Flow; or (d) amend, supplement or otherwise modify Section 6.2(b), or this Section 7.2, or, in each case, any of the definitions of capitalized terms used therein.

Section 7.3 Member Liability.

(d) To the fullest extent permitted under the Act and any other applicable Law as currently or hereafter in effect, no Member shall have any personal liability whatsoever, whether to the Company or to its creditors for the debts, obligations, expenses or liabilities of the Company, whether arising in contract, tort or otherwise, which shall be solely the debts, obligations, expenses or liabilities of the Company, or for any of its losses, in excess of the value of such Member's Capital Account, except as expressly provided herein.

(e) A Member shall be liable only to make its Capital Contributions as provided herein and, other than as specifically provided in Section 12.3, shall not be required to restore a deficit balance in its Capital Account. Except as provided in Section 3.3 no Member shall be required to make any additional contributions or to lend any funds to the Company. The failure of the Company to observe any formalities or requirements relating to the exercise of its powers or management of its business or affairs under this Agreement or the Act shall not be grounds for imposing personal liability on the Members or the Manager for liabilities of the Company.

(f) To the fullest extent permitted by Law, each Member and its respective officers, directors, managers, employees, direct and indirect owners, attorneys, contractors, representatives and agents shall be exculpated from, and the Company shall indemnify, defend and hold harmless such Persons from and against, all Damages from Third Parties that result by virtue of the Member's ownership of its Membership Interest; *provided*, *however*, that this indemnity does not apply: (i) to Damages that are attributable to the proven gross negligence, willful misconduct

or fraud of such Person, (ii) to indemnity obligations of the Members pursuant to Section 11.1 of this Agreement, or (iii) to a Member acting in a capacity other than solely as a Member, in the event that any such Claim is asserted against any Member in its capacity in more than one role (such as, for the avoidance of doubt, the Class B Member's role as Member and Manager).

(g) To the fullest extent permitted by Law, reasonable and documented expenses actually incurred by an indemnified Person under this Section 7.3 shall, from time to time, be advanced by or on behalf of the Company from Available Cash Flow, prior to the final disposition of any matter upon receipt by the Company of an undertaking from a Person with sufficient credit capacity to repay such amount if it shall be determined that the indemnified Person is not entitled to be indemnified under this Agreement.

Section 7.4 Withdrawal.

Except as otherwise provided in this Agreement, no Member shall be entitled to: (a) voluntarily withdraw or resign from the Company; (b) withdraw any part of such Member's Capital Contributions from the Company; (c) demand the return of such Member's Capital Contributions; or (d) receive property other than cash in return for such Member's Capital Contribution.

Section 7.5 Member Compensation.

No Member shall receive any interest, compensation or drawing with respect to its Capital Contributions or its Capital Account or for services rendered on behalf of the Company or otherwise in its capacity as a Member, except as otherwise provided in this Agreement.

Section 7.6 Other Ventures.

Notwithstanding any other provision of this Agreement or any duty existing at law or in equity, the Members and their respective Affiliates at any time and from time to time may engage in and possess interests in other business ventures of any and every type and description, including other business ventures competitive with, or of the same type and description as, the Company and the Subject Companies, independently or with others, as long as such venture does not cause any Subject Company to cease to hold any Energy Regulatory Approval or to become subject to regulation under PUHCA, other than with respect to regulations pertaining to maintaining Qualifying Facility status, as applicable, in each case with no obligation to offer to such Subject Company, the Company, any Member or any of their respective Affiliates the right to participate in, or share the results or profits of, those activities (even if those activities may be made possible or more profitable by reason of the Company's or such Subject Company's activities), except any activity that would cause a Member to be a Related Party.

Section 7.7 Confidential Information.

(a) With respect to each of the Company, the Members and the Manager, except to the extent necessary for the exercise of its rights and remedies and the performance of its obligations under this Agreement, the Company, such Member and the Manager will not itself use

or intentionally disclose (and will not permit the use or disclosure by any of its Affiliates, any of the officers, directors or employees of it or its Affiliates (collectively, "**Representatives**"), or any of its advisors, counsel and public accountants (collectively, "**Advisors**")), directly or indirectly, any of the terms and conditions of the Project Documents, this Agreement, the other Investment Documents or other information in respect of the transactions contemplated hereby ("**Confidential Information**"); *provided*, that (i) the Company, any such Member, the Manager and its Affiliates, Representatives and Advisors may use and disclose Confidential Information to its Affiliates, Representatives and Advisors and to the Company, any other Member, the Manager and its Affiliates, Representatives and Advisors provided such use or disclosure is in connection with its administration of its interests under this Agreement, (ii) the Company, any such Member, the Manager and its Affiliates, Representatives and Advisors may disclose Confidential Information to any Governmental Authority having jurisdiction over the Company, such Member, the Manager or its Affiliates or as may be required by law, (iii) the Company, any such Member, the Manager and its Affiliates, Representatives and Advisors may use and disclose Confidential Information that (A) has been publicly disclosed or is publicly known (other than by the Company, such Member, the Manager or any of its Affiliates, Representatives or Advisors in breach of this Section 7.7), (B) has come into the possession of the Company, such Member, the Manager or any of its Affiliates, Representatives or Advisors other than from the Company, another Member or a Person acting on such other Member's behalf or the Manager under circumstances not involving to the knowledge of the Company, such Member or the Manager any breach of any confidentiality obligation, or (C) has been independently developed by the Company, such Member, the Manager or any of its Affiliates, Representatives or Advisors without use of information obtained under this Agreement, (iv) to the extent that such disclosure is (A) required by law, a subpoena or any other applicable legal process or (B) by request of any Governmental Authority having jurisdiction over such Party or its Affiliates, any stock exchange on which such Party's or its Affiliates Securities are traded or any self-regulatory body having jurisdiction over such Party (including, to the extent applicable, the Financial Industry Regulatory Authority, Inc.), the Company, such Member, the Manager or its Affiliates may disclose Confidential Information provided that in such case the Company, such Member and the Manager shall, unless otherwise prohibited by law, (1) give prompt notice to the Company, the other Members or Manager that such disclosure is or may be required and (2) cooperate in protecting such confidential or proprietary nature of the Confidential Information which must so be disclosed; *provided* that no such notification shall be required in respect of any disclosure to FERC, any Energy Regulatory Authority or bank, insurance or financial industry regulatory authorities having jurisdiction over the Company, such Member, the Manager or its Affiliates, (v) disclosures to lenders, potential lenders or other Persons providing financing to the Company or any Subject Company or to their respective representatives and advisors, the Company, any Member, the Manager or its Affiliates and potential purchasers of equity interests in the Company, the Company, any Member, the Manager or its Affiliates are permitted, any person to which such Member sells or offers to sell its investment in the Company or any portion thereof, if such Persons have agreed to abide by the terms of this Section 7.7 or have otherwise entered into an agreement with restrictions on disclosure substantially similar to the terms of this Section 7.7 (or in the case of advisors, are otherwise bound by professional or legal obligations of confidentiality), (vi) the Company, any such Member, the Manager and its Affiliates, Representatives and Advisors may disclose Confidential Information, and make such filings, as may be required by this Agreement or the Project Documents, (vii) any Member which is an insurance company or an Affiliate thereof may disclose such information to

the National Association of Insurance Commissioners and any rating agency requiring access to its portfolio, (viii) any Member and its Affiliates, Representatives and Advisors may disclose Confidential Information relating to any Project (but not Confidential Information relating to any other Member) to lenders, potential lenders or other Persons providing financing to any Person developing or proposing to develop the remaining phases of any Project and potential purchasers of equity interests in such Person or potential power or REC purchasers from such Persons, or to any Person in connection with the operation of any Project if, in each case described in this clause (viii), such Persons have agreed to abide by the terms of this Section 7.7 or have otherwise entered into a Contract with restrictions on disclosure substantially the same (and for not less than two (2) years in duration) as the terms of this Section 7.7 (or in the case of Advisors, are otherwise bound by professional or legal obligations of confidentiality), and (ix) any such Member may disclose Confidential Information to the IRS or any state taxing authority in connection with any communication regarding the tax consequences of any Project, any Subject Company's ownership and operation of the applicable Project or such Member's ownership of an interest in the Company; *provided* that such Member shall, as soon as practicable, notify the other Members of such disclosure, furnish a copy of any written material provided to the IRS or any state taxing authority to the other Members and, if practicable, afford the other Members reasonable opportunity to comment on the proposed disclosure (but for the avoidance of doubt the other Members will not have the right to consent to such proposed disclosure). A Member's obligations pursuant to this Article VII shall survive the Transfer of its Units.

(b) The foregoing obligations shall not apply to the tax treatment or tax structure of the transactions contemplated hereby and each Member (and any employee, representative, or agent of any Member) may disclose to any and all Persons of any kind, the tax treatment and tax structure of the transactions contemplated hereby and all other materials of any kind (including opinions or other tax analysis) that are provided to any Member relating to such tax treatment and tax structure (all such information that may be disclosed being the "**Tax Information**"). However, any such Tax Information is required to be kept confidential to the extent necessary to comply with any applicable securities laws. The preceding sentences are intended to cause the transactions contemplated hereby not to be treated as having been offered under conditions of confidentiality for purposes of Treasury Regulations Sections 1.6011-4(b)(3) and 301.6111-2(a)(2)(ii) and shall be construed in a manner consistent with such purpose. For purposes of this provision, the Tax Information includes only those facts that may be relevant to understanding the purported or claimed U.S. federal income tax treatment or tax structure of the transactions contemplated hereby and, to eliminate any doubt, therefore specifically does not include information that either reveals or standing alone or in the aggregate with other information so disclosed tends of itself to reveal or allow the recipient of the information to ascertain the identity of the Company or any Member or the Class B Member (or potential member), or any other third parties involved in any of the transactions contemplated hereby or any other potential transactions with any of the foregoing.

(c) Except as otherwise permitted by this Section 7.7, no Member shall include in a press release or otherwise disclose (other than as required to be included in a filing to FERC, any Energy Regulatory Authority or any bank, insurance or financial industry regulatory authority having jurisdiction over such Member, its affiliates or permitted transferees) the name of any

Member as an equity investor or potential equity investor without the prior written consent of such Member which consent shall not be unreasonably withheld.

(d) If the Company or any subsidiary thereof is required at any time to make any regulatory filing to the FERC or any Energy Regulatory Authority that identifies by name, or otherwise relates specifically to, any Member or any of its affiliates or permitted transferees, then the Company shall submit (or the Company shall cause its subsidiary to submit) an advance draft of such regulatory filing to such Member or its affiliate or permitted transferee, as applicable, as early as practicable in advance of the specified deadline imposed by FERC or such Energy Regulatory Authority or its regulations. Such Member (or its affiliate or permitted transferee, as applicable) shall have the right to provide comments to such regulatory filing as it relates to such Member (or its affiliate or permitted transferee), and the Company or its subsidiary shall incorporate or accommodate, prior to submitting such filing, such comments timely received. A Member's failure to promptly provide such comments shall constitute approval of the making of such regulatory filing by the Company or subsidiary thereof.

(e) If any Member is required at any time to make any regulatory filing (other than a filing to any bank, insurance or financial industry regulatory authority having jurisdiction over such Member or its affiliates) that identifies by name, or otherwise relates specifically to, any other Member, then such Member shall submit an advance draft of the relevant portions of such regulatory filing to such other Member. Such other Member shall have the right to provide comments to such regulatory filing as it relates to such other Member, and the Member making such filing shall incorporate or accommodate, prior to submitting such filing, such reasonable comments. The Parties acknowledge and agree that from time to time a Member may be required to submit a regulatory filing or reporting that may be subject to the Freedom of Information Act.

Section 7.8 Company Property.

All property owned by the Company, whether real or personal, tangible or intangible and wherever located, shall be deemed to be owned by the Company, and no Member, individually, shall have any ownership of such property.

Article VIII

ADMINISTRATIVE AND TAX MATTERS

Section 8.1 Intent for Income Tax Purposes.

The Members intend that the Company be treated as a partnership for federal, state and local income tax purposes and that it be operated in a manner consistent with such treatment, but that the Company not be operated or treated as a "partnership" for any other purpose, including, but not limited to, Section 303 of the Federal Bankruptcy Code, and the provisions of this Agreement may not be construed to suggest otherwise.

Section 8.2 Books and Records; Bank Accounts; Company Procedures.

(h) The Company's books of account shall be prepared and maintained in accordance with GAAP for the type of business of the Company. The Manager shall cause to be kept, at the principal place of business of the Company, full, proper, complete and accurate ledgers and other books of account and records of all receipts and disbursements and other financial activities of the Company in accordance with prudent business practices and as required by Law, including the following documents:

(i) A copy of the Delaware Certificate and all certificates of amendment thereto, together with executed copies of any powers of attorney pursuant to which any certificate has been executed;

(ii) Copies of the Company's and each Subject Company's federal, state and local income tax or information returns and reports, if any, for the six (6) most recent Taxable Years or, if later, until the statute of limitations expires on any IRS, state, or local tax audit of such returns or reports of the Company and the Subject Companies;

(iii) Copies of this Agreement and all amendments thereto;

(iv) Copies of the formation documents and operating agreement of each Subject Company;

(v) Financial statements, including a balance sheet and statements of income (or loss), of the Company for, to the extent applicable, each of the six (6) most recent Fiscal Years, including quarterly and monthly internal financial statements of the Company;

(vi) The Company's books and records for at least the current and, to the extent applicable, the past three (3) Fiscal Years;

(vii) the Register;

(viii) minutes of meetings of the Members; and

(ix) copies of all Project Documents.

(i) The books of account of the Company shall be (i) maintained on the basis of a Fiscal Year and (ii) maintained on an accrual basis in accordance with GAAP.

(j) Funds of the Company shall be deposited in such banks or other depositories, and withdrawals from any such depository shall be made as determined by the Manager. All monies in bank accounts shall be retained in cash or invested in Permitted Investments.

(k) The Manager shall cause the Company to maintain its existence separate and distinct from any other Person, including causing the Company to take the following actions:

(i) maintaining in full effect its existence, rights and franchises as a limited liability company under the laws of its jurisdiction of formation and obtaining and preserving its qualification to do business in each jurisdiction in which such qualification is or will be necessary to protect the validity and enforceability of its applicable operating agreement and each other Contract necessary or appropriate to properly administer its applicable operating agreement and permit and effectuate the transactions contemplated in its applicable operating agreement;

(ii) conducting its affairs separately from those of the Manager and its Affiliates and maintaining accurate and separate books and records;

(iii) acting solely in its own limited liability company name and not that of any other Person, including the Manager and its Affiliates;

(iv) not holding itself out as having agreed to pay, or as being liable for, the obligations of any other Person;

(v) not commingling its Assets with those of any other Person;

(vi) observing all limited liability company formalities required in this Agreement and the Delaware Certificate;

(vii) paying the salaries of its own employees, if any;

(viii) not acquiring obligations of its Members, the Manager or their respective Affiliates;

(ix) holding itself out as a separate entity; and

(x) correcting any known misunderstanding regarding its separate identity.

Section 8.3 Information and Access Rights.

The Members and their respective agents also will have the right, at their sole risk and expense and upon reasonable prior notice to the Manager, to inspect the Projects, and the Company's Assets no more than twice per Taxable Year and to audit, examine and make copies of all relevant documents, books and records of the Company. Any such inspection will be conducted during normal business hours and so as not to unreasonably interfere with the business of the Manager. The foregoing rights may be exercised through any agent or employee of such Member designated in writing by it or by an independent public accountant, engineer, attorney or other consultant so designated. Any inspection of Projects shall be subject to all restrictions and conditions included in the operating agreement of the applicable Subject Company.

Section 8.4 Reports.

The Manager shall, at the Company's expense, deliver, or caused to be delivered, to each Member, the following reports, information and consolidated financial statements for the Company and its consolidated subsidiaries, at the times indicated below:

(a) Annually, within one hundred twenty (120) days after the end of each Fiscal Year (and, for the avoidance of doubt, the first such Fiscal Year for which financial statements shall be delivered shall be the Fiscal Year ending December 31, 2015), unaudited consolidated financial statements for the Company and its consolidated subsidiaries prepared on a GAAP basis effective as of the end of the immediately-preceding year, including a consolidated balance sheet and consolidated statements of income, members' equity and changes in cash flows;

(b) The Aggregate Tracking Model prepared pursuant to Section 10.1;

(c) Quarterly within sixty (60) days after the end of each Fiscal Quarter other than the fourth Fiscal Quarter, unaudited quarterly consolidated financial statements of the Company and its consolidated subsidiaries for the Fiscal Quarter and portion of the Fiscal Year then ended (including a balance sheet, income statement, statement of cash flows and statement of changes in Member's capital schedule) all in reasonable detail and fairly presenting the consolidated financial position of the Company as of the end of such quarter, prepared on a GAAP basis, subject to lack of footnotes and normal year-end adjustment;

(d) Promptly following any request therefor, such other reports and information in the possession of the Manager as reasonably requested by the Members and such other reports reasonably requested by and paid for by the requesting Member to the extent external costs are incurred with respect to the preparation of such reports;

(e) Copies of all material reports or (without duplication of any other provisions of this Section 8.4) material notices delivered to or by the Company or any Subject Company under any Project Document;

(f) Within thirty (30) days after renewal, certificates of insurance evidencing fire, liabilities, workers' compensation and other forms of insurance owned or held by or on behalf

of the Company or the Subject Companies, and promptly following receipt, any notices of nonpayment of premium, nonrenewal or cancellation; and

(g) Promptly after execution thereof, a copy of: (i) any amendment, modification, waiver or termination of any Fund Document, (ii) any new, or substitution or replacement of a Fund Document; (iii) any new Contract between the Company or any Subject Company and an Affiliate thereof and any amendment or modification of any existing Contract between the Company or any Subject Company and an Affiliate thereof; and (iv) any new Contract having a term in excess of one year, or providing for payments by, or revenues to, the Company or any Subject Company in excess of $2,000,000.

Section 8.5 Permitted Investments.

(g) All cash of the Company may only be invested and reinvested in one of the following investment alternatives ("**Permitted Investments**"):

(ix) Direct obligations of the United States of America (including obligations issued or held in book-entry form on the books of the Department of the Treasury of the United States of America) or obligations the timely payment of the principal of and interest on which are fully guaranteed by the United States of America;

(x) Obligations, debentures, notes or other evidence of Indebtedness issued or guaranteed by any of the following: Export-Import Bank of the United States, Federal Housing Administration or other agency or instrumentality of the United States;

(xi) Interest-bearing demand or time deposits (including certificates of deposit) that are either (A) insured by the Federal Deposit Insurance Corporation, or (B) held in banks and savings and loan associations, having general obligations rated at least "A-" or equivalent by S&P and Moody's, or if not so rated, secured at all times, in the manner and to the extent provided by Law, by collateral security described in clauses (i) or (iii) of this Section 8.5(a), of a market value of no less than the amount of moneys so invested;

(xii) Obligations of any state of the United States or any agency or instrumentality of any of the foregoing which are rated at least "AA" by S&P or at least "Aa" by Moody's;

(xiii) Commercial paper rated (on the date of acquisition thereof) at least "A-1" or "P-1" or equivalent by S&P or Moody's, respectively (or an equivalent rating by another nationally recognized credit rating agency of similar standing if neither of such corporations is then in the business of rating commercial paper), maturing not more than ninety (90) days from the date of creation thereof but excluding any such commercial paper issued by any Member or any Affiliate of the Manager;

(xiv) Money market mutual funds that are registered with the Securities and Exchange Commission under the Investment Company Act of 1940, as amended, and operated in accordance with Rule 2a-7 and that at the time of such investment are rated

"Aaa" by Moody's and/or "AAA" by S&P, including such funds for which the Trustee or an affiliate provides investment advice or other services, each of which must have capital in excess of $500,000,000 and at no point in time will aggregate investments under this Section 8.5(a)(vi) constitute more than five percent (5%) of any such fund's capital; or

(xv) Any other investments agreed to by the Members and the Manager.

Section 8.6 Tax Elections.

(f) The Manager shall make the following federal income tax elections on the appropriate Company tax returns:

(xvi) To the extent permitted under Code Section 706, to elect the calendar year as the Company's Taxable Year;

(xvii) To elect the accrual method of accounting;

(xviii) To elect to amortize any organizational and start-up expenses of the Company ratably over a period of one hundred eighty (180) months as permitted by Code Section 709(b);

(xix) If a valid election to adjust the basis of the Company's properties under Code Section 754 is not already in effect, to elect and to reelect, as necessary, pursuant to Code Section 754, to adjust the basis of the Company's properties, including for any Taxable Year in which a distribution of the Company's property as described in Code Section 734 occurs, or a transfer of a Membership Interest as described in Section 743 of the Code occurs;

(xx) The Company shall file an election under Section 6231(a)(1)(B)(ii) of the Code and the Treasury Regulations thereunder to treat the Company as a partnership to which the provisions of Sections 6221 through 6234 of the Code, inclusive, apply, which election shall be made from time to time in the manner and at the time required by Treasury Regulations Section 301.6231(a)(1)-1 so that the Company is subject to the TEFRA unified audit rules contained in Section 6221 through 6234 of the Code for all Taxable Years ending after the Effective Date; and

The Manager shall not make, or cause the Company or any Subject Company (to the extent the Company has (directly or indirectly) management authority for any Subject Company) to make, any tax election for the Company or any Subject Company, except as otherwise provided herein, without the Consent of the Members if such tax election would materially affect the economic consequences to the Class A Members as set forth in any of the Fund Base Case Models. The Manager, with the Consent of the Members, may elect to extend the time for filing any Company tax return as provided for under the Code and applicable state statutes. Neither the Company nor any Member may make an election for the Company to be excluded from the application of the provisions of subchapter K of chapter 1 of subtitle A of the Code or any similar provisions of applicable state Law. No Member, Manager, officer or agent of the Company is authorized to, or

may, file IRS Form 8832 (or alternative or successor form) to elect to have the Company or any Subject Company classified as an association taxable as a corporation for federal income tax purposes under Treasury Regulations Section 301.7701‑3. The Manager shall, in addition, affirmatively take such action within its control as may be necessary or required to maintain the status of the Company as a partnership for federal, state and local income tax purposes.

Section 8.7 Tax Matters Person and Company Tax Filings.

(a) The Initial Class B Member shall be, and so long as it continues to be the Manager, shall continue to be, the "tax matters partner" of the Company pursuant to Section 6231 (a)(7) of the Code (the "**Tax Matters Member**"); *provided*, that if the Initial Class B Member is no longer the Manager, the Person selected as the successor Manager pursuant to Section 6.4(c) shall nominate a Member to become the new Tax Matters Member and such Member shall become the new Tax Matters Member if approved by the Consent of the Class A Members. The Tax Matters Member shall take such action as may be necessary to cause, to the extent possible, each other Member to become a "notice partner" within the meaning of Sections 6231(a)(8) and 6223 of the Code. In the event of any pending tax action, investigation, claim or controversy involving the Company which proposes or may result in an adjustment to any item reported on a federal tax return of the Class A Members, the Tax Matters Member, shall keep the other Members fully and timely informed by written notice of any audit, administrative or judicial proceedings, meetings or conferences with the IRS or other similar matters that come to its attention in its capacity as Tax Matters Member. Furthermore, the Class A Members shall have the right to review and comment on any submissions to the IRS, and attend and jointly participate in any meetings or conferences with the IRS at their own expense. In any such proceedings, the Tax Matters Member shall take any action or omit to take any action reasonably requested by the Consent of the Class A Members to the extent such action or omission of action affects any tax item reported to the Class A Member on a Schedule K-1 from the Company and / or reported on any federal income tax return of the Class A Member or would materially affect the economic consequences to the Class A Members as set forth in any of the Fund Base Case Models, and is otherwise consistent with this Agreement and the Fixed Tax Assumptions and is consistent with applicable Law.

(b) The Tax Matters Member shall not take any action contemplated by Code Sections 6221 through 6233 unless the Tax Matters Member has first given the Members timely written notice of the contemplated action. Other than as provided in Section 8.7(e), for any issue or matter relating to any Taxable Year, the Tax Matters Member shall not (i) commence a judicial action (including filing a petition as contemplated in Section 6226(a) or 6228 of the Code) with respect to a federal income tax matter or appeal any adverse determination of a judicial tribunal; (ii) enter into a settlement agreement with the IRS relating to any Company Item for any Taxable Year; (iii) intervene in any action as contemplated by Section 6226(b) of the Code; (iv) file any request contemplated in Section 6227 of the Code; or (v) enter into an agreement extending the period of limitations as contemplated in Section 6229(b)(1)(B) of Code, or (vi) take or not take any action in respect of an audit, contest or other tax matter or proceeding, in each case, the taking or omission of which, respectively, materially and adversely affects any tax item reported to the Class A Member on a Schedule K-1 and/or reported on any tax return of the Class A Member or in any manner materially delays the expected timing of the Class A Member's achieving the Target IRR on the Target Flip Date. Subject to the immediately preceding sentence, the Tax Matters Member shall have the right to defend against any proposed adjustments with respect to any "partnership item" (as defined in Section 6231(a)(3) of the Code) in the manner provided, and to the extent consistent with, Sections 6221 through 6223 of the Code and the Treasury Regulations issued

thereunder. With respect to any other partnership item of the Company not covered by the two preceding sentences, if any Member intends to file, pursuant to Section 6227 of the Code, a request for an administrative adjustment of any such partnership item of the Company, or to file a petition under Sections 6226, 6228 or other Sections of the Code with respect to any such partnership item or any other tax matter involving the Company, such Member shall, at least thirty (30) days prior to any such filing, notify the other Members of such intent, which notification must include a reasonable description of the contemplated action and the reasons for such action. Any cost or expense incurred by the Tax Matters Member in connection with its duties, including, if relevant, the preparation for or pursuance of administrative or judicial proceedings, shall be paid by the Company. The Class A Member will use commercially reasonable efforts to ensure that any Tax Matter relating to the Company is properly addressed as a "partnership item", within the meaning of Section 6231(a)(3) of the Code, at the Company level. In the event that the Class A Member is unsuccessful in such efforts to cause the IRS to address such claim as a "partnership item," the Class A Member shall, to the extent practicable under the circumstances, provide notification, information, documents, correspondence and a reasonable opportunity for the Class B Member to control such matter in the same degree as provided for under this Section 8.7.

(c) Tax Returns.

(x) Preparation of Tax Returns. The Tax Matters Member shall prepare, or cause to be prepared by the Certified Public Accountant, and timely file (on behalf of the Company) all federal, state and local tax returns required to be filed by the Company. Each Member shall furnish to the Tax Matters Member all pertinent information in its possession relating to the Company's operations that is reasonably necessary to enable the Company's tax returns to be timely prepared and filed.

(xi) Furnishing Returns. The Tax Matters Member shall use commercially reasonable efforts to furnish to the Members, (A) by no later than March 10th of each year, an estimate of all items of Company income, gain, loss, deduction, and credit (including ITCs) of the Company and the Members' respective allocable shares thereof expected by the Tax Matters Member to be reported on the Tax Return to be filed by the Tax Matters Member for the immediately preceding Taxable Year, and (B) by no later than June 30 of each Taxable Year (or, if earlier, thirty (30) days prior to the date on which the Tax Matters Member intends to file the Tax Return), the Tax Return proposed to be filed by the Tax Matters Member.

(xii) Costs of Preparation. The Company shall bear the costs of the preparation and filing of its returns, including the fees of the independent public accounting firm.

(d) The provisions of this Article VIII will survive the termination of the Company or the termination of any Member's interest in the Company and will remain binding on the Member for the period of time necessary to resolve with the IRS or other federal tax agency any and all federal income tax matters relating to the Company that are subject to Code Sections 6221 through 6233.

(e) Additional Requirements for an Indemnified Tax Claim.

(xxi) The Class B Member will notify the Class A Member of (A) any written communication it receives from the IRS or a Subject Company that, if sustained may require the Class B Member to make a contribution to the Company or otherwise indemnify the Class A Member or any counterparty to any Fund Document or Subject Company (an "**Indemnified Tax Claim**").

(xxii) Notwithstanding anything in this Agreement to the contrary, after consulting with the Class A Member, the Class B Member may in its sole discretion exercise in good faith control any Indemnified Claim, including controlling any IRS audit (including selection of counsel) determining whether to settle or to commence a judicial action or to appeal any adverse determination of a judicial tribunal with respect to an Indemnified Claim.

Section 8.8 Financial Accounting.

Each Member may report the transactions contemplated hereby for financial accounting purposes in such manner as the Member and its accountants may determine appropriate.

Section 8.9 Membership Interest Legend.

(a) Until (i) the securities representing ownership of membership interests in the Company are effectively registered under the Securities Act, or (ii) the holder of such securities delivers to the Company a written opinion of counsel of such holder to the effect that such legend is no longer necessary under the Securities Act, the Company will cause each certificate representing its securities to be stamped or otherwise imprinted with the following legend:

> THE MEMBERSHIP INTEREST REPRESENTED BY THIS CERTIFICATE HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR UNDER THE SECURITIES LAW OF ANY STATE. SUCH MEMBERSHIP INTEREST MAY NOT BE SOLD OR TRANSFERRED UNLESS SUBSEQUENTLY REGISTERED OR UNLESS AN EXEMPTION FROM REGISTRATION IS AVAILABLE.

(b) The Company will also cause each certificate representing its securities to be stamped or otherwise imprinted with the following legend:

> THE MEMBERSHIP INTEREST AND UNITS REPRESENTED BY THIS CERTIFICATE ARE, AND SHALL BE, FOR ALL PURPOSES, "CERTIFIED SECURITIES" UNDER AND GOVERNED BY ARTICLE 8 (INCLUDING SECTION 8-103(c) THEREOF) AND ALL OTHER PROVISIONS OF THE UNIFORM COMMERCIAL CODE IN EFFECT FROM TIME TO TIME IN THE STATE OF DELAWARE.

Section 8.10 Representations, Warranties and Covenants of the Members.

Each Member, severally but not jointly, represents, warrants, and with respect to clauses (f) and (g) below, covenants to the Company and each other Member with respect to itself only, that: (I) (x) the following statements are true and correct as of, with respect to the Member, the Effective Date, (y) the following statements are true and correct as of, with respect to any other Person hereafter admitted as a Member pursuant to this Agreement, the date such Person is so admitted as a Member, and (II) with respect to clauses (f) and (g) below, shall be true and correct at all times that such Person is a Member:

(a) It is an entity duly organized, validly existing and in good standing under the laws of its jurisdiction of organization.

(b) It has the full right, power and authority to perform its obligations hereunder.

(c) The execution and delivery of this Agreement by the Member and the consummation by such Member of the transactions contemplated hereby have been duly authorized by all necessary entity action required on the part of such Member, its respective members and their respective managing members (as applicable). This Agreement has been duly executed and delivered by such Member. This Agreement is a legal valid and binding obligation of such Member enforceable against it in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency or similar laws affecting creditors' rights generally and by general equitable principles.

(d) It has such sophistication, knowledge and experience in financial and business matters that it is capable of evaluating the merits, risks and suitability of entering into the Transaction. It is acquiring its Membership Interest for its own account and not as a nominee or agent. It understands its Membership Interest have not been, and will not be, registered under the Securities Act and are being acquired in a transaction not involving a public offering by reason of a specific exemption from the registration provisions of the Securities Act, the availability of which depends upon, among other things, the *bona fide* nature of each Member's investment intent and the accuracy of the Members' respective representations as expressed herein. It understands that no public market now exists for the Membership Interests or any of the securities of the Company and that neither the Company nor any Member or Affiliate thereof has made any assurances that a public market will ever exist for the Membership Interests or the Company's securities.

(e) It has discussed the Transaction and the accounting and tax treatment that it intends to accord the Transaction with its independent advisors. It is solely responsible for deciding to enter into the Transaction and has not relied on any other party (save for any representations made in this Agreement), other than its independent advisors, in respect of the accounting or tax treatment to be applied to the Transaction, or the overall suitability of the Transaction. It is an "accredited investor" within the meaning of Rule 501(a)(1), (2), (3) or (7) of the Securities Act, and is able to bear the economic risk of losing its entire investment in the Company.

(f) It will report the Transaction in accordance with this Agreement and its own applicable regulatory requirements, including the accounting and tax treatment to be accorded to the Transaction.

(g) It is not now and it shall not become a Disqualified Entity or Related Party.

(h) That no part of the aggregate Capital Contributions made by such Member and used by such Member to acquire any Units, constitutes Assets of any "employee benefit plan" within the meaning of Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended ("**ERISA**"), or other "benefit plan investor" (as defined in U.S. Department of Labor Reg. §§ 2510.3-101 *et seq.* and Section 3(42) of ERISA) or Assets allocated to any insurance company separate account or general account in which any such employee benefit plan or benefit plan investor (or related trust) has any interest.

(i) It (or, if it is a disregarded entity for federal income tax purposes, the Person treated for federal income tax purposes as the owner of its assets) is a "United States person" as defined in Section 7701(a)(30) of the Code and is not subject to withholding under Section 1446 of the Code.

(j) It will not take any action or change its status if such action or change would result in a breach of a Company covenant or is otherwise prohibited by the terms of the Fund Documents.

Section 8.11 Survival.

The representations, warranties and covenants herein shall be continuing agreements of the Members that made them and shall survive the termination of this Agreement and the Company.

Article IX

TRANSFERS OF INTERESTS; PURCHASE OPTION

Section 9.1 Transfer Restrictions.

A Member may not Transfer or Encumber all or any portion of its Membership Interest, except in strict accordance with this Article IX. References in this Agreement to Transfers or Encumbrances of a "Membership Interest" shall also refer to Transfers or Encumbrances of a portion of a Membership Interest. Any attempted Transfer or Encumbrance of any Membership Interest, other than in strict accordance with this Article IX, shall be, and is hereby declared, null and void *ab initio*. The Members agree that a breach of the provisions of this Article IX may cause irreparable injury to the Company and to the other Members for which monetary damages (or other remedy at Law) are inadequate in view of (a) the complexities and uncertainties in measuring the actual damages that would be sustained by reason of the failure of a Member to comply with such provision and (b) the uniqueness of the Company's business and the relationship among the Members. Accordingly, the Members agree that the provisions of this Article IX may be enforced by specific performance.

Section 9.2 Permitted Transfers.

Prior to the expiration of the Investment Period, a Member may only Transfer (other than a Transfer pursuant to an Encumbrance entered into in accordance with Section 9.4) all or part of its Units (and the Class A Interest represented thereby) with the Consent of the Members. Following the expiration of the Investment Period, a Member may Transfer all or part of its Units (and Membership Interest represented thereby) to a Person that is not a Disqualified Transferee, *provided* that it satisfies the requirements of Section 9.3. Notwithstanding anything in this Section 9.2 to the contrary, a Transfer upon foreclosure (or in lieu of such foreclosure) under an Encumbrance on such Member's Units permitted in accordance with Section 9.4 shall not require the approval by the Consent of the Members.

Section 9.3 Conditions to Transfers.

Except as otherwise provided in this Article IX, all Transfers permitted hereby shall be subject to the satisfaction of the following requirements:

(h) Transfer Documents. The following documents shall have been delivered by the Transferring Member to the Manager and each other Member:

(xxiii) Notice. Written notice not less than ten (10) Business Days prior to the proposed effective date of such Transfer.

(xxiv) Transfer Instrument. An instrument executed by the Transferring Member and the Transferee implementing the Transfer, in substantially the form of Exhibit C hereto or such other form that is reasonably satisfactory to the Manager (which approval

shall not be unreasonably withheld or delayed) and which contains: (A) the notice address of the Transferee; (B) if applicable, the Parent of the Transferee; (C) the number of Units as to each class of Membership Interest held by the Transferring Member and held by the Transferee after the Transfer (which must total the number of Units as to each class of Membership Interest held by the Transferring Member before the Transfer); (D) the Transferee's ratification of this Agreement and its confirmation that the representations and warranties in Article VIII applicable to it are true and correct with respect to it; (E) the Transferee's ratification of the Investment Documents to which the Transferring Member is a party and agreement to be bound by them to the same extent that the Transferring Member was bound by them prior to the Transfer, including the assumptions of all liabilities and obligations thereunder with respect to the Transferred Membership Interest (including, without limitation and for the avoidance of doubt, each Member's indemnification obligations under Article XI in connection with any Indemnification Claims arising out of or resulting from actions of the Member (or any successor thereto) as Manager prior to any replacement of the Manager pursuant to Section 6.4); and (F) representations and warranties by the Transferring Member and its Transferee that the Transfer and the admission of the Transferee as a Member is being made in accordance with all applicable Law, and that the applicable conditions set forth in this Section 9.3 have been satisfied. Upon any such Transfer, the Manager shall update Annex I and the Register appropriately, and shall provide such updated Register to each Member.

(i) Fund Documents. Such Transfer does not breach any provision of any Fund Document or any other Project Document.

(j) Applicable Law; Securities Law. Such Transfer does not violate any provision of applicable Law, including, without limitation, applicable securities Law.

(k) Tax Consequences.

(i) Entity Classification. Such Transfer does not cause the Company to be classified as an entity other than a partnership (or cause the Company to be treated as a publicly traded partnership taxable as a corporation) for purposes of the Code.

(ii) Recapture. If such Transfer would occur prior to the end of the Recapture Period, such Transfer does not and will not result in the Recapture of any ITCs previously accrued to the Company.

(iii) Termination. Such Transfer would not result in the Company's termination within the meaning of Section 708 of the Code unless the transferee has indemnified the other Members against any adverse tax effects that result from such termination.

(iv) Tax-Exempt Entity. Such Transfer is not to a tax-exempt entity (or, if the transferee is a disregarded entity for federal income tax purposes, the Person treated for federal income tax purposes as the owner of its assets is not a tax-exempt entity) (within the meaning of Section 168(h)(2) of the Code) and such Transfer, in the reasonable

determination of the Company, does not present a material risk that any property of the Company or any Subject Company would thereby become "tax-exempt use property" within the meaning of Section 168(h)(6) of the Code.

(l) Payment of Expenses. The Transferring Member and the Transferee shall have paid or reimbursed the Company and each Member for all reasonable costs and expenses incurred by the Company and such Members in connection with the Transfer and admission, on or before the tenth (10^{th}) day after the receipt by such Persons of the Company's or any such Member's invoice for the amount due.

(m) No Release. Such Transfer shall not effect a release of the Transferring Member from any liabilities to the Company or the other Members arising from events occurring prior to or in connection with the Transfer.

(n) Regulatory Matters. Such Transfer shall not result in (a) any Project ceasing to be or a Qualifying Facility, to the extent applicable, (b) any Subject Company becoming subject to regulation under PUHCA other than with respect to regulations pertaining to maintaining Qualifying Facility status or (c) any Subject Company ceasing to hold any other Energy Regulatory Approval.

(o) Consents and Permits. All consents, approvals and Licenses and Permits with respect to such Transfer shall have been obtained.

(p) Investment Company Act. Such Transfer does not require the Company to register as an "investment company" under the Investment Company Act of 1940, as amended.

Section 9.4 Encumbrances of Membership Interest.

A Member may Encumber its Membership Interest, and any Parent of a Member may Encumber such Membership Interest indirectly, so long as the instrument creating such Encumbrance provides that any Transfer upon foreclosure of such Encumbrance (or Transfer in lieu of such foreclosure) shall, and the actual Transfer relating to such Encumbrance (whether through foreclosure or in lieu of foreclosure) shall (a) not be to a Disqualified Transferee, (b) during the Investment Period, shall only be to a Qualified Transferee and (c) otherwise comply with the requirements of Section 9.3. Notwithstanding the foregoing provisions of this Section 9.4 (a) the Members agree to act in a commercially reasonable manner in connection with a financing in which a Member intends to grant a security interest in its Units and take such actions (or refrain from taking such actions) as are reasonably requested by such Member to facilitate the closing of such financing, including reasonably cooperating with such Member to enter into a consent to assignment, provided that such consent to assignment is reasonably acceptable to the Members, with such Member's financing parties and (b) such Member may Encumber its Membership Interests pursuant to and subject to the terms of any such consent.

Section 9.5 Admission of Transferee as a Member.

Any Transferee in a Transfer permitted under Section 9.2 shall be admitted to the Company as a Member, with the Membership Interest so transferred to such Transferee, to the extent that (a) the Transferring Member making the Transfer has granted the Transferee the Transferring Member's entire Membership Interest, or, in the case of Transfer of a part of such Member's Membership Interest, the express right to be so admitted as a Member and (b) such Transfer is effected in strict compliance with Section 9.3.

Section 9.6 Purchase Option.

(f) The Class B Members shall have an exclusive and irrevocable option to purchase all, but not less than all, of the Class A Units, for a period of one hundred eighty (180) days after the Flip Date (each such period, a "**Purchase Option Period**"), and otherwise upon the terms and conditions set forth herein (the "**Purchase Option**"). The purchase price of the Class A Units during the Purchase Option Period shall be the Fair Market Value of such Class A Units (determined in accordance with this Section 9.6) (the "**Purchase Option Price**").

(g) The Purchase Option may be exercised by a Class B Member by giving written notice (which notice shall be non-binding on such Class B Member and may only be given one time during the Purchase Option Period) (the "**Preliminary Intent Notice**") to the Manager and the Class A Members of an intent to determine the Fair Market Value of such Class A Units. The Preliminary Intent Notice may be delivered as early as the first day of the Purchase Option Period and shall be delivered not later than fifteen (15) days prior to the end of the Purchase Option Period.

(h) Within twenty (20) days after the date of the Preliminary Intent Notice, the Class A Members and any participating Class B Members will meet to discuss and negotiate in good faith to determine and agree upon the Fair Market Value of the Class A Units. If the Members agree upon such Fair Market Value, such value will be deemed to be the Fair Market Value for purposes hereof. If they fail to agree upon such value within thirty (30) days after the date of the Preliminary Intent Notice, the Company and the Class B Members shall, promptly thereafter, mutually select an appraiser for purposes of establishing such Fair Market Value.

(i) Upon determining the Fair Market Value of the Class A Members' Class A Units pursuant to Section 9.6(c), if the Class B Members desire to exercise the Purchase Option at such Fair Market Value, the Class B Members must deliver written notice (the "**Intent Notice**") of such intent to exercise the Purchase Option to the Manager and the Class A Members within sixty (60) days of such determination of the Fair Market Value, specifying (subject to the time periods set forth in Section 9.6(e)) the effective date of the purchase. Once the Intent Notice has been delivered, the Purchase Option shall be irrevocable; *provided* that if the Class B Members fail to deliver an Intent Notice prior to the expiration of such 60-day time period, the Purchase Option shall be deemed to have expired and the Class A Members shall have no further obligations pursuant to this Section 9.6.

(j) The closing for purchase and sale shall occur, subject to the receipt of applicable Licenses and Permits and any necessary approvals from any Governmental Authority, including the approvals, if any, required under the HSR Act or required by FERC or any Energy Regulatory Authority, on the later of the thirtieth (30^{th}) Business Day following the date of the Intent Notice, the twentieth (20^{th}) Business Day following the determination of the Fair Market Value of the Class A Units, and the fifth (5^{th}) Business Day after the receipt of such Licenses and Permits and necessary approvals from any Governmental Authority. At the closing, each Class A Member shall convey all of its Class A Units to the participating Class B Members (or their designee(s)) on an "as is, where is" basis without representations or warranties, expressed or implied, other than valid title that no Encumbrance against its Class A Units then exists that has been created by, through or under the Class A Members or any Affiliate thereof other than those created pursuant to this Agreement. At the closing, (a) the Class B Members shall expressly assume any and all obligations and liabilities of the Class A Members under this Agreement and any other Investment Document, as applicable (except those obligations and liabilities accrued through the date of such closing), (b) the Members shall amend this Agreement to reflect the withdrawal of the Class A Members and the transfer of the Class A Units effective as of the date of such closing, and (c) the Class B Members shall pay the Purchase Option Price of the Class A Units to the Class A Members by wire transfer of immediately available funds.

Section 9.7 Terminated Member.

Upon the closing of a Transfer by a Member of all of its Membership Interest in the Company in accordance with this Article IX, the following provisions shall apply to the Transferring Member (now a "**Terminated Member**"):

(a) The Terminated Member shall cease to be a Member immediately upon the occurrence of such closing.

(b) The Terminated Member shall no longer be entitled to receive any distributions (including liquidating distributions pursuant to Section 12.2) or allocations from the Company, and it shall not be entitled to exercise any voting or consent rights or to receive any further information (or access to information) from the Company (other than any required tax information).

(c) The Terminated Member must pay (i) to the Company all amounts owed to the Company by the Terminated Member and (ii) to each other Member all amounts owed to such Member by the Terminated Member.

(d) The Terminated Member shall remain obligated for all liabilities it may have under this Agreement or otherwise with respect to the Company that accrue prior to the closing.

(e) The Membership Interest, including the Capital Account balance attributable thereto, of the Terminated Member shall be allocated among the applicable Transferees in proportion to the relative Transferred Units acquired by such Transferee.

Article X

AGGREGATE TRACKING MODEL AND FLIP DATE

Section 10.1 Aggregate Tracking Model.

(d) The Manager will calculate at least annually whether the Flip Point has occurred and will send the Members, within one hundred twenty (120) days after the date of the Tax Return for the immediately preceding Fiscal Year was filed, a report in the form of the Aggregate Tracking Model showing where it believes the Class A Units are in relation to the Flip Point. If the report suggests that the Flip Point will occur within the next two (2) Fiscal Years, then the Manager will calculate for each Fiscal Quarter thereafter whether the Flip Point has occurred, and will send the Class A Members such report within forty-five (45) days after the end of the applicable Fiscal Quarter.

(e) If the Manager calculates and determines that the Flip Point will occur upon the distribution of Available Cash Flow at the next Distribution Date, then no less than thirty (30) days prior to the Distribution Date, the Manager shall provide such calculation to the Class A Members in the Aggregate Tracking Model specifying the Flip Date, and the portion of the Available Cash Flow to be distributed to the Class A Members under Article V and the portion of Company Items to be allocated to the Class A Members under Article IV prior to the Flip Date and after the Flip Date.

(f) Prior to making any liquidating distribution pursuant to Section 12.2, the Manager shall calculate and determine as to whether the Flip Point will occur in connection with the liquidation of the Company. No less than thirty (30) days prior to making such distribution, the Manager shall provide such calculation to the Members in the Aggregate Tracking Model specifying the Flip Date (or stating that the Manager has concluded that the Flip Date will not occur), and the portion of the liquidation proceeds to be distributed to the Class A Members and the portion of the Company Items to be allocated to the Class A Members under Section 12.2 prior to the Flip Date and after the Flip Date.

(g) The Manager will make its advisers (if any) available to answer any questions about its calculations and reports made under this Section 10.1. Any Class A Member may invoke the dispute resolution procedures in Section 10.3 to resolve any item or procedure that is in dispute. In the event no objection to a calculation provided to the Class A Members under subsection (b) or (c) is received by the Manager from the Members immediately prior to the Distribution Date or the date of the liquidating distribution, as the case may be, then the Flip Date shall be deemed to have occurred or not to have occurred, as the case may be, as specified in such calculation, and the distributions and allocations as reflected in such calculations and reports shall govern for the applicable taxable period. In the event such an objection is received by the Manager, then the determination of the Flip Date and the making of the distributions (and all subsequent distributions of Available Cash Flow or liquidation proceeds) shall be suspended until the Flip Date and corresponding distributions and allocations are finally determined as provided in Section 10.3.

Section 10.2 Calculation Rules and Conventions.

In performing the calculations and making the determinations with respect to the Flip Point as described in Section 10.1, the Manager shall employ the following calculation rules and conventions:

(q) Basis. The calculation shall be made on the basis of each Class A Unit issued to the Class A Members and any Capital Contribution made pursuant to this Agreement.

(r) Continuity of Ownership. The Manager shall treat ownership of the Class A Units as being continuous from the Effective Date to the Distribution Date (or, if applicable, the date of distribution of liquidation proceeds) as of which the calculation is being made, without regard to any change in ownership of the Class A Units during such period.

(s) Cash Distributions. The cash distributions taken into account in determining the After-Tax IRR with respect to each Class A Unit shall consist solely of distributions to the Holder of such Class A Unit made on any Distribution Date or date of distribution of liquidation proceeds (or to be made on the Distribution Date or date of distribution of liquidation proceeds as of which date the After-Tax IRR is being determined) (the "**Cash Distributions**"). Also taken into account in determining the After-Tax IRR are any amounts received by the Holder of the Class A Unit as proceeds from the sale of RECs or other revenue attributable to any Fund Company assets, or a recovery or replacement of, or indemnity or compensation for the loss of, an item which would otherwise be taken into account in the foregoing.

(t) Tax Payment Dates. The distributive share of Company items of income, gain, loss, deduction, and ITCs as determined for federal income tax purposes allocated by the Company to the Holder of such Class A Unit and any gain recognized by such Holder under Section 731(a) of the Code, shall be calculated in accordance with a set of Tax Assumptions specified in the Fund Addendum applicable to all Projects within each particular Fund.

(u) Tax Costs and Tax Benefits.

(i) Tax Benefits and Tax Costs shall be calculated on the basis of certain specified Tax Assumptions set forth in the Fund Addendum. The Tax Assumptions set forth in a Fund Addendum shall apply to all Tax Benefits and Tax Costs relating to or arising from all the Projects subject to the applicable Fund Addendum. With respect to all Projects in any Fund, Tax Benefits shall be recalculated to include any federal income tax benefit, deduction, and credit that would have been realized by the Class A Member, but which is not so recognized as the result of the breach of the representations, warranties or covenants of the Class A Member in this Agreement.

(ii) For the avoidance of doubt, in all respects outside those described in Section 10.2(e)(i) the After-Tax IRR shall be based upon the present value of the Tax Costs and Tax Benefits (in accordance with the definition of After-Tax IRR), without any adjustment or recalculation, in accordance with the federal income tax accounting methods and tax elections actually used with respect to such period by the Company in the preparation

of its Tax Returns, and as subsequently adjusted as a result of any amended Tax Return or a final determination in any federal income tax audit or subsequent administrative or judicial proceeding.

(v) Method of Determining the Flip Date; Pro Ration of Distributions.

(i) If, as of any Distribution Date, the Manager calculates that the Flip Point has occurred during the calendar month preceding such Distribution Date (taking account of the distribution of the Class A Eligible Cash Flow on such Distribution Date) the Manager will calculate the lowest percentage (the "**Trigger Percentage**") which, when applied to such Class A Cash Flow, will result in a Class A Unit receiving an amount of Class A Eligible Cash Flow (such amount of cash calculated using such Trigger Percentage, the "**Cash Trigger Amount**") which will cause the Flip Point to occur. The Cash Trigger Amount shall be deemed to precede the Flip Date and shall be distributed to the Holders of Class A Units (notwithstanding anything to the contrary contained in Section 5.1(a)) and the remainder of such Available Cash Flow shall be distributed to the Holders of Class A Units and Class B Units under Section 5.1(a)(ii).

(ii) If, prior to a distribution of liquidation proceeds, the Manager calculates that the Flip Point will occur (taking into account the expected distribution of liquidation proceeds), the Manager will calculate, using an iterative process, the percentage of the liquidation proceeds which, if distributed in accordance with Section 12.2(a)(v), will cause the sum of (A) the cash distributions to be made pursuant to Section 12.2(a)(v) on the date of distribution of liquidation proceeds to the extent such distributions are attributable to pro rata allocations pursuant to Section 12.2(a)(iv)(A) and (B) the Tax Benefits or Tax Costs arising from the allocation of tax attributes of the Company for the taxable period in which the date of distribution of liquidation proceeds occurs as a result of such cash distribution, to cause the Flip Point to occur. Such calculation shall be taken into account in making the allocations under Section 12.2(a)(iv) in such manner as to ensure that, to the greatest extent feasible, the balances in the Capital Accounts of the Members are expected to result in distributions pursuant to Section 12.2(a)(v) in accordance with the target liquidation distributions contemplated in Section 12.2(a)(iv)(A) and Section 12.2(a)(iv)(B).

(w) End of Year True Up.

(i) Prior to filing the Tax Return for the Taxable Year which includes the Flip Date, the Manager shall compare the Tax Benefits and Tax Costs for the portion of the Taxable Year through the calendar month in which such Flip Date was determined to have occurred, as taken into account in the calculation of such Flip Date, with the Tax Benefits and Tax Costs for such period as determined using the amounts reflected in the Tax Return as proposed to be filed, other than to the extent of any difference in such calculation of the Flip Date and such amounts reflected in the Tax Returns as the result of the application of the provisions of Section 10.2(e) or the calculation assumptions and conventions in this Section 10.2. In the event of any difference (disregarding *de minimis* amounts) the Manager shall apply such adjustments ratably to the Tax Payment Dates for such Taxable Year and shall re-calculate the Trigger Percentage based upon the amounts reflected in such return

and shall (A) adjust the Flip Date accordingly (including by advancing or retarding the Flip Date to a prior or subsequent calendar month), and (B) determine the difference (the "**Cash Difference**") between the actual cash distribution to the Class A Members on the Distribution Date immediately following the month in which such Flip Date was originally determined to have occurred (and any subsequent Distribution Dates, if relevant) and the cash distribution which would have been made on such Distribution Date(s) based on the recalculated Trigger Percentage (it being acknowledged that any difference between the Tax Benefits and Tax Costs assumed to be allocable to the Class A Interest at the time such Flip Date was first determined and the amounts of such Tax Benefits and Tax Costs reflected in the allocations pursuant to the Tax Return actually filed has been reflected in the final determination of such Flip Date under this paragraph (i)).

(ii) Upon becoming final pursuant to this Section 10.2(g), the Manager shall apply the adjusted Flip Date for all purposes of this Agreement. On the Distribution Date immediately following the calculation becoming final, the sharing percentages set forth in Section 4.2(a)(ii) and Section 5.1(a)(ii) shall be adjusted to the maximum extent necessary so as to correct the Cash Difference on a present value basis calculated at the Target IRR, which adjusted sharing percentages shall remain in effect until elimination of the Cash Difference.

Section 10.3 Flip Date, Tax Return Dispute.

If any Class A Member shall dispute any item or procedure or calculation of, or which affects, the Flip Date contained in any notice or report delivered to such Class A Member under this Article X, such Class A Member shall notify the Manager within ten (10) days following receipt of the notice or report disputed. In such case, such Class A Member's notification will set forth in reasonable detail such Class A Member's objections or disagreements, and the Parties shall attempt in good faith to promptly resolve any differences as to the matters so disputed. If the Parties are unable to resolve any such differences within ten (10) days after the date of such Class A Member's notice, then the actual determination shall be finally referred to a nationally recognized independent public accounting firm (which may or may not be the Certified Public Accountant) selected by the Class A Members (by vote of the Consent of the Class A Members), which accounting firm will be asked to designate one of its partners to act as an independent expert for purposes of this Section 10.3 (the "**Independent Expert**"). Such Class A Member and the Manager shall submit the Aggregate Tracking Model, the proposed Tax Return and pertinent information, books and records, as applicable, and all other data necessary for the Independent Expert to make his determination, including any additional data requested by the Independent Expert. The Independent Expert shall keep confidential all information submitted to him in connection with his resolution of the dispute(s) hereunder. The Independent Expert shall be requested to render his determination as promptly as possible after he receives all necessary data and materials. The determination of the Independent Expert resolving a dispute pursuant to this Section 10.3 shall be final and binding upon the disputing parties, and such determination shall apply for all subsequent periods to any item or procedure substantially similar to that determined hereunder. The Company shall pay the fees of the Independent Expert incurred for such determination.

Article XI

INDEMNIFICATION

Section 11.1 Indemnification by the Members.

(x) Indemnification by the Class B Member. Subject to the terms and conditions of this Article XI, each Class B Member shall indemnify, defend, reimburse and hold harmless each Class A Member and its respective parent or subsidiary companies, shareholders, partners, members and other Affiliates, and each of their respective officers, directors, managers, employees, attorneys, contractors and agents (collectively, the "**Class A Parties**"), from and against any and all claims, actions, causes of action, demands, assessments, losses, damages, liabilities, judgments, settlements, Taxes, penalties, costs, and expenses (including reasonable attorneys' fees and expenses, including such fees and expenses at trial and on any appeal), of any nature whatsoever (collectively, "**Damages**") asserted against, resulting to, imposed upon, or incurred by the Class A Parties, directly or indirectly, by reason of or resulting from (i) any breach or failure by a Class B Member (whether in its capacity as a Class B Member, the Manager, the Tax Matters Member or otherwise), of any of its respective representations, warranties, covenants, obligations or agreements contained in any Investment Document or any certificate delivered thereunder or hereunder, (ii) any indemnity obligation due and payable to a Fund Investor under the Fund Documents (unless caused by the breach or failure by the a Class A Member of any of its representations, warranties, covenants, obligations or agreements contained in this Agreement or any other Investment Document), (iii) any underdeployment penalty or other amount due and payable to a Fund Investor under the Fund Documents as a result of a reduction of such Fund Investor's capital contributions under the Fund Documents; (iv) any breach or failure of any representations or warranties of any Subject Company to any Fund Investor regarding any Project which are contained in any Fund Document; or (v) any breach or failure of any representations or warranties of any seller under a purchase agreement to any Fund Investor or Fund Company regarding any Project, where such seller is an Affiliate of the Class B Member (collectively, "**Class A Claims**"). For the avoidance of doubt, in the event that representations or warranties described in clause (v) of the preceding sentence are made to a Fund Investor and not to the applicable Fund Company, Damages shall: (i) include Damages resulting from a claim by the Fund Investor, and (ii) be determined as if such representations and warranties were made to the Fund Company as well as the Fund Investor. To the extent that any such Damages relating to an Investor Claim remain unpaid after a claim has been properly made therefor pursuant to this Article XI that is not a bona fide dispute, any distributions otherwise payable to the Class B Members under this Agreement shall be used to satisfy the obligations of each Class B Member (whether in its capacity as a Class B Member, the Manager, the Tax Matters Member or otherwise), hereunder.

(y) Indemnification by the Class A Member. Subject to the terms and conditions of this Article XI, each Class A Member shall indemnify, defend, reimburse and hold harmless each Class B Member and its respective parent or subsidiary companies, shareholders, partners, members and other Affiliates, and each of their respective officers, directors, managers, employees, attorneys, contractors and agents (collectively, the "**Class B Parties**" and together with the Class A Parties,

the "**Indemnified Parties**"), from and against any and Damages asserted against, resulting to, imposed upon, or incurred by the Class B Parties, directly or indirectly, by reason of or resulting from (i) any breach or failure by the Class A Member of any of its representations, warranties, covenants, obligations or agreements contained in this Agreement or any other Investment Document or any certificate delivered thereunder or hereunder, or (ii) any indemnity obligation due and payable to a Fund Investor under the Fund Documents only if caused by the breach or failure by the a Class A Member of any of its representations, warranties, covenants, obligations or agreements contained in this Agreement or any other Investment Document (collectively, "**Class B Claim**" and together with an Investor Claim, an "**Indemnity Claim**"). To the extent that any such Damages relating to a Class B Claim remain unpaid after a claim has been properly made therefor pursuant to this Article XI that is not a bona fide dispute, any distributions otherwise payable to the Class A Members under this Agreement shall be used to satisfy the obligations of each Class A Member hereunder.

Section 11.2 Limitation on Liability.

The indemnification obligations pursuant to this Article XI shall be subject to the following limitations:

(h) The amount of Damages for which a Member is obligated to indemnify with respect to any Indemnity Claim shall be reduced to the extent of any amounts actually received by the applicable Class A Parties or Class B Parties, as applicable, after the Effective Date pursuant to the terms of the insurance policies obtained and maintained by the Company or any Subject Company (if any) covering such claim or any insurance proceeds from policies obtained and maintained by or for the benefit of any such Person or any Affiliate thereof be considered in connection with a reduction of Damages pursuant to this Section 11.2(a).

(i) Damages paid pursuant to this Article XI shall be treated as a non-taxable adjustment to purchase price or return of capital for federal income tax purposes unless the Class A Member receives an opinion at a "more likely than not" level or higher from a nationally-recognized law firm that such amount is taxable. If such opinion is received, Damages paid pursuant to this Article XI shall be grossed-up and paid on an After-Tax Basis. To the extent an Indemnified Party subsequently recovers all or a part of the Damages indemnified under this Article XI, the Indemnified Party shall promptly refund the applicable Member(s) that paid such Damages the recovered Damages on an After-Tax Basis; *provided* that any such refund shall not exceed the original amount paid to the Indemnified Party by the applicable Member(s) (on an After-Tax Basis) hereunder.

(j) The indemnification obligations under this Article XI shall be limited to actual Damages and shall not include special, incidental, consequential, indirect, punitive, or exemplary Damages (including lost profits and damages for a lost opportunity); *provided*, that any incidental, consequential, indirect, punitive, or exemplary Damages recovered by a third party (including Governmental Authorities) against a Person entitled to indemnity pursuant to this Article XI shall be included in the Damages recoverable under such indemnity; and *provided*, *further*, that the loss, disallowance or reduction of ITCs shall not be considered as special, incidental, consequential, indirect, punitive or exemplary Damage and shall be included in the Damages recoverable under this indemnity, but, with respect to Damages for the loss, disallowance or

reduction of ITCs, only with respect to a loss, disallowance or reduction arising after the Effective Date and prior to the ten (10) year anniversary of the latest Placed in Service Date for any Project.

(k) No Indemnified Party may receive compensation for Damages suffered by such Person to the extent that such Damages are attributable to (i) the gross negligence or willful misconduct of such Indemnified Party or (ii) the breach of any representation or warranty by such Indemnified Party in this Agreement to the extent such representation or warranty was false when made.

Section 11.3 Procedure for Indemnification.

After receipt by an Indemnified Party under Section 11.1 of notice of the commencement of any action, or any other actual or potential Indemnity Claim, such Indemnified Party shall, if a claim in respect thereof is to be made against a Member (the "**Indemnifying Member**"), give written notice thereof to such Indemnifying Member. The failure to promptly notify the Indemnifying Member shall not relieve such Indemnifying Member of any liability that it may have to any Indemnified Party with respect to such action; *provided that*, to the extent that any such failure to provide prompt notice is responsible for an increase in the indemnity obligations of the Indemnifying Member, the Indemnifying Member shall not be responsible for any such increase. In the case of any such action brought against an Indemnified Party for which the Indemnified Party has given written notice to the Indemnifying Member of the commencement thereof, the Indemnifying Member shall be entitled to participate therein and, to the extent that it may wish, to assume the defense thereof with counsel reasonably satisfactory to such indemnified party. If the Indemnifying Member elects to assume the defense of such action, the Indemnified Party shall have the right to employ separate counsel at its own expense and to participate in the defense thereof. If the Indemnifying Member elects not to assume (or fails to assume) the defense of such action, or at any time fails diligently to pursue such defense, the Indemnified Party shall be entitled to assume the defense of such action with counsel of its own choice, at the expense of the Indemnifying Member. If the action is asserted against both the Indemnifying Member and the Indemnified Party and (a) there is a conflict of interests which renders it inappropriate for the same counsel to represent both the Indemnifying Member and the Indemnified Party or (b) such action could reasonably be expected to result in the imposition of criminal liability, the Indemnifying Member shall be responsible for paying for separate counsel for the indemnified party; *provided*, *however*, that if there is more than one Indemnified Party and it is practical for all such parties to be represented by common counsel, the Indemnifying Member shall not be responsible for paying for more than one separate firm of attorneys to represent the indemnified parties, regardless of the number of indemnified parties. If the Indemnifying Member elects to assume the defense of such action, (y) no compromise or settlement thereof may be effected by the Indemnifying Member without the indemnified party's written consent (which shall not be unreasonably withheld) unless the sole relief provided is monetary damages that are paid in full by the Indemnifying Member and (z) the Indemnifying Member shall have no liability with respect to any compromise or settlement thereof effected without its written consent (which shall not be unreasonably withheld) unless the Indemnifying Member has failed to defend such Indemnified Party against such action.

Section 11.4 Exclusivity.

The Parties agree that, (a) except with respect to fraud or willful misconduct, in relation to any breach, default, or nonperformance of any representation, warranty, covenant, or agreement made or entered into by a Member (whether in its capacity as a Member, the Manager, the Tax Matters Member or otherwise) pursuant to this Agreement or any certificate, instrument, or document delivered pursuant hereto or arising out of the transactions contemplated herein, the only relief and remedy available to the other Members in respect of Damages fully recoverable and addressed by the payment of money shall be as set forth in this Article XI, but only to the extent properly claimable hereunder and as limited pursuant to this Article XI or otherwise hereunder. For the avoidance of doubt, no Party has waived any rights to pursue equitable remedies under this Agreement or the other Investment Documents.

Section 11.5 No Right of Contribution.

After the Effective Date, the Company shall have no liability to indemnify a Member on account of the breach of any representation or warranty or the nonfulfillment of any covenant or agreement of the Company; and no Member shall have any right of contribution against the Company.

Section 11.6 Entire Agreement.

Article XI of this Agreement constitutes the entire agreement and understanding of the parties with respect to indemnification hereunder.

Article XII

DISSOLUTION, LIQUIDATION AND TERMINATION

Section 12.1 Dissolution.

(l) The Company will dissolve and its business and affairs will be wound up on the first to occur of the following (the "**Liquidating Events**"):

(i) The unanimous consent of the Members to dissolve the Company;

(ii) Any other event upon the occurrence of which dissolution is required by the Act (that the Act does not allow to be waived by agreement of the Parties), unless, to the extent permitted by the Act, Members (other than the Member with respect to which such event occurs) unanimously elect in writing, within ninety (90) days of the date such event described in this Section 12.1(a)(ii) occurs, to continue the business of the Company, in which case the Company will not dissolve; or

(iii) The sale, transfer or other disposition by the Company of all or substantially all of its business and Assets.

(m) Each Member agrees that, to the fullest extent permitted by Law, it will not dissolve itself or the Company or withdraw from the Company except as set forth in Section 12.1 (a).

Section 12.2 Liquidation and Termination.

(g) On dissolution of the Company, the Manager shall, with the Consent of the Class A Members, act as liquidator. The liquidator shall proceed diligently to wind up the affairs of the Company and make final distributions as provided in this Agreement. The costs of liquidation will be borne as a Company Expense. Until final distribution, the liquidator shall continue to operate the Company with all of the power and authority of the Members. The steps to be accomplished by the liquidator are as follows:

(xi) As promptly as reasonably practicable after dissolution and again after final liquidation, the liquidator shall cause a proper accounting to be made by the Certified Public Accountant of the Company's Assets, liabilities, and operations through the last day of the calendar month in which the dissolution occurs or the final liquidation is completed, as applicable.

(xii) The liquidator shall pay from Company funds all of the debts and liabilities of the Company or otherwise make adequate provision for them (including the establishment of a cash escrow fund for contingent, conditional or unmatured liabilities in such amount and for such term as the liquidator may reasonably determine).

(xiii) With respect to the remaining Assets of the Company:

(A) the liquidator shall use all commercially reasonable efforts to obtain the best possible price and may sell any or all Company Assets (subject to any and all restrictions to which any Project is subject), including to the Members at such price, but in no event lower than the Fair Market Value thereof; and

(B) with respect to all Company Assets that have not been sold, the Values of such Assets shall be determined pursuant to subparagraph (b) of the definition of Value.

(xiv) Any Company Items of income and gain (including any such items attributable to the disposition or deemed disposition of Assets pursuant to Section 12.2(a)(iii) for the Taxable Year during which the distribution of liquidation proceeds occurs that have not been allocated pursuant to the Regulatory Allocations shall first be allocated to each Member having a deficit balance in its Capital Account, in the proportion that such deficit balance bears to the total deficit balances in the Capital Accounts of all Members, until each Member has been allocated Company Items of income and gain equal to any such deficit balance in its Capital Account and such deficit balance has thereby been eliminated. Any remaining Company Items for such Taxable Year during which the distribution of liquidation proceeds occurs shall be allocated among the Members in such manner as to ensure that, to the greatest extent feasible, following these allocations, the balances in the Capital Accounts of the Members are expected to result in distributions pursuant to Section 12.2(a)(v) in accordance with the following target liquidation distributions:

(A) *first*, to the Class A Members and the Class B Members in accordance with the sharing ratios set forth in Section 5.1(a)(i), until the Flip Point shall occur; and

(B) *thereafter*, to the Class A Members and the Class B Members in accordance with the sharing ratios set forth in Section 5.1(a)(ii) hereof as being applicable after the Flip Date.

(xv) After giving effect to all allocations (including those under Section 4.2 and Section 12.2(a)(iv)), all prior distributions (including those under Section 5.1) and all Capital Contributions (including those under Section 3.1, Section 3.2 and Section 3.3) for all periods, all remaining cash and property (including any Available Cash Flow and liquidation proceeds) shall be distributed to the Members in accordance with the positive balances in their Capital Accounts.

(xvi) Any distribution to the Members in respect of their Capital Accounts pursuant to this Section 12.2 shall be made by the end of the Company taxable year in which a Liquidating Event occurs (or if later, within ninety (90) days after the date of such Liquidating Event).

(h) The distribution of cash or property to a Member in accordance with the provisions of this Section 12.2 constitutes a complete return to the Member of its Capital Contributions and a complete distribution to the Member on account of its Membership Interest

and all the Company's property and constitutes a compromise to which all Members have consented pursuant to Section 18-502(b) of the Act.

Section 12.3 Deficit Capital Accounts.

(k) Except as expressly provided in this Section 12.3, no Member shall be obligated to contribute cash to restore a deficit in its Capital Account balance.

(l) In the event the Class A Member's interests in the Company are "liquidated" within the meaning of Treasury Regulations Section 1.704-1(b)(2)(ii)(g), if the Class A Member has a deficit Capital Account balance in excess of the amount such Class A Member is deemed obligated to restore pursuant to the penultimate sentences of Treasury Regulations Section 1.704-2 (g)(1) and 1.704-2(i)(5) (an "Adjusted Deficit Capital Account Balance"), then the Class A Member shall be obligated to pay and restore to the Company cash in an amount equal to such Adjusted Deficit Capital Account Balance by the end of the Taxable Year during which the liquidation of the Company occurs, or if later, within ninety (90) days after the date of such liquidation; *provided*, *however*, that such restoration obligation of the Class A Member shall not, under any circumstances be more than its DRO Amount.

Section 12.4 Termination.

On completion of the satisfaction of liabilities and distribution of Assets as provided in this Agreement, the Manager (or such other Person or Persons as the Act may require or permit) shall file a certificate of cancellation with the Secretary of State of the State of Delaware and cancel any other filings made as provided in Section 2.1, and shall take such other actions as may be necessary to terminate the existence of the Company. Upon the filing of such certificate of cancellation, the existence of the Company shall terminate (and the term of the Company shall end), except as may be otherwise provided by the Act or other applicable Law. All costs and expenses in fulfilling the obligations under this Section 12.4 shall be borne by the Company.

Article XIII

GENERAL PROVISIONS

Section 13.1 Offset.

Whenever the Company (or another Person on behalf of the Company) is to pay any sum to any Member, any amounts then owed by such Member to the Company may be deducted from such sum before payment, *provided* that no Member's obligation to make Capital Contributions may be deducted from any payment amounts without such Member's consent.

Section 13.2 Notices.

All notices, consents, demands, requests or other communications which may be or are required to be given under this Agreement shall be in writing and shall (a) be sent by overnight courier, facsimile, electronic mail or United States mail, addressed to the recipient, postage paid, and registered or certified, return receipt requested, or delivered to the recipient in person and (b) be sent or delivered, in each case, at the addresses set forth on the signature page of this Agreement or such other address as a Member may specify by notice to the Company and the other Members; *provided*, that any Fund Documents, financial models or reports required to be delivered under this Agreement shall be emailed to (i) with respect to residential Projects, NRGRPVHoldCo1LLC@nrg.com, and (ii) with respect to commercial or industrial Projects, NRGDGPVHoldCo1LLC@nrg.com, and additionally, may be uploaded to a data site mutually agreed to by the Members, including by allowing access to a Member to a Fund Company data site, as long as such Members are delivered notice by one of the other means allowed hereunder when and where such documents are available. Any notice, request or consent to the Company must be given to the Manager. Notices, consents, demands, requests and other communications shall be deemed effective or served on the date of receipt at the address of the Person to receive it.

Section 13.3 Counterparts.

This Agreement may be executed in one or more counterparts, each bearing the signatures of one or more Members. Each such counterpart shall be considered an original and all of such counterparts shall constitute a single agreement binding all the parties as if all had signed a single document. Facsimile, electronic mail or pdf signatures shall be accepted as original signatures for purposes of this Agreement.

Section 13.4 Governing Law and Severability.

This Agreement shall be construed, interpreted and enforced in accordance with the internal laws and decisions of the State of Delaware without giving effect to any choice of law or conflict of law rules or provisions of any other state or jurisdiction that would cause the application of the laws of any jurisdiction other than the State of Delaware. If any provision of this Agreement shall be contrary to any other applicable Law, at the present time or in the future, such provision shall be deemed null and void, but this shall not affect the legality of the remaining provisions of this Agreement. This Agreement shall be deemed to be modified and amended so as to be in

compliance with applicable Law and this Agreement shall then be construed in such a way as will best serve the intention of the Parties at the time of the execution of this Agreement.

Section 13.5 Entire Agreement.

This Agreement, including any Annexes, Schedules and Exhibits, together with the other Investment Documents, constitutes the entire agreement among the Members regarding the terms and operations of the Company, except as amended in writing pursuant to the requirements of this Agreement, and supersedes all prior and contemporaneous agreements, statements, understandings and representations of the Parties.

Section 13.6 Effect of Waiver or Consent.

A waiver or consent, express or implied, to or of any breach or default by any Person in the performance by that Person of its obligations under this Agreement, or any Investment Document is not a consent or waiver to or of any other breach or default in the performance by that Person of the same or any other obligations of that Person under this Agreement, or any Investment Document. Failure on the part of a Person to complain of any act of any Person or to declare any Person in default with respect to its obligations under this Agreement, or any Investment Document, irrespective of how long that failure continues, does not constitute a waiver by that Person of its rights with respect to that default until the applicable statute of limitations period has run.

Section 13.7 Amendment or Modification.

Except as otherwise provided herein, this Agreement may be amended or modified from time to time only by a written instrument executed by all Members.

Section 13.8 Binding Effect.

Subject to the restrictions on Transfers set forth in this Agreement, this Agreement is binding on and inures to the benefit of the Members and their respective legal representatives, permitted successors and permitted assigns.

Section 13.9 Further Assurances.

In connection with this Agreement and the transactions contemplated hereby, each Member shall execute and deliver any additional documents and instruments and perform any additional acts that may be necessary or appropriate to effectuate and perform the provisions of this Agreement and those transactions contemplated here, including all filing, recording, publishing and other acts appropriate to comply with all requirements for the operation of a limited liability company under the laws of all jurisdictions where the Company shall conduct business.

Section 13.10 Jurisdiction.

The Parties agree to submit to the exclusive jurisdiction of the Supreme Court of the State of New York and the Federal District Court located in the Borough of Manhattan, State of New York, and any court of appeal from either thereof, in connection with any action or other

proceeding relating to this Agreement or the transactions contemplated hereby. Each Party irrevocably waives and agrees not to make, to the fullest extent permitted by Law, any objection which it may now or hereafter have to the jurisdiction of any such court or to the laying of venue of any such action or proceeding brought in any such court and any claim that any such action or proceeding brought in any such court has been brought in an inconvenient forum.

Section 13.11 LIMITATION ON LIABILITY.

EXCEPT AS PROVIDED IN SECTION 11.2, NO DAMAGES SHALL BE MADE BY ANY PARTY HERETO OR ANY OF ITS AFFILIATES, DIRECTORS, EMPLOYEES, ATTORNEYS OR AGENTS AGAINST ANY OTHER PARTY HERETO OR ANY OF ITS AFFILIATES, DIRECTORS, EMPLOYEES, ATTORNEYS OR AGENTS FOR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, OR EXEMPLARY DAMAGES (INCLUDING DAMAGES FOR LOST OPPORTUNITY, LOST PROFITS OR REVENUES OR LOSS OF USE OF SUCH PROFITS OR REVENUES) (WHETHER OR NOT THE CLAIM THEREFORE IS BASED ON CONTRACT, TORT, DUTY IMPOSED BY LAW OR OTHERWISE), IN CONNECTION WITH, ARISING OUT OF OR IN ANY WAY RELATED TO THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT OR THE OTHER INVESTMENT DOCUMENTS OR ANY ACT OR OMISSION OR EVENT OCCURRING IN CONNECTION THEREWITH; AND EACH PARTY HEREBY WAIVES, RELEASES AND AGREES NOT TO SUE UPON ANY SUCH CLAIM FOR ANY SUCH SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, OR EXEMPLARY DAMAGES, WHETHER OR NOT ACCRUED AND WHETHER OR NOT KNOWN OR SUSPECTED TO EXIST IN ITS FAVOR, *PROVIDED*, *HOWEVER*, THAT TO THE EXTENT A BREACH RESULTS IN THE LOSS, DISALLOWANCE OR REDUCTION OF ITCS, THE VALUE OF SUCH LOST, DISALLOWED OR REDUCED ITCS TO THE EXTENT PROVIDED IN SECTION 11.2 SHALL NOT CONSTITUTE SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, OR EXEMPLARY DAMAGES.

[Signature Pages Follow.]

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

CLASS B MEMBER:

NRG RENEW LLC

By: /s/ Thomas P. Doyle

Name: Thomas P. Doyle

Title: President

Address: 5790 Fleet Street, Suite 200
Carlsbad, CA 92008

Attention: Office of the General Counsel

Phone: (760) 710-2187

Fax: (760) 918-6780

Email: jennifer.hein@nrg.com

Portions of this Exhibit, indicated by the mark "[***]," were omitted and have been filed separately with the Secretary of the Commission pursuant to the Registrant's application requesting confidential treatment pursuant to

CLASS A MEMBER:

NRG YIELD DGPV HOLDING LLC

By: /s/ Brian Curci

Name: Brian Curci

Title: Corporate Secretary

Address: 211 Carnegie Center
Princeton, NJ 08540

Attention: Office of the General Counsel

Phone: 609-524-4500

Fax: 609-524-4501

Email: ogc@nrg.com

SOLELY FOR PURPOSES OF 2.1:

NRG ENERGY, INC.

By: /s/ Thomas P. Doyle

Name: Thomas P. Doyle

Title: President and CEO, NRG Renew

Address: 211 Carnegie Center
Princeton, NJ 08540

Attention: Office of the General Counsel

Phone: 609-524-4500

Fax: 609-524-4501

Email: ogc@nrg.com

Copies of the notices to the Class B Member shall also be sent to:

NRG DGPV HOLDCO 1 LLC

Address:	5790 Fleet Street, Suite 200, Carlsbad, CA 92008
Attention:	Office of the General Counsel
Phone:	609-524-4500
Facsimile:	609-524-4501
Email:	ogc@nrg.com

ANNEX I

Members

Member Name	Address for Notices	Initial Capital Contribution	Capital Account Balance	Number and Class of Units
NRG Yield DGPV Holding LLC	211 Carnegie Center Blvd. Princeton, NJ 08540 Attention: Office of the General Counsel Telephone: 609-524-4500 Facsimile: 609-524-4501 Email: ogc@nrg.com	1 USD	1 USD	1000 Class A Units
NRG Renew LLC	5790 Fleet Street, Suite 200 Carlsbad, CA 92008 Attention: Office of the General Counsel Telephone: 609-524-4500 Facsimile: 609-524-4501 Email: ogc@nrg.com	1 USD	1 USD	1000 Class B Units

Portions of this Exhibit, indicated by the mark "[***]," were omitted and have been filed separately with the Secretary of the Commission pursuant to the Registrant's application requesting confidential treatment pursuant to Rule 24b-2 of the Securities Exchange Act of 1934.

EXHIBIT A

Form of Fund Addendum

This FUND ADDENDUM (this "**Fund Addendum**") dated as of [●], 2015 (the "**Effective Date**"), is entered into pursuant to that certain Amended and Restated Limited Liability Company Agreement of NRG DGPV HOLDCO 1 LLC dated as of May 8, 2015 (the "**Agreement**"), by and between NRG YIELD DGPV HOLDING LLC, a Delaware limited liability company (the "**Class A Member**"), and NRG RENEW LLC, a Delaware limited liability company (the "**Class B Member**"). Capitalized terms used and not otherwise defined herein have the respective meanings assigned thereto in the Agreement.

Pursuant to Section 6.3 of the Agreement, [●] (the "Fund Company"), has become an Approved Acquisition. The Members are entering into this Fund Addendum to set forth certain specific agreed terms with respect to Company's acquisition of the Fund Company. Attached hereto (a) as Exhibit A is the updated Aggregate Tracking Model, (b) as Exhibit B is the Fund Base Case Model, (c) as Exhibit C is the updated Annual Budget, (d) as Exhibit D is the Fund Credit Profile and (e) as Exhibit E is the Form of Officer's Certificate, in each case reflecting the Approved Acquisition. The Officer's Certificate must be delivered by the Manager to the Members on or prior to each Equity Capital Contribution Date. Upon execution, this Fund Addendum shall supplement the Agreement as set forth herein.

Fund Company:

[Entity Name]
a Delaware limited liability company

Notice Address:

[Please insert]

Attn:
Telephone:
Facsimile:
Email:

Portions of this Exhibit, indicated by the mark "[***]," were omitted and have been filed separately with the Secretary of the Commission pursuant to the Registrant's application requesting confidential treatment pursuant to Rule 24b-2 of the Securities Exchange Act of 1934.

Topic	**Agreed Supplement**
Target Flip Date	**[INSERT DATE]**
Tax Assumptions *All of the following to be finalized with appropriate revisions for each Fund Addendum.*	The Highest Marginal Rate Applicable to the Class A Member is [[***]**%]**
	The Class A Member desires to provide a DRO Notice in accordance with Section 12.3. The DRO Amount for all purposes of the Agreement is **$[_____].**
	(a) The distributive share of Company items of income, gain, loss, deduction, and ITCs as determined for federal income tax purposes allocated by the Company to the Class A Member and any gain recognized by such Holder under Section 731(a) of the Code, shall be treated as recognized ratably during the Taxable Year, with the result that the Tax Benefit or Tax Cost with respect to such items allocated to the Class A Members shall be treated as having been paid or received in four equal installments on [April 30, June 30, September 30, and December 31] during the Taxable Year (the **"Tax Payment Dates**"). (b) In the Taxable Year in which the Flip Date occurs, such items allocated to the Class A Members for the period prior to the Flip Date and after the Flip Date will be treated as allocated ratably to each of the Tax Payment Dates during the Tax Year. (c) The ITC for any Project shall be recognized ratably under the Tax Payment Dates remaining in such Taxable Year following the Placed in Service Date for such Project.

Topic	**Agreed Supplement**
Computation of Tax Benefits and Tax Costs: Deferral to 2025	For purposes of calculating and determining Tax Costs and Tax Benefits, each Class A Member shall be treated as unable to utilize any Tax Benefits and not responsible to pay any Tax Costs for any Taxable Year prior to any Taxable Year that begins in calendar year 2025 (the "Initial Taxable Year") . In the Initial Taxable Year, Tax Benefits and Tax Costs shall be taken into account by the Class A Member by assuming that the Class A Member will incur on the first day of such Taxable Year the aggregate amount of all Tax Costs and Tax Benefits accrued in all previous Taxable Years at the Highest Marginal Tax Rate. Thereafter, each Class A Member shall be treated as able to use immediately and fully any Tax Benefits without regard to (X) whether the Class A Member has any income, gains, or tax liability against which it is permitted to offset such losses, deductions, or credits, (Y) any provision of Law limiting, restricting, deferring or disallowing such loss, deduction or credit that is applicable to any Class A Member as opposed to the Company.
Member Consents	[INSERT IF APPLICABLE.]

IN WITNESS WHEREOF, each of the undersigned has duly executed this Fund Addendum as of the date first above written.

CLASS A MEMBER:
NRG YIELD DGPV HOLDING LLC

By: _____
Name:
Title:

Address: 211 Carnegie Center
Princeton, NJ 08540
Attention: Office of the General Counsel
Phone: 609-524-4500
Fax: 609-524-4501
Email: ogc@nrg.com

CLASS B MEMBER:
NRG RENEW LLC

By: _____
Name:
Title:

Address: 211 Carnegie Center
Princeton, NJ 08540
Attention: Office of the General Counsel
Phone: 609-524-4500
Fax: 609-524-4501
Email: ogc@nrg.com

Portions of this Exhibit, indicated by the mark "[***]," were omitted and have been filed separately with the Secretary of the Commission pursuant to the Registrant's application requesting confidential treatment pursuant to Rule 24b-2 of the Securities Exchange Act of 1934.

EXHIBIT A

Aggregate Tracking Model

[See Attached]

Portions of this Exhibit, indicated by the mark "[***]," were omitted and have been filed separately with the Secretary of the Commission pursuant to the Registrant's application requesting confidential treatment pursuant to Rule 24b-2 of the Securities Exchange Act of 1934.

EXHIBIT B

Fund Base Case Model

[See Attached]

Portions of this Exhibit, indicated by the mark "[***]," were omitted and have been filed separately with the Secretary of the Commission pursuant to the Registrant's application requesting confidential treatment pursuant to Rule 24b-2 of the Securities Exchange Act of 1934.

EXHIBIT C

Annual Budget

[See Attached]

Portions of this Exhibit, indicated by the mark "[***]," were omitted and have been filed separately with the Secretary of the Commission pursuant to the Registrant's application requesting confidential treatment pursuant to Rule 24b-2 of the Securities Exchange Act of 1934.

EXHIBIT D

Fund Credit Profile

Counterparties to the Fund's offtake agreements will have credit ratings that are Investment Grade, Alternative Investment Grade, or Sub-Investment Grade, in each case on the later of (a) the date they enter into an offtake agreement or (b) 6 months prior to the Equity Capital Contribution Date for the purchase of the related Project. Cash flows from agreements with Alternative Investment Grade customers will be multiplied by the applicable Eligible Percentage listed in Part B below for purposes of calculating the Class A Capital Contribution Amount, and cash flows from agreements with Sub-Investment Grade customers will not be used for purposes of calculating the Class A Capital Contribution Amount. No more than [***]% of Company Revenues may come from agreements with customers with credit ratings lower than Investment Grade.

A. Investment Grade means:

1. For corporate customers, (a) a credit rating of [***] or higher by Standard & Poor's and "[***]" or higher by Moody's Investor's Service or an equivalent rating by a nationally recognized rating agency or (b) have an equivalent rating by NRG's Risk Management division;

2. For residential customers, a FICO Score of [***] or higher; and

3. All cash flows attributable to SREC offtake by NRG Power Marketing LLC or Boston Energy Trading and Marketing LLC.

B. Alternative Investment Grade and associated eligible percentages are:

Credit rating	**Eligible Percentage**
Corporate customers rated [***] to [***] by Standard & Poor's or an equivalent rating by a nationally recognized rating agency or NRG's Risk Management division	[***]%
Corporate customers rated [***] to [***] by Standard & Poor's or an equivalent rating by a nationally recognized rating agency or NRG's Risk Management division	[***]%
Residential customers with FICO scores between [***] and [***]	[***]%
Residential customers with FICO scores between [***] and [***]	[***]%

C. Sub-Investment Grade means:

1. Corporate customers rated below [***] by Standard & Poor's or an equivalent rating by a nationally recognized rating agency or NRG's Risk Management division; and

2. Residential customers with FICO scores below [***].

Portions of this Exhibit, indicated by the mark "[***]," were omitted and have been filed separately with the Secretary of the Commission pursuant to the Registrant's application requesting confidential treatment pursuant to Rule 24b-2 of the Securities Exchange Act of 1934.

3.

EXHIBIT E

Form of Officer's Certificate

This Certificate is furnished pursuant to that certain Amended and Restated Limited Liability Agreement of NRG DGPV Holdco 1 LLC, a Delaware limited liability company (the "Company"), dated as of May 8, 2015 (the "LLC Agreement"), between NRG Renew LLC, a Delaware limited liability company and NRG Yield DGPV Holding LLC, a Delaware limited liability company. Unless otherwise defined herein, terms defined in the LLC Agreement and used herein shall have the meanings given to them in the LLC Agreement.

I, the undersigned officer of NRG Renew LLC, acting in its capacity as the Manager of the Company, DO HEREBY CERTIFY on and as of the date hereof that, upon due inquiry, to the best of my knowledge:

1. The tranche of Projects currently presented to [●] (the "Fund Company") meets the minimum requirements set forth in the Fund Credit Profile in all material respects.

2. The Class A Capital Contribution Amount has been determined in accordance with the most recent Fund Base Case Model such that, based on the model (i) the Class A Member achieves the Target IRR on the Target Flip Date; and (ii) the Initial Class A Member shall receive a minimum [***]% return per annum based on Available Cash Flow until the Target Flip Date and no less than a [***]% average return based on Available Cash Flow during the first ten years following the date on which the Class A Capital Contribution Amount has been made.

The statements in this Certificate are based on the assumptions contained in the Fund Base Case Model.

[Signature page follows]

Portions of this Exhibit, indicated by the mark "[***]," were omitted and have been filed separately with the Secretary of the Commission pursuant to the Registrant's application requesting confidential treatment pursuant to Rule 24b-2 of the Securities Exchange Act of 1934.

IN WITNESS WHEREOF, I have hereunto set my hand on the ___ day of _____.

By: _____
Name:
Title: _____ of NRG Renew LLC

Portions of this Exhibit, indicated by the mark "[***]," were omitted and have been filed separately with the Secretary of the Commission pursuant to the Registrant's application requesting confidential treatment pursuant to Rule 24b-2 of the Securities Exchange Act of 1934.

EXHIBIT B

Form of Certificate

THE INTERESTS REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "***ACT***") OR ANY APPLICABLE STATE SECURITIES LAWS. ACCORDINGLY, SUCH INTERESTS MAY NOT BE SOLD, TRANSFERRED, ASSIGNED OR OTHERWISE DISPOSED OF WITHOUT COMPLIANCE WITH SUCH ACT AND SUCH STATE SECURITIES LAWS, AND THE COMPANY MAY REQUIRE AN OPINION OF COUNSEL SATISFACTORY TO IT THAT NO VIOLATION OF SUCH ACT AND SUCH STATE SECURITIES LAWS WILL RESULT FROM ANY PROPOSED SALE, TRANSFER, ASSIGNMENT OR OTHER DISPOSITION OF SUCH INTERESTS.

THIS CERTIFICATE EVIDENCES AN INTEREST IN NRG DGPV HOLDCO 1 LLC AND SHALL BE A SECURITY FOR THE PURPOSES OF ARTICLE 8 OF THE UNIFORM COMMERCIAL CODE AS IN EFFECT IN THE STATE OF NEW YORK.

No. 1 [_____] Class **[A] [B]** Units

NRG DGPV HOLDCO 1 LLC
a Limited Liability Company
under the laws of the State of Delaware
Certificate of Interest

This certifies that **[_____]** is the owner of a Class **[A] [B]** membership interest in NRG DGPV HOLDCO 1 LLC (the "***Company***"), represented by **[_____]** Class **[A] [B]** Units, which membership interest is subject to the terms of the Amended and Restated Limited Liability Company Agreement of NRG DGPV Holdco 1 LLC, dated as of May 8, 2015, as the same may be further amended from time to time in accordance with the terms thereof (the "***Limited Liability Company Agreement***").

This Certificate of Interest may be transferred by the lawful holders hereof only in accordance with the provisions of the Limited Liability Company Agreement.

IN WITNESS WHEREOF, the said Company has caused this Certificate of Interest to be signed by its duly authorized officer as of the **[___]** day of **[_____]**, 20**[●]**.

NRG DGPV HOLDCO 1 LLC

By: _____
Name:
Title:

Portions of this Exhibit, indicated by the mark "[***]," were omitted and have been filed separately with the Secretary of the Commission pursuant to the Registrant's application requesting confidential treatment pursuant to Rule 24b-2 of the Securities Exchange Act of 1934.

Form of Disposition Instrument

INSTRUMENT OF DISPOSITION OF
MEMBERSHIP INTEREST IN
NRG DGPV HOLDCO 1 LLC

FOR VALUE RECEIVED, the undersigned does hereby sell, assign and transfer unto _____ (print or type name of assignee) the membership interest evidenced by and within the Certificate of Interest herewith, and does hereby irrevocably constitute and appoint _____ as attorney to transfer said interest on the books of NRG DGPV HOLDCO 1 LLC, and to cancel said Certificate of Interest, with full power of substitution in the premises.

Dated as of: **[**_____**]**

[_____**]**

By: _____
Name:
Title:

Portions of this Exhibit, indicated by the mark "[***]," were omitted and have been filed separately with the Secretary of the Commission pursuant to the Registrant's application requesting confidential treatment pursuant to Rule 24b-2 of the Securities Exchange Act of 1934.

EXHIBIT C

Form of Assignment and Assumption Agreement

This ASSIGNMENT AND ASSUMPTION AGREEMENT (this "Agreement") is made as of _____, _____, by and among _____ (the "Assignor"); and _____ (the "Assignee"). Capitalized terms used herein but not defined herein shall have the meanings ascribed to such terms in the LLC Agreement (defined below).

W I T N E S S E T H:

WHEREAS, the Assignor is a Member of NRG DGPV Holdco 1 LLC (the "Company");

WHEREAS, Section 9.3 of the Amended and Restated Limited Liability Company Agreement of the Company, dated as of May 8, 2015 (the "LLC Agreement") by and among the Members party thereto, permits, under certain circumstances and subject to certain restrictions, the Disposition of the Assignor's Membership Interest in the Company;

WHEREAS, the Assignor has agreed to sell, grant, convey, transfer, assign and deliver to the Assignee (or its designee), and the Assignee has agreed to purchase, accept and assume (or will cause its designee to purchase, accept and assume), all [or a portion thereof] of the rights, duties and obligations of the Assignor with respect to its Membership Interest in the Company.

NOW, THEREFORE, for value received, in consideration of the mutual agreements herein contained and other good and valuable consideration, receipt and sufficiency thereof being hereby acknowledged, the parties hereto hereby agree as follows:

1. Assignment. The Assignor hereby irrevocably sells, grants, conveys, transfers, assigns, and delivers unto Assignee (or its designee), without recourse to the Assignor, all [or a portion thereof] of the Assignor's rights, title and interest in and to the Assignor's Membership Interest in the Company (the "Assigned Interest"). The Assignor hereby irrevocably delegates, without recourse to the Assignor, any and all duties, obligations, responsibilities, claims, demands and other commitments in connection with the Assigned Interest, as applicable, unto Assignee.

2. Acceptance of Assignment. Assignee hereby irrevocably purchases, accepts and assumes the Assigned Interest and from the date hereof agrees to perform and be bound by all the terms, conditions and covenants of and assumes the duties and obligations of the Assignor with respect to the Assigned Interest.

3. Representations and Warranties of the Assignor. The Assignor hereby represents and warrants to the Assignee as follows:

(a) The Assignor (i) is duly organized and validly existing under the laws of its jurisdiction of organization or incorporation, (ii) is in good standing under such laws and (iii) has full power and authority to execute, deliver and perform its obligations under this Agreement.

(b) The rights and duties assigned by the Assignor pursuant to this Agreement are not subject to any prior sale, transfer, assignment or participation by the Assignor or any agreement to assign, convey, transfer or participate, in whole or in part.

4. Representations and Warranties of Assignee. Assignee hereby represents and warrants to the Assignor that the Assignee (a) is duly organized and validly existing under the laws of its jurisdiction of organization or incorporation, (b) is in good standing under such laws, (c) has full power and authority to execute, deliver and perform its obligations under this Agreement and (d) is able to make all representations and warranties contained in and perform its obligations under the LLC Agreement.

5. LLC Agreement Requirements.

(a) As required by Section 9.3(a)(ii)(A) of the LLC Agreement, Assignee's notice address for purposes of the LLC Agreement is:

[_____]

(b) As required by Section 9.3(a)(ii)(B) of the LLC Agreement, [the Parents/guarantor] of Assignee are: [_____]

(c) As required by Section 9.3(a)(ii)(C) of the LLC Agreement, after the Disposition contemplated by this Agreement, Assignor shall own [_____] Class [___] Units in the Company and Assignee shall [_____] Class [___] Units.

(d) As required by Section 9.3(a)(ii)(D) of the LLC Agreement, Assignee hereby ratifies the LLC Agreement and confirms that the representations and warranties in Article VIII of the LLC Agreement are true and correct with respect to it and this Disposition.

(e) As required by Section 9.3(a)(ii)(E) of the LLC Agreement, Assignee hereby ratifies the Investment Documents to which Assignor is a party and agrees to be bound by them to the same extent that Assignor was bound by them prior to the Disposition contemplated by this Agreement.

(f) As required by Section 9.3(a)(ii)(F) of the LLC Agreement, each of Assignor and Assignee hereby represents and warrants that the Disposition contemplated by this Agreement is being made in accordance with all applicable Laws and that all conditions set forth in Section 9.3 (other than (A)) are true and correct.

6. Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OR CHOICE OF LAWS OTHER THAN SECTION 5-1401 OF THE NEW YORK GENERAL OBLIGATIONS LAW.

7. Counterparts. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall constitute an original, but all of which counterparts together shall constitute one and the same instrument.

[Signature pages to follow]

IN WITNESS WHEREOF, the parties hereto have each caused this Agreement to be duly executed by their respective officers thereunto duly authorized as of the date set forth above.

ASSIGNOR: [INSERT ASSIGNOR]

By: _____
Name:
Title:

ASSIGNEE: [INSERT ASSIGNEE]

By: _____
Name:
Title:

Portions of this Exhibit, indicated by the mark "[***]," were omitted and have been filed separately with the Secretary of the Commission pursuant to the Registrant's application requesting confidential treatment pursuant to Rule 24b-2 of the Securities Exchange Act of 1934.

EXHIBIT D

Initial Approved Budget*

Fiscal Year	2015
[***]	

*[***]

Portions of this Exhibit, indicated by the mark "[***]," were omitted and have been filed separately with the Secretary of the Commission pursuant to the Registrant's application requesting confidential treatment pursuant to Rule 24b-2 of the Securities Exchange Act of 1934.

EXHIBIT 10.6

Execution Version

AMENDMENT NO. 3

This AMENDMENT (this "Amendment") dated as of January 27, 2014 is by and between NRG West Holdings LLC, as Borrower and Credit Agricole Corporate and Investment Bank, as Administrative Agent. Capitalized terms used herein and not otherwise defined herein shall have the respective meanings ascribed thereto in Appendix A to the Credit Agreement.

W I T N E S S E T H:

WHEREAS, the Borrower, the Administrative Agent and the Lenders are parties to that certain Credit Agreement dated as of August 23, 2011, as amended by Amendment No. 1 dated as of October 7, 2011 and Amendment No. 2 dated as of February 29, 2012 (the "Credit Agreement");

WHEREAS, the Borrower has requested that the Requisite Financing Parties or the Requisite Tranche B Lenders (as applicable) approve this Amendment of the Credit Agreement on the terms and subject to the conditions herein specified; and

WHEREAS, the Requisite Financing Parties and the Requisite Tranche B Lenders (as applicable) have consented to this Amendment of the Credit Agreement on the terms and subject to the conditions herein specified and directed the Administrative Agent to therefore execute and deliver this Amendment in accordance with Sections 4.2, 10.11 and 11.10 (as applicable) of the Credit Agreement;

NOW THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which is hereby established and confirmed, the parties hereto hereby agree as follows:

1. Consent Subject to Sections 2 and 3 below, pursuant to Sections 4.6(h)(i)(c) and 10.11 of the Credit Agreement, the Administrative Agent (at the direction of the Requisite Financing Parties) hereby consents to the survey items described in item 14 of Schedule B – Part I of that certain [Pro Forma Loan Policy Loan Policy of Title Insurance issued by Fidelity National Title Insurance Company under Policy No. Pro Forma-23036266-AL] (attached hereto as Exhibit A) (the "Pro Forma"); provided, that the Reissued Title Policy is in a form substantially similar to the Pro Forma, including the Survey Encroachment Endorsement, and includes a commitment to include in any owner's title insurance policy issued to any purchaser of any portion of the Collateral from any Lenders or through foreclosure all endorsements issued in the Pro Forma in connection with the survey items described in item 14 of the Pro Forma; provided, further, that as to any such survey items for which all such endorsements cannot be issued, such survey items shall be subject to the requirements of Section 6.8(b)(vi) of the Credit Agreement.

2. Amendment.

(a) The Parties hereby agree to insert the following as a new Section 6.8 between Section 6.7 and Article VII of the Credit Agreement:

"6.8 Encroachments; Title Policy. The Borrower shall promptly, but in any event not later than 90 days after the Term Conversion Date:

(a) Pursuant to Section 7.14(g) and notwithstanding anything else to the contrary in this Credit Agreement or any other Financing Document but subject to the provisions of this Section 6.8, amend the Site Agreements (the "Revised Site Agreements") solely to revise the applicable legal descriptions of the real property covered thereunder and make such other modifications to the Site Agreements as the Administrative Agent may reasonably require in order to eliminate the encroachments (the "Encroachments") described in subsections G, N, S, T, V, HH, II, JJ and RR of item 14 of Schedule B – Part I of that certain [Pro Forma Loan Policy of Title Insurance issued by Fidelity National Title Insurance

Company under Policy No. Pro Forma-23036266-AL], attached hereto as Schedule 6.8 (the "Fidelity Pro Forma"). The Revised Site Agreements and any other documentation related thereto shall be in a form to allow or cause the Title Company to issue the Second Reissued Title Policy to meet the requirements of Section 6.8(b) below and otherwise shall be in form and substance reasonably satisfactory to the Administrative Agent. Borrower shall also obtain any consents necessary from third parties, including Site Owners and subordinated lenders, in connection with said amendments.

(b) Deliver to the Administrative Agent a Title Policy which has been reissued by the Title Insurance Company (the "Second Reissued Title Policy") and such Second Reissued Title Policy shall (i) insure the continuing first priority of the Mortgage (subject only to (A) Permitted Priority Liens and (B) other Permitted Liens to the extent junior to the Liens granted for the benefit of the Secured Parties pursuant thereto) and otherwise be in form and substance reasonably satisfactory to Administrative Agent, (ii) contain only the coverage exceptions set forth in the Fidelity Pro Forma or that are otherwise approved by the Administrative Agent, provided that the Encroachments shall be deleted, (iii) reflect the revised legal descriptions of the real property covered under the Site Agreements as required by Section 6.8(a) above, (iv) be in an amount equal to the Title Policy Amount, (v) insure the amendments and confirmatory documents described in Section 6.8(d) below and (vi) include a commitment to include in any owner's title insurance policy issued to any purchaser of any portion of the Collateral from any Lenders or through foreclosure (a "Subsequent Purchaser") all endorsements issued in the Fidelity Pro Forma in connection with the survey items described in item 14 of the Fidelity Pro Forma or, for any such survey items for which all such endorsements cannot be issued, a commitment to exclude such survey items as exceptions to such owner's title insurance policy to be issued to a Subsequent Purchaser.

(c) Deliver to the Administrative Agent a final "as-built" survey of the Site, addressed to the Collateral Agent for the benefit of the Secured Parties, the Title Insurance Company and the Borrower showing the completed Project, which survey shall (i) be in form and substance reasonably satisfactory to the Collateral Agent and the Title Insurance Company, (ii) disclose no easements, rights-of-way or encumbrances, other than (A) Permitted Priority Liens and (B) other Permitted Liens to the extent junior to the Liens granted for the benefit of the Secured Parties pursuant to the Mortgage, (iii) contain only the coverage exceptions set forth in the Fidelity Pro Forma or that are otherwise approved by the Administrative Agent, provided that the Encroachments shall be deleted, and (iv) reflect the revised legal descriptions of the real property covered under the Site Agreements as required by Section 6.8(a) above.

(d) Prepare and cause to be executed and recorded such amendments to the Mortgage or other confirmatory documents as may be reasonably requested by the Collateral Agent in order to protect, confirm or maintain the first-priority Lien of the Mortgage on the Mortgaged Property, as reflected in the final survey delivered pursuant to Section 8.6(c) above. Any and all amendments described in the foregoing sentence must be insured under the Second Reissued Title Policy."

(b) The Parties hereby agree to insert the following definition in alphabetic order in Appendix A to the Credit Agreement:

"Encroachments" has the meaning set forth in Section 6.8(a) of this Credit Agreement.

"Fidelity Pro Forma" has the meaning set forth in Section 6.8(a) of this Credit Agreement.

"Revised Site Agreements" has the meaning set forth in Section 6.8(a) of this Credit Agreement.

"Second Reissued Title Policy" has the meaning set forth in Section 6.8(b) of this Credit Agreement."

"Subsequent Purchaser" has the meaning set forth in Section 6.8(b) of this Credit Agreement."

(c) Exhibit A hereto is added as a new Schedule 6.8 to the Credit Agreement.

3. Waiver. Pursuant to Section 4.2 of the Credit Agreement, the Administrative Agent (at the direction of the Requisite Tranche B Lenders) hereby consents to the waiver of the following condition to making of a Tranche B Construction Loan on or about January 28, 2014: the requirement under Sections 4.2(b) and 3.2 of the Credit Agreement that the Borrower shall deliver a Borrowing Request to the Administrative Agent not later than 11:00 a.m. (New York City time) on the first Business Day prior to the proposed date of Borrowing set forth therein in the case of Base Rate Loans, provided that the Borrower shall deliver a Borrowing Request to the Administrative Agent not later than 5:00 p.m. (New York City time) on the first Business Day prior to the proposed date of Borrowing set forth therein in the case of Base Rate Loans.

4. No Waivers; Etc. Except as expressly provided in this Amendment, (i) all of the terms and conditions of the Financing Documents remain in full force and effect and none of such terms and conditions are, or shall be construed as, otherwise amended or modified and (ii) neither the Administrative Agent nor any Financing Party waives any Default or Event of Default, or any right or remedy available to the Administrative Agent or any Financing Party under the Financing Documents, whether any such defaults, rights or remedies presently exist or arise in the future. Notwithstanding anything contained herein, the amendments contained in this Amendment (i) are limited as specified, (ii) are effective only with respect to the transactions described in this Amendment for the specific instance and the specific purpose for which it is given, (iii) shall not be effective for any other purpose or transaction and (iv) do not constitute an amendment or basis for a subsequent consent or waiver of any of the provisions of the Financing Documents.

5. Representations and Warranties. The Borrower hereby represents and warrants that each of the representations and warranties set forth in the Credit Agreement are true and correct on and as of the date hereof as they relate to the execution and delivery of this Amendment and are otherwise true and correct on the date hereof in all material respects after giving effect thereto.

6. Full Force and Effect; Ratification. This Amendment shall be construed in connection with and as part of the Credit Agreement, and except as modified and expressly amended by this Amendment, all terms, conditions and covenants contained in the Credit Agreement are hereby ratified and shall remain in full force and effect, enforceable in accordance with their respective terms.

7. References to the Credit Agreement. Any and all notices, requests, certificates and other instruments executed and delivered after the Effective Date may refer to any Financing Document without making specific reference to this Amendment but nevertheless all such references shall include this Amendment unless the context otherwise requires.

8. Financing Document. Each of the parties hereto acknowledges and agrees that this Amendment shall be deemed a "Financing Document" for all purposes under the Credit Agreement.

9. Governing Law. THIS AMENDMENT SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, AND THE RIGHTS OF THE PARTIES SHALL BE GOVERNED BY, THE LAW OF THE STATE OF NEW YORK EXCLUDING CHOICE-OF-LAW PRINCIPLES OF THE LAW OF SUCH STATE THAT WOULD REQUIRE THE APPLICATION OF THE LAWS OF A JURISDICTION OTHER THAN SUCH STATE.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF the parties have caused this Amendment to be executed as of the day and year first above written.

NRG WEST HOLDINGS LLC,
as Borrower

By: /s/ Gaetan Frotte
Name: Gaetan Frotte
Title: Treasurer

CREDIT AGRICOLE CORPORATE
AND INVESTMENT BANK,

as Administrative Agent

By: /s/ Edward Chu

Name: Edward Chu

Title: Vice President

By: /s/ Ted Vandermel

Name: Ted Vandermel

Title: Director

EXHIBIT A to AMENDMENT NO. 3

SCHEDULE 6.8

Fidelity Pro Forma

[*Attached*]

Fidelity National Title Insurance Company

POLICY NO.: Pro Forma-23036266-AL

PRO FORMA
LOAN POLICY OF TITLE INSURANCE

Issued by

Fidelity National Title Insurance Company

Any notice of claim and any other notice or statement in writing required to be given to the Company under this Policy must be given to the Company at the address shown in Section 17 of the Conditions.

COVERED RISKS

SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE EXCEPTIONS FROM COVERAGE CONTAINED IN SCHEDULE B, AND THE CONDITIONS, FIDELITY NATIONAL TITLE INSURANCE COMPANY, a California corporation (the "Company") insures as of Date of Policy and, to the extent stated in Covered Risks 11, 13, and 14, after Date of Policy, against loss or damage, not exceeding the Amount of Insurance, sustained or incurred by the Insured by reason of:

1. Title being vested other than as stated in Schedule A.
2. Any defect in or lien or encumbrance on the Title. This Covered Risk includes but is not limited to insurance against loss from
   - (a) A defect in the Title caused by
     - (i) forgery, fraud, undue influence, duress, incompetency, incapacity, or impersonation;
     - (ii) failure of any person or Entity to have authorized a transfer or conveyance;
     - (iii) a document affecting Title not properly created, executed, witnessed, sealed, acknowledged, notarized, or delivered;
     - (iv) failure to perform those acts necessary to create a document by electronic means authorized by law;
     - (v) a document executed under a falsified, expired, or otherwise invalid power of attorney;
     - (vi) a document not properly filed, recorded, or indexed in the Public Records including failure to perform those acts by electronic means authorized by law; or
     - (vii) a defective judicial or administrative proceeding.
   - (b) The lien of real estate taxes or assessments imposed on the Title by a governmental authority due or payable, but unpaid.
   - (c) Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land. The term "encroachment" includes encroachments of existing improvements located on the Land onto adjoining land, and encroachments onto the Land of existing improvements located on adjoining land.
3. Unmarketable Title.
4. No right of access to and from the Land.
5. The violation or enforcement of any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to

(a) the occupancy, use, or enjoyment of the Land;

(b) the character, dimensions, or location of any improvement erected on the Land;

(c) the subdivision of land; or

(d) environmental protection

if a notice, describing any part of the Land, is recorded in the Public Records setting forth the violation or intention to enforce, but only to the extent of the violation or enforcement referred to in that notice.

6. An enforcement action based on the exercise of a governmental police power not covered by Covered Risk 5 if a notice of the enforcement action, describing any part of the Land, is recorded in the Public Records, but only to the extent of the enforcement referred to in that notice.

7. The exercise of the rights of eminent domain if a notice of the exercise, describing any part of the Land, is recorded in the Public Records.

8. Any taking by a governmental body that has occurred and is binding on the rights of a purchaser for value without Knowledge.

9. The invalidity or unenforceability of the lien of the Insured Mortgage upon the Title. This Covered Risk includes but is not limited to insurance against loss from any of the following impairing the lien of the Insured Mortgage

(a) forgery, fraud, undue influence, duress, incompetency, incapacity, or impersonation;

(b) failure of any person or Entity to have authorized a transfer or conveyance;

(c) the Insured Mortgage not being properly created, executed, witnessed, sealed, acknowledged, notarized, or delivered;

(d) failure to perform those acts necessary to create a document by electronic means authorized by law;

(e) a document executed under a falsified, expired, or otherwise invalid power of attorney;

(f) a document not properly filed, recorded, or indexed in the Public Records including failure to perform those acts by electronic means authorized by law; or

(g) a defective judicial or administrative proceeding.

10. The lack of priority of the lien of the Insured Mortgage upon the Title over any other lien or encumbrance.

11. The lack of priority of the lien of the Insured Mortgage upon the Title

(a) as security for each and every advance of proceeds of the loan secured by the Insured Mortgage over any statutory lien for services, labor, or material arising from construction of an improvement or work related to the Land when the improvement or work is either

(i) contracted for or commenced on or before Date of Policy; or

(ii) contracted for, commenced or continued after Date of Policy if the construction is financed, in whole or in part, by proceeds of the loan secured by the Insured Mortgage that the Insured has advanced or is obligated on Date of Policy to advance; and

(b) over the lien of any assessments for street improvements under construction or completed at Date of Policy.

12. The invalidity or unenforceability of any assignment of the Insured Mortgage, provided the assignment is shown in Schedule A, or the failure of the assignment shown in Schedule A to vest title to the Insured Mortgage in the named Insured assignee free and clear of all liens.

13. The invalidity, unenforceability, lack of priority, or avoidance of the lien of the Insured Mortgage upon the Title

(a) resulting from the avoidance in whole or in part, or from a court order providing an alternative remedy, of any transfer of all or any part of the title to or any interest in the Land occurring prior to the transaction creating the lien of the Insured Mortgage because that prior transfer constituted a fraudulent or preferential transfer under federal bankruptcy, state insolvency, or similar creditors' rights laws; or

(b) because the Insured Mortgage constitutes a preferential transfer under federal bankruptcy, state insolvency, or similar creditors' rights laws by reason of the failure of its recording in the Public Records

(i) to be timely, or

(ii) to impart notice of its existence to a purchaser for value or to a judgment or lien creditor.

14. Any defect in or lien or encumbrance on the Title or other matter included in Covered Risks 1 through 13 that has been created or attached or has been filed or recorded in the Public Records subsequent to Date of Policy and prior to the recording of the Insured Mortgage in the Public Records.

The Company will also pay the costs, attorneys' fees, and expenses incurred in defense of any matter insured against by this Policy, but only to the extent provided in the Conditions.

IN WITNESS WHEREOF, FIDELITY NATIONAL TITLE INSURANCE COMPANY has caused this policy to be signed and sealed by its duly authorized officers.

Fidelity National Title Insurance Company

Countersigned by:

Pro Forma Specimen
Authorized Signature

This is a Pro Forma Policy. It does not reflect the present state of the Title and is not a commitment to (i) insure the Title or (ii) issue any of the attached endorsements. Any such commitment must be an express written undertaking on appropriate forms of the Company.

The following matters are expressly excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys' fees, or expenses that arise by reason of:

1. (a) Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
   (i) the occupancy, use, or enjoyment of the Land;
   (ii) the character, dimensions, or location of any improvement erected on the Land;
   (iii) the subdivision of land; or
   (iv) environmental protection;
   or the effect of any violation of these laws, ordinances, or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5.
   (b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 6.
2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
3. Defects, liens, encumbrances, adverse claims, or other matters
   (a) created, suffered, assumed, or agreed to by the Insured Claimant;
   (b) not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
   (c) resulting in no loss or damage to the Insured Claimant;
   (d) attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 11, 13, or 14); or
   (e) resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Insured Mortgage.
4. Unenforceability of the lien of the Insured Mortgage because of the inability or failure of an insured to comply with applicable doing-business laws of the state where the Land is situated.
5. Invalidity or unenforceability in whole or in part of the lien of the Insured Mortgage that arises out of the transaction evidenced by the Insured Mortgage and is based upon usury or any consumer credit protection or truth-in-lending law.
6. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction creating the lien of the Insured Mortgage, is
   (a) a fraudulent conveyance or fraudulent transfer, or
   (b) a preferential transfer for any reason not stated in Covered Risk 13(b) of this policy.
7. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the Insured Mortgage in the Public Records. This exclusion does not modify or limit the coverage provided under Covered Risk 11(b).

CONDITIONS

1. DEFINITION OF TERMS

The following terms when used in this policy mean:

(a) "Amount of Insurance": The amount stated in Schedule A, as may be increased or decreased by endorsement to this policy, increased by Section 8(b) or decreased by Section 10 of these Conditions.

(b) "Date of Policy": The date designated as "Date of Policy" in Schedule A.

(c) "Entity": A corporation, partnership, trust, limited liability company, or other similar legal entity.

(d) "Indebtedness": The obligation secured by the Insured Mortgage including one evidenced by electronic means authorized by law, and if that obligation is the payment of a debt, the Indebtedness is the sum of

(i) the amount of the principal disbursed as of Date of Policy;

(ii) the amount of the principal disbursed subsequent to Date of Policy;

(iii) the construction loan advances made subsequent to Date of Policy for the purpose of financing in whole or in part the construction of an improvement to the Land or related to the Land that the Insured was and continued to be obligated to advance at Date of Policy and at the date of the advance;

(iv) interest on the loan;

(v) the prepayment premiums, exit fees, and other similar fees or penalties allowed by law;

(vi) the expenses of foreclosure and any other costs of enforcement;

(vii) the amounts advanced to assure compliance with laws or to protect the lien or the priority of the lien of the Insured Mortgage before the acquisition of the estate or interest in the Title;

(viii) the amounts to pay taxes and insurance; and

(ix) the reasonable amounts expended to prevent deterioration of improvements; but the Indebtedness is reduced by the total of all payments and by any amount forgiven by an Insured.

(e) "Insured": The Insured named in Schedule A.

(i) The term "Insured" also includes

(A) the owner of the Indebtedness and each successor in ownership of the Indebtedness, whether the owner or successor owns the Indebtedness for its own account or as a trustee or other fiduciary, except a successor who is an obligor under the provisions of Section 12(c) of these Conditions;

(B) the person or Entity who has "control" of the "transferable record," if the Indebtedness is evidenced by a "transferable record," as these terms are defined by applicable electronic transactions law;

(C) successors to an Insured by dissolution, merger, consolidation, distribution, or reorganization;

(D) successors to an Insured by its conversion to another kind of Entity;

(E) a grantee of an Insured under a deed delivered without payment of actual valuable consideration conveying the Title

(1) if the stock, shares, memberships, or other equity interests of the grantee are wholly-owned by the named Insured,

(2) if the grantee wholly owns the named Insured, or

(3) if the grantee is wholly- owned by an affiliated Entity of the named Insured, provided the affiliated Entity and the named Insured are both wholly-owned by the same person or Entity;

(F) any government agency or instrumentality that is an insurer or guarantor under an insurance contract or guaranty insuring or guaranteeing the Indebtedness secured by the Insured Mortgage, or any part of it, whether named as an Insured or not;

(ii) With regard to (A), (B), (C), (D), and (E) reserving, however, all rights and defenses as to any successor that the Company would have had against any predecessor Insured, unless the successor acquired the Indebtedness as a purchaser for value without Knowledge of the asserted defect, lien, encumbrance, or other matter insured against by this policy.

(f) "Insured Claimant": An Insured claiming loss or damage.

(g) "Insured Mortgage": The Mortgage described in paragraph 4 of Schedule A.

(h) "Knowledge" or "Known": Actual knowledge, not constructive knowledge or notice that may be imputed to an Insured by reason of the Public Records or any other records that impart constructive notice of matters affecting the Title.

(i) "Land": The land described in Schedule A, and affixed improvements that by law constitute real property. The term "Land" does not include any property beyond the lines of the area described in Schedule A, nor any right, title, interest, estate, or easement in abutting streets, roads, avenues, alleys, lanes, ways or waterways, but this does not modify or limit the extent that a right of access to and from the Land is insured by this policy.

(j) "Mortgage": Mortgage, deed of trust, trust deed, or other security instrument, including one evidenced by electronic means authorized by law.

(k) "Public Records": Records established under state statutes at Date of Policy for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without Knowledge. With respect to Covered Risk 5(d), "Public Records" shall also include environmental protection liens filed in

the records of the clerk of the United States District Court for the district where the Land is located.

(l) "Title": The estate or interest described in Schedule A.

(m) "Unmarketable Title": Title affected by an alleged or apparent matter that would permit a prospective purchaser or lessee of the Title or lender on the Title or a prospective purchaser of the Insured Mortgage to be released from the obligation to purchase, lease, or lend if there is a contractual condition requiring the delivery of marketable title.

2. CONTINUATION OF INSURANCE

The coverage of this policy shall continue in force as of Date of Policy in favor of an Insured after acquisition of the Title by an Insured or after conveyance by an Insured, but only so long as the Insured retains an estate or interest in the Land, or holds an obligation secured by a purchase money Mortgage given by a purchaser from the Insured, or only so long as the Insured shall have liability by reason of warranties in any transfer or conveyance of the Title. This policy shall not continue in force in favor of any purchaser from the Insured of either (i) an estate or interest in the Land, or

(i) an obligation secured by a purchase money Mortgage given to the Insured.

3. NOTICE OF CLAIM TO BE GIVEN BY INSURED CLAIMANT

The Insured shall notify the Company promptly in writing (i) in case of any litigation as set forth in Section 5(a) of these Conditions, (ii) in case Knowledge shall come to an Insured of any claim of title or interest that is adverse to the Title or the lien of the Insured Mortgage, as insured, and that might cause loss or damage for which the Company may be liable by virtue of this policy, or (iii) if the Title or the lien of the Insured Mortgage, as insured, is rejected as Unmarketable Title. If the Company is prejudiced by the failure of the Insured Claimant to provide prompt notice, the Company's liability to the Insured Claimant under the policy shall be reduced to the extent of the prejudice.

4. PROOF OF LOSS

In the event the Company is unable to determine the amount of loss or damage, the Company may, at its option, require as a condition of payment that the Insured Claimant furnish a signed proof of loss. The proof of loss must describe the defect, lien, encumbrance, or other matter insured against by this policy that constitutes the basis of loss or damage and shall state, to the extent possible, the basis of calculating the amount of the loss or damage.

5. DEFENSE AND PROSECUTION OF ACTIONS

(a) Upon written request by the Insured, and subject to the options contained in Section 7 of these Conditions, the Company, at its own cost and without unreasonable delay, shall provide for the defense of an Insured in litigation in which any third party asserts a claim covered by this policy adverse to the Insured. This obligation is limited to only those stated causes of action alleging matters insured against by this policy. The Company shall have the right to select counsel of its choice (subject to the right of the Insured to object for reasonable cause) to represent the Insured as to those stated causes of action. It shall not be liable for and will not pay the fees of any other counsel. The Company will not pay any fees, costs, or expenses incurred by the Insured in the defense of those causes of action that allege matters not insured against by this policy.

(b) The Company shall have the right, in addition to the options contained in Section 7 of these Conditions, at its own cost, to institute and prosecute any action or proceeding or to do any other act that in its opinion may be necessary or desirable to establish the Title or the lien of the Insured Mortgage, as insured, or to prevent or reduce loss or damage to the Insured. The Company may take any appropriate action under the terms of this policy, whether or not it shall be liable to the Insured. The exercise of these rights shall not be an admission of liability or waiver of any provision of this policy. If the Company exercises its rights under this subsection, it must do so diligently.

(c) Whenever the Company brings an action or asserts a defense as required or permitted by this policy, the Company may pursue the litigation to a final determination by a court of competent jurisdiction, and it expressly reserves the right, in its sole discretion, to appeal from any adverse judgment or order.

6. DUTY OF INSURED CLAIMANT TO COOPERATE

(a) In all cases where this policy permits or requires the Company to prosecute or provide for the defense of any action or proceeding and any appeals, the Insured shall secure to the Company the right to so prosecute or provide defense in the action or proceeding, including the right to use, at its option, the name of the Insured for this purpose. Whenever requested by the Company, the Insured, at the Company's expense, shall give the Company all reasonable aid (i) in securing evidence, obtaining witnesses, prosecuting or defending the action or proceeding, or effecting settlement, and (ii) in any other lawful act that in the opinion of the Company may be necessary or desirable to establish the Title, the lien of the Insured Mortgage, or any other matter as insured. If the Company is prejudiced by the failure of the Insured to furnish the required cooperation, the Company's obligations to the Insured under the policy shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation, with regard to the matter or matters requiring such cooperation.

(b) The Company may reasonably require the Insured Claimant to submit to examination under oath by any authorized representative of the Company and to produce for examination, inspection, and copying, at such reasonable times and places as may be designated by the authorized representative of the Company, all records, in whatever medium maintained, including books, ledgers, checks, memoranda, correspondence, reports, e-mails, disks, tapes, and videos whether bearing a date before or after Date of Policy, that reasonably pertain to the loss or damage. Further, if requested by any authorized representative of the Company, the Insured Claimant shall grant its permission, in writing, for any authorized representative of the Company to examine, inspect, and copy all of these records in the custody or control of a third party that reasonably pertain to the loss or damage. All information designated as confidential by the Insured Claimant provided to the Company pursuant to this Section shall not be disclosed to others unless, in the reasonable judgment of the Company, it is necessary in the administration of the claim. Failure of the Insured Claimant to submit for examination under oath, produce any reasonably requested information, or grant permission to secure reasonably necessary information from third parties as required in this subsection, unless prohibited by law or governmental regulation, shall terminate any liability of the Company under this policy as to that claim.

7. OPTIONS TO PAY OR OTHERWISE SETTLE CLAIMS; TERMINATION OF LIABILITY

In case of a claim under this policy, the Company shall have the following additional options:

(a) To Pay or Tender Payment of the Amount of Insurance or to Purchase the Indebtedness.

(i) To pay or tender payment of the Amount of Insurance under this policy together with any costs, attorneys' fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of payment or tender of payment and that the Company is obligated to pay; or

(ii) To purchase the Indebtedness for the amount of the Indebtedness on the date of purchase, together with any costs, attorneys' fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of purchase and that the Company is obligated to pay. When the Company purchases the Indebtedness, the Insured shall transfer, assign, and convey to the Company the Indebtedness and the Insured Mortgage, together with any collateral security. Upon the exercise by the Company of either of the options provided for in subsections (a)(i) or (ii), all liability and obligations of the Company to the Insured under this policy, other than to make the payment required in those subsections, shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation.

(b) To Pay or Otherwise Settle With Parties Other Than the Insured or With the Insured Claimant.

(i) to pay or otherwise settle with other parties for or in the name of an Insured Claimant any claim insured against under this policy. In addition, the Company will pay any costs, attorneys' fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of payment and that the Company is obligated to pay; or

(ii) to pay or otherwise settle with the Insured Claimant the loss or damage provided for under this policy, together with any costs, attorneys' fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of payment and that the Company is obligated to pay. Upon the exercise by the Company of either of the options provided for in subsections (b)(i) or (ii), the Company's obligations to the Insured under this policy for the claimed loss or damage, other than the payments required to be made, shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation.

8. DETERMINATION AND EXTENT OF LIABILITY

This policy is a contract of indemnity against actual monetary loss or damage sustained or incurred by the Insured Claimant who has suffered loss or damage by reason of matters insured against by this policy.

(a) The extent of liability of the Company for loss or damage under this policy shall not exceed the least of

(ii) the Amount of Insurance,

(iii) the Indebtedness,

(iv) the difference between the value of the Title as insured and the value of the Title subject to the risk insured against by this policy, or

(v) if a government agency or instrumentality is the Insured Claimant, the amount it paid in the acquisition of the Title or the Insured Mortgage in satisfaction of its insurance contract or guaranty.

(b) If the Company pursues its rights under Section 5 of these Conditions and is unsuccessful in establishing the Title or the lien of the Insured Mortgage, as insured,

(i) the Amount of Insurance shall be increased by 10%, and

(ii) the Insured Claimant shall have the right to have the loss or damage determined either as of the date the claim was made by the Insured Claimant or as of the date it is settled and paid.

(c) In the event the Insured has acquired the Title in the manner described in Section 2 of these Conditions or has conveyed the Title, then the extent of liability of the Company shall continue as set forth in Section 8(a) of these Conditions.

(d) In addition to the extent of liability under (a), (b), and (c), the Company will also pay those costs, attorneys' fees, and expenses incurred in accordance with Sections 5 and 7 of these Conditions.

9. LIMITATION OF LIABILITY

(a) If the Company establishes the Title, or removes the alleged defect, lien or encumbrance, or cures the lack of a right of access to or from the Land, or cures the claim of Unmarketable Title, or establishes the lien of the Insured Mortgage, all as insured, in a reasonably diligent manner by any method, including litigation and the completion of any appeals, it shall have fully performed its obligations with respect to that matter and shall not be liable for any loss or damage caused to the Insured.

(b) In the event of any litigation, including litigation by the Company or with the Company's consent, the Company shall have no liability for loss or damage until there has been a final determination by a court of competent jurisdiction, and disposition of all appeals, adverse to the Title or to the lien of the Insured Mortgage, as insured.

(c) The Company shall not be liable for loss or damage to the Insured for liability voluntarily assumed by the Insured in settling any claim or suit without the prior written consent of the Company.

10. REDUCTION OF INSURANCE; REDUCTION OR TERMINATION OF LIABILITY

(a) All payments under this policy, except payments made for costs, attorneys' fees, and expenses, shall reduce the Amount of Insurance by the amount of the payment. However, any payments made prior to the acquisition of Title as provided in Section 2 of these Conditions shall not reduce the Amount of Insurance afforded under this policy except to the extent that the payments reduce the Indebtedness.

(b) The voluntary satisfaction or release of the Insured Mortgage shall terminate all liability of the Company except as provided in Section 2 of these Conditions.

11. PAYMENT OF LOSS

When liability and the extent of loss or damage have been definitely fixed in accordance with these Conditions, the payment shall be made within 30 days.

12. RIGHTS OF RECOVERY UPON PAYMENT OR SETTLEMENT

(a) The Company's Right to Recover

Whenever the Company shall have settled and paid a claim under this policy, it shall be subrogated and entitled to the rights of the Insured Claimant in the Title or Insured Mortgage and all other rights and remedies in respect to the claim that the Insured Claimant has against any person or property, to the extent of the amount of any loss, costs, attorneys' fees, and expenses paid by the Company. If requested by the Company, the Insured Claimant shall execute documents to evidence the transfer to the Company of these rights and remedies. The Insured Claimant shall permit the Company to sue, compromise, or settle in the name of the Insured Claimant and to use the name of the Insured Claimant in any transaction or litigation involving these rights and remedies.

If a payment on account of a claim does not fully cover the loss of the Insured Claimant, the Company shall defer the exercise of its right to recover until after the Insured Claimant shall have recovered its loss.

(b) The Insured's Rights and Limitations

(i) The owner of the Indebtedness may release or substitute the personal liability of any debtor or guarantor, extend or otherwise modify the terms of payment, release a portion of the Title from the lien of the Insured Mortgage, or release any collateral security for the Indebtedness, if it does not affect the enforceability or priority of the lien of the Insured Mortgage.

(ii) If the Insured exercises a right provided in (b)(i), but has Knowledge of any claim adverse to the Title or the lien of the Insured Mortgage insured against by this policy, the Company shall be required to pay only that part of any losses insured against by this policy that shall exceed the amount, if any, lost to the Company by reason of the impairment by the Insured Claimant of the Company's right of subrogation.

(c) The Company's Rights Against Noninsured Obligors

The Company's right of subrogation includes the Insured's rights against noninsured obligors including the rights of the Insured to indemnities, guaranties, other policies of insurance, or bonds, notwithstanding any terms or conditions contained in those instruments that address subrogation rights.

The Company's right of subrogation shall not be avoided by acquisition of the Insured Mortgage by an obligor (except an obligor described in Section 1(e)(i)(F) of these Conditions) who acquires the Insured Mortgage as a result of an indemnity, guarantee, other policy of insurance, or bond, and the obligor will not be an Insured under this policy.

13. ARBITRATION

Either the Company or the Insured may demand that the claim or controversy shall be submitted to arbitration pursuant to the Title Insurance Arbitration Rules of the American Land Title Association ("Rules"). Except as provided in the Rules, there shall be no joinder or consolidation with claims or controversies of other persons. Arbitrable matters may include, but are not limited to, any controversy or claim between the Company and the Insured arising out of or relating to this policy, any service in connection with its issuance or the breach of a policy provision, or to any other controversy or claim arising out of the transaction giving rise to this policy. All arbitrable matters when the Amount of Insurance is $2,000,000 or less shall be arbitrated at the option of either the Company or the Insured. All arbitrable matters when the Amount of Insurance is in excess of $2,000,000 shall be arbitrated only when agreed to by both the Company and the Insured. Arbitration pursuant to this policy and under the Rules shall be binding upon the parties. Judgment upon the award rendered by the Arbitrator(s) may be entered in any court of competent jurisdiction.

1. LIABILITY LIMITED TO THIS POLICY; POLICY ENTIRE CONTRACT

(a) This policy together with all endorsements, if any, attached to it by the Company is the entire policy and contract between the Insured and the Company. In interpreting any provision of this policy, this policy shall be construed as a whole.

(b) Any claim of loss or damage that arises out of the status of the Title or lien of the Insured Mortgage or by any action asserting such claim shall be restricted to this policy.

(c) Any amendment of or endorsement to this policy must be in writing and authenticated by an authorized person, or expressly incorporated by Schedule A of this policy.

(d) Each endorsement to this policy issued at any time is made a part of this policy and is subject to all of its terms and provisions. Except as the endorsement expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsement, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance.

2. SEVERABILITY

In the event any provision of this policy, in whole or in part, is held invalid or unenforceable under applicable law, the policy shall be deemed not to include that provision or such part held to be invalid, but all other provisions shall remain in full force and effect.

3. CHOICE OF LAW; FORUM

(a) Choice of Law: The Insured acknowledges the Company has underwritten the risks covered by this policy and determined the premium charged therefor in reliance upon the law affecting interests in real property and applicable to the interpretation, rights, remedies, or enforcement of policies of title insurance of the jurisdiction where the Land is located.

Therefore, the court or an arbitrator shall apply the law of the jurisdiction where the Land is located to determine the validity of claims against the Title or the lien of the Insured Mortgage that are adverse to the Insured and to interpret and enforce the terms of this policy. In neither case shall the court or arbitrator apply its conflicts of law principles to determine the applicable law.

(b) Choice of Forum: Any litigation or other proceeding brought by the Insured against the Company must be filed only in a state or federal court within the United States of America or its territories having appropriate jurisdiction.

4. NOTICES, WHERE SENT

Any notice of claim and any other notice or statement in writing required to be given to the Company under this policy must be given to the Company at Fidelity National Title Insurance Company, Attn: Claims Department, Post Office Box 45023, Jacksonville, Florida 32232-5023.

Fidelity National Title Insurance Company SCHEDULE A

This is a Pro Forma Policy. It does not reflect the present state of the Title and is not a commitment to (i) insure the Title or (ii) issue any of the attached endorsements. Any such commitment must be an express written undertaking on appropriate forms of the Company.

Name and Address of Title Insurance Company: **Fidelity National Title Company**
1300 Dove Street, Suite 310
Newport Beach, CA 92660

Policy No.: **Pro Forma-23036266-AL**

Address Reference: **301 Vista Del Mar Boulevard, El Segundo, CA**

Amount of Insurance: **PRO FORMA** Premium: **PRO FORMA**

Date of Policy: **PRO FORMA rev. January 24, 2014**

1. Name of Insured:

   Credit Agricole Corporate and Investment Bank, in its capacity as Collateral Agent, and its successors and assigns

2. The estate or interest in the Land that is encumbered by the Insured Mortgage is:

   Tract 1

   El Segundo Energy Center LLC, a Delaware limited liability company, as lessee, as to the leasehold estate and grantee as to the easements granted under that certain Amended and Restated Ground Lease and Easement Agreement by and between El Segundo Power, LLC, a Delaware limited liability company, as lessor, and El Segundo Energy Center LLC, a Delaware limited liability company, as lessee, made and entered into as of July 15, 2011, but effective for all purposes as of March 31, 2011, a memorandum of which was recorded on August 19, 2011 as Document No. 20111121480, Los Angeles County, California.

   Tract 2

   El Segundo Energy Center LLC, a Delaware limited liability company, as grantee as to the easements granted under that certain Amended and Restated Easement Agreement by and between El Segundo Power II LLC, a Delaware limited liability company, as grantor, and El Segundo Energy Center LLC, a Delaware limited liability company as grantee, made and entered into as of July 15, 2011, but effective for all purposes as of March 31, 2011 and recorded on August 19, 2011 as Document No. 20111121481, Los Angeles County, California.

3. Title is vested in:

   El Segundo Energy Center LLC, a Delaware limited liability company

4. The Insured Mortgage and its assignments, if any, are described as follows:

   DEED OF TRUST given to secure the original amount shown below, and any other amount payable under the terms thereof.

THIS POLICY VALID ONLY IF SCHEDULE B IS ATTACHED

SCHEDULE A
(Continued)

Amount:	$688,000,000.00
Dated:	August 22, 2011
Trustor/Grantor	El Segundo Energy Center LLC, a Delaware limited liability
company Trustee:	Fidelity National Title Insurance Company
Beneficiary:	Credit Agricole Corporate and Investment Bank, in its capacity as Collateral
Agent Recorded:	August 22, 2011 as Instrument No. 20111129013 of Official Records

5. The Land referred to in this policy is described as follows:

See Exhibit A attached hereto and made a part hereof.

6. This policy incorporates by reference those ALTA endorsements selected below:

- 4-06 (Condominium)
- ☐ 4.1-06
- 5-06 (Planned Unit Development)
- ☐ 5.1-06
- 6-06 (Variable Rate)
- 6.2-06 (Variable Rate-Negative Amortization)
- 8.1-06 (Environmental Protection Lien) Paragraph b refers to the following state statute(s): NONE
- 9-06 (Restrictions, Encroachments, Minerals)
- 13.1-06 (Leasehold Loan)
- 14-06 (Future Advance-Priority)
- 14.1-06 (Future Advance-Knowledge)
- 14.3-06 (Future Advance-Reverse Mortgage)
- 22-06 (Location) The type of improvement is a , and the street address is as shown above.

EXHIBIT A

LEGAL DESCRIPTION

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

TRACT 1: GROUND LEASE AND EASEMENTS FROM EL SEGUNDO POWER LLC

PARCEL 1: LEASED PROJECT PREMISES
THAT PORTION OF PARCEL 3, IN THE CITY OF EL SEGUNDO, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS DESCRIBED IN THE CERTIFICATE OF COMPLIANCE RECORDED DECEMBER 23, 1997 AS INSTRUMENT NO. 97-2012822 OF OFFICIAL RECORDS OF SAID COUNTY, SAID PARCEL 3 BEING ALSO SHOWN ON THE MAP FILED IN BOOK 163, PAGES 51 THROUGH 53, INCLUSIVE, OF RECORDS OF SURVEY, RECORDS OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID PARCEL 3, SAID NORTHEAST CORNER ALSO BEING A POINT ON THE SOUTHWESTERLY LINE OF VISTA DEL MAR BOULEVARD, 70 FEET WIDE, AS SHOWN ON SAID RECORD OF SURVEY; THENCE ALONG THE EASTERLY LINE OF SAID PARCEL 3 THE FOLLOWING THREE COURSES:

1. SOUTH 50°44'00" EAST 116.26 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 765.00 FEET;

2. SOUTHEASTERLY 367.40 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 27°31'00";

3. SOUTH 23°13'00" EAST 55.58 FEET;
THENCE LEAVING SAID EASTERLY LINE SOUTH 66°47'00" WEST 324.15 FEET;
THENCE NORTH 23°13'00" WEST 20.00 FEET;
THENCE SOUTH 66°47'00" WEST 102.50 FEET;
THENCE SOUTH 23°13'00" EAST 14.00 FEET;
THENCE SOUTH 66°19'04" WEST 166.64 FEET TO THE WESTERLY LINE OF SAID PARCEL 3;
THENCE ALONG SAID WESTERLY LINE NORTH 23°40'56" WEST 507.50 FEET TO THE NORTHWEST CORNER OF SAID PARCEL 3;

THENCE ALONG THE NORTHERLY LINE OF SAID PARCEL 3 TO THE POINT OF BEGINNING.

PARCEL 2: LEASED COMPRESSOR BUILDING PREMISES
THAT PORTION OF PARCEL 3, IN THE CITY OF EL SEGUNDO, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS DESCRIBED IN THE CERTIFICATE OF COMPLIANCE RECORDED DECEMBER 23, 1997 AS INSTRUMENT NO. 97-2012822 OF OFFICIAL RECORDS OF SAID COUNTY, SAID PARCEL 3 BEING ALSO SHOWN ON THE MAP FILED IN BOOK 163, PAGES 51 THROUGH 53, INCLUSIVE, OF RECORDS OF SURVEY, RECORDS OF SAID COUNTY, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID PARCEL 3, SAID NORTHEAST CORNER ALSO BEING A POINT ON THE SOUTHWESTERLY LINE OF VISTA DEL MAR BOULEVARD, 70 FEET WIDE, AS SHOWN ON SAID RECORD OF SURVEY; THENCE ALONG THE EASTERLY LINE OF SAID PARCEL 3 THE FOLLOWING THREE COURSES:

1. SOUTH 50°44'00" EAST 116.26 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE SOUTHWEST HAVING A RADIUS OF 765.00 FEET;

2. SOUTHEASTERLY 367.40 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 27°31'00";

3. SOUTH 23°13'00" EAST 55.58 FEET; THENCE LEAVING SAID EASTERLY LINE SOUTH 66°47'00" WEST 324.15 FEET;

THENCE NORTH 23°13'00" WEST 20.00 FEET;
THENCE SOUTH 66°47'00" WEST 102.50 FEET;
THENCE SOUTH 23°13'00" EAST 14.00 FEET;
THENCE SOUTH 66°19'04" WEST 124.84 FEET;
THENCE SOUTH 21°50'00" EAST 686.74 FEET;
THENCE NORTH 68°10'00" EAST 20.63 FEET TO THE TRUE POINT OF BEGINNING;
THENCE CONTINUING NORTH 68°10'00" EAST 70.69 FEET; THENCE SOUTH 21°50'00" EAST 139.16 FEET;
THENCE SOUTH 68°10'00" WEST 70.69 FEET;

THENCE NORTH 21°50'00" WEST 139.16 FEET TO THE TRUE POINT OF BEGINNING.

PARCEL 3: LEASED WATER TREATMENT PREMISES
THAT PORTION OF PARCEL 3, IN THE CITY OF EL SEGUNDO, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS DESCRIBED IN THE CERTIFICATE OF COMPLIANCE RECORDED DECEMBER 23, 1997 AS INSTRUMENT NO. 97-2012822 OF OFFICIAL RECORDS OF SAID COUNTY, SAID PARCEL 3 BEING ALSO SHOWN ON THE MAP FILED IN BOOK 163, PAGES 51 THROUGH 53, INCLUSIVE, OF RECORDS OF SURVEY, RECORDS OF SAID COUNTY, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID PARCEL 3, SAID NORTHEAST CORNER ALSO BEING A POINT ON THE SOUTHWESTERLY LINE OF VISTA DEL MAR BOULEVARD, 70 FEET WIDE, AS SHOWN ON SAID RECORD OF SURVEY; THENCE ALONG THE EASTERLY LINE OF SAID PARCEL 3 THE FOLLOWING THREE COURSES:

1. SOUTH 50°44'00" EAST 116.26 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 765.00 FEET;

SOUTHEASTERLY 367.40 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 27°31'00"; 3.

SOUTH 23°13'00" EAST 55.58 FEET;
THENCE, LEAVING SAID EASTERLY LINE, SOUTH 66°47'00" WEST 125.39 FEET;
THENCE SOUTH 22°56'24" EAST 506.37 FEET;
THENCE SOUTH 21°39'14" WEST 77.90 FEET;
THENCE SOUTH 66°47'00" WEST 130.28 FEET TO THE TRUE POINT OF BEGINNING;
THENCE NORTH 23°13'00" WEST 55.17 FEET;
THENCE NORTH 66°47'00" EAST 18.01 FEET;
THENCE NORTH 23°13'00" WEST 21.00 FEET;
THENCE NORTH 66°47'00" EAST 59.96 FEET;
THENCE SOUTH 23°13'00" EAST 21.00 FEET;
THENCE NORTH 66°47'00" EAST 16.64 FEET;
THENCE SOUTH 23°13'00" EAST 13.50 FEET;
THENCE NORTH 66°47'00" EAST 14.20 FEET;
THENCE SOUTH 23°13'00" EAST 9.88 FEET;
THENCE NORTH 66°47'00" EAST 10.28 FEET;
THENCE SOUTH 23°13'00" EAST 31.78 FEET TO A POINT ON THE LINE DESCRIBED ABOVE AS

SOUTH 66°47'00" WEST 130.28 FEET;
THENCE, SOUTHERLY, ALONG SAID LINE SOUTH 66°47'00" WEST 119.09 FEET TO THE TRUE POINT OF BEGINNING.

PARCEL 4: LEASED EQUIPMENT PREMISES

THAT PORTION OF PARCEL 3, IN THE CITY OF EL SEGUNDO, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS DESCRIBED IN THE CERTIFICATE OF COMPLIANCE RECORDED DECEMBER 23, 1997 AS INSTRUMENT NO. 97-2012822 OF OFFICIAL RECORDS OF SAID COUNTY, SAID PARCEL 3 BEING ALSO SHOWN ON THE MAP FILED IN BOOK 163, PAGES 51 THROUGH 53, INCLUSIVE, OF RECORDS OF SURVEY, RECORDS OF SAID COUNTY, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID PARCEL 3, SAID NORTHEAST CORNER ALSO BEING A POINT ON THE SOUTHWESTERLY LINE OF VISTA DEL MAR BOULEVARD, 70 FEET WIDE, AS SHOWN ON SAID RECORD OF SURVEY; THENCE ALONG THE EASTERLY LINE OF SAID PARCEL 3 THE FOLLOWING THREE COURSES:

1. SOUTH 50°44'00" EAST 116.26 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 765.00 FEET;

2. SOUTHEASTERLY 367.40 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 27°31'00";

3. SOUTH 23°13'00" EAST 55.58 FEET;
THENCE, LEAVING SAID EASTERLY LINE, SOUTH 66°47'00" WEST 125.39 FEET;
THENCE SOUTH 22°56'24" EAST 458.95 FEET;
THENCE SOUTH 67°03'36" WEST 173.94 FEET TO THE TRUE POINT OF BEGINNING;
THENCE CONTINUING SOUTH 67°03'36" WEST 37.50 FEET;
THENCE NORTH 22°56'24" WEST 47.00 FEET;
THENCE NORTH 67°03'36" EAST 37.50 FEET;

THENCE SOUTH 22°56'24" EAST 47.00 FEET TO THE TRUE POINT OF BEGINNING.

PARCEL 5: GAS METERING FACILITIES EASEMENT AREA
THAT PORTION OF PARCEL 3, IN THE CITY OF EL SEGUNDO, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS DESCRIBED IN THE CERTIFICATE OF COMPLIANCE RECORDED DECEMBER 23, 1997 AS INSTRUMENT NO. 97-2012822 OF OFFICIAL RECORDS OF SAID COUNTY, SAID PARCEL 3 BEING ALSO SHOWN ON THE MAP FILED IN BOOK 163, PAGES 51 THROUGH 53, INCLUSIVE, OF RECORDS OF SURVEY, RECORDS OF SAID COUNTY, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID PARCEL 3, SAID NORTHEAST CORNER ALSO BEING A POINT ON THE SOUTHWESTERLY LINE OF VISTA DEL MAR BOULEVARD, 70 FEET WIDE, AS SHOWN ON SAID RECORD OF SURVEY; THENCE ALONG THE EASTERLY LINE OF SAID PARCEL 3 THE FOLLOWING THREE COURSES:

1. SOUTH 50°44'00" EAST 116.26 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE SOUTHWEST HAVING A RADIUS OF 765.00 FEET;

2. SOUTHEASTERLY 367.40 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 27°31'00";

3. SOUTH 23°13'00" EAST 55.58 FEET;

THENCE LEAVING SAID EASTERLY LINE SOUTH 66°47'00" WEST 324.15 FEET;
THENCE NORTH 23°13'00" WEST 20.00 FEET;
THENCE SOUTH 66°47'00" WEST 102.50 FEET;
THENCE SOUTH 23°13'00" EAST 14.00 FEET;
THENCE SOUTH 66°19'04" WEST 124.84 FEET;
THENCE SOUTH 21°50'00" EAST 714.74 FEET;
THENCE NORTH 68°10'00" EAST 118.40 FEET TO THE TRUE POINT OF BEGINNING;
THENCE CONTINUING NORTH 68°10'00" EAST 38.00 FEET;
THENCE SOUTH 21°50'00" EAST 120.00 FEET;
THENCE SOUTH 68°10'00" WEST 38.00 FEET;

THENCE NORTH 21°50'00" WEST 120.00 FEET TO THE TRUE POINT OF BEGINNING.

PARCEL 6: FIREWATER AND MAINTENANCE FACILITIES EASEMENT AREA
THAT PORTION OF PARCEL 3, IN THE CITY OF EL SEGUNDO, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS DESCRIBED IN THE CERTIFICATE OF COMPLIANCE RECORDED DECEMBER 23, 1997 AS INSTRUMENT NO. 97-2012822 OF OFFICIAL RECORDS OF SAID COUNTY, SAID PARCEL 3 BEING ALSO SHOWN ON THE MAP FILED IN BOOK 163, PAGES 51 THROUGH 53, INCLUSIVE, OF RECORDS OF SURVEY, RECORDS OF SAID COUNTY, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID PARCEL 3, SAID NORTHEAST CORNER ALSO BEING A POINT ON THE SOUTHWESTERLY LINE OF VISTA DEL MAR BOULEVARD, 70 FEET WIDE, AS SHOWN ON SAID RECORD OF SURVEY;
THENCE ALONG THE EASTERLY LINE OF SAID PARCEL 3 THE FOLLOWING THREE COURSES:

1. SOUTH 50°44'00" EAST 116.26 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 765.00 FEET;

2. SOUTHEASTERLY 367.40 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 27°31'00";

3. SOUTH 23°13'00" EAST 55.58 FEET;
THENCE LEAVING SAID EASTERLY LINE SOUTH 66°47'00" WEST 125.39 FEET;
THENCE SOUTH 22°56'24" EAST 485.41 FEET TO THE TRUE POINT OF BEGINNING;
THENCE CONTINUING SOUTH 22°56'24" EAST 20.96 FEET;
THENCE SOUTH 21°39'14" WEST 77.90 FEET;
THENCE SOUTH 66°47'00" WEST 130.28 FEET TO A POINT HEREINAFTER REFERRED AS POINT "A";
THENCE SOUTH 66°47'00" WEST 48.00 FEET;
THENCE NORTH 23°13'00" WEST 76.17 FEET;
THENCE NORTH 66°47'00" EAST 233.34 FEET TO TRUE POINT OF BEGINNING.

EXCEPTING THEREFROM THAT PORTION DESCRIBED AS FOLLOWS:

BEGINNING AT SAID POINT "A";
THENCE NORTH 23°13'00" WEST 55.17 FEET;
THENCE NORTH 66°47'00" EAST 18.01 FEET;
THENCE NORTH 23°13'00" WEST 21.00 FEET; TO THE NORTHERLY LINE OF THE HEREINABOVE DESCRIBED LAND;
THENCE ALONG SAID NORTHERLY LINE NORTH 66°47'00" EAST 59.96 FEET;
THENCE SOUTH 23°13'00" EAST 21.00 FEET;

THENCE NORTH 66°47'00" EAST 16.64 FEET;
THENCE SOUTH 23°13'00" EAST 13.50 FEET;
THENCE NORTH 66°47'00" EAST 14.20 FEET;
THENCE SOUTH 23°13'00" EAST 9.88 FEET;
THENCE NORTH 66°47'00" EAST 10.28 FEET;
THENCE SOUTH 23°13'00" EAST 31.78 FEET TO THE SOUTHERLY LINE OF THE HEREINABOVE DESCRIBED LAND;
THENCE ALONG SAID SOUTHERLY LINE SOUTH 66°47'00" WEST 119.09 FEET TO THE POINT OF BEGINNING.

PARCEL 7: ROADWAY AND UTILITIES EASEMENT AREA

THAT PORTION OF PARCEL 3, IN THE CITY OF EL SEGUNDO, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS DESCRIBED IN THE CERTIFICATE OF COMPLIANCE RECORDED DECEMBER 23, 1997 AS INSTRUMENT NO. 97-2012822 OF OFFICIAL RECORDS OF SAID COUNTY, SAID PARCEL 3 BEING ALSO SHOWN ON THE MAP FILED IN BOOK 163, PAGES 51 THROUGH 53, INCLUSIVE, OF RECORDS OF SURVEY, RECORDS OF SAID COUNTY, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID PARCEL 3, SAID NORTHEAST CORNER ALSO BEING A POINT ON THE SOUTHWESTERLY LINE OF VISTA DEL MAR BOULEVARD, 70 FEET WIDE, AS SHOWN ON SAID RECORD OF SURVEY;
THENCE ALONG THE EASTERLY LINE OF SAID PARCEL 3 THE FOLLOWING THREE COURSES:

1. SOUTH 50°44'00" EAST 116.26 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE SOUTHWEST HAVING A RADIUS OF 765.00 FEET;

2. SOUTHEASTERLY 367.40 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 27°31'00";

3. SOUTH 23°13'00" EAST 55.58 FEET;
THENCE, LEAVING SAID EASTERLY LINE, SOUTH 66°47'00" WEST 125.39 FEET TO THE TRUE POINT OF BEGINNING;
THENCE SOUTH 22°56'24" EAST 483.95 FEET;
THENCE SOUTH 67°03'36" WEST 296.25 FEET TO THE BEGINNING OF A CURVE, CONCAVE TO THE SOUTHEAST, HAVING A RADIUS OF 22.00 FEET; THENCE SOUTHWESTERLY ALONG SAID CURVE 34.66 FEET THROUGH A CENTRAL ANGLE OF 90°15'48";
THENCE SOUTH 23°12'12" EAST 107.07 FEET;
THENCE SOUTH 18°57'12" EAST 93.62 FEET;
THENCE SOUTH 23°12'46" EAST 119.28 FEET;
THENCE SOUTH 66°47'14" WEST 20.00 FEET;
THENCE NORTH 23°12'46" WEST 120.03 FEET;
THENCE NORTH 18°57'12" WEST 93.62 FEET;
THENCE NORTH 23°12'12" WEST 103.63 FEET TO THE BEGINNING OF A CURVE, CONCAVE TO THE SOUTHWEST, HAVING A RADIUS OF 25.00 FEET;
THENCE NORTHWESTERLY ALONG SAID CURVE 39.16 FEET THROUGH A CENTRAL ANGLE OF 89°44'12";
THENCE SOUTH 67°03'36" WEST 35.26 FEET TO THE BEGINNING OF A CURVE, CONCAVE TO THE SOUTHEAST, HAVING A RADIUS OF 25.00 FEET; THENCE SOUTHWESTERLY ALONG SAID CURVE 38.79 FEET THROUGH A CENTRAL ANGLE OF 88°53'36";
THENCE SOUTH 21°50'00" EAST 158.11 FEET;
THENCE SOUTH 68°10'00" WEST 25.00 FEET;

THENCE NORTH 21°50'00" WEST 202.55 FEET;
THENCE SOUTH 68°10'00" WEST 3.09 FEET;
THENCE NORTH 23°40'56" WEST 466.06 FEET;
THENCE NORTH 66°19'04" EAST 28.00 FEET;
THENCE SOUTH 23°40'56" EAST 51.61 FEET TO THE BEGINNING OF A CURVE, CONCAVE TO THE NORTHEAST, HAVING A RADIUS OF 25.00 FEET;
THENCE SOUTHEASTERLY ALONG SAID CURVE 39.07 FEET THROUGH A CENTRAL ANGLE OF 89°32'32";
THENCE NORTH 66°46'32" EAST 179.34 FEET TO THE BEGINNING OF A CURVE, CONCAVE TO THE NORTHWEST, HAVING A RADIUS OF 25.00 FEET;
THENCE NORTHEASTERLY ALONG SAID CURVE 39.15 FEET THROUGH A CENTRAL ANGLE OF 89°42'58"; THENCE NORTH 22°56'26" WEST 46.54 FEET;
THENCE NORTH 66°47'00" EAST 198.76 FEET TO THE TRUE POINT OF BEGINNING.

COMMENCING AT THE NORTHEAST CORNER OF SAID PARCEL 3, SAID NORTHEAST CORNER ALSO BEING A POINT ON THE SOUTHWESTERLY LINE OF VISTA DEL MAR BOULEVARD, 70 FEET WIDE, AS SHOWN ON SAID RECORD OF SURVEY; THENCE ALONG THE EASTERLY LINE OF SAID PARCEL 3 THE FOLLOWING THREE COURSES:

1. SOUTH 50°44'00" EAST 116.26 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE SOUTHWEST HAVING A RADIUS OF 765.00 FEET;

2. SOUTHEASTERLY 367.40 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 27°31'00";

3. SOUTH 23°13'00" EAST 55.58 FEET;
THENCE, LEAVING SAID EASTERLY LINE, SOUTH 66°47'00" WEST 220.00 FEET;
THENCE SOUTH 23°13'00" EAST 25.00 FEET TO THE TRUE POINT OF BEGINNING OF THIS EXCEPTION;
THENCE NORTH 66°47'00" EAST 44.37 FEET TO THE BEGINNING OF A CURVE, CONCAVE TO THE SOUTHWEST, HAVING A RADIUS OF 25.00 FEET; THENCE SOUTHEASTERLY ALONG SAID CURVE 39.39 FEET THROUGH A CENTRAL ANGLE OF 90°16'36";
THENCE SOUTH 22°56'24" EAST 352.25 FEET;
THENCE SOUTH 67°03'36" WEST 40.52 FEET;
THENCE SOUTH 22°56'24" EAST 56.45 FEET;
THENCE SOUTH 67°03'36" WEST 180.84 FEET; THENCE NORTH 22°56'24" WEST 41.30 FEET;
THENCE SOUTH 67°03'36" WEST 41.97 FEET;
THENCE SOUTH 22°56'24" EAST 41.30 FEET;
THENCE SOUTH 67°03'36" WEST 109.77 FEET TO THE BEGINNING OF A CURVE, CONCAVE TO THE NORTHEAST, HAVING A RADIUS OF 25.00 FEET;
THENCE NORTHWESTERLY ALONG SAID CURVE 38.95 FEET THROUGH A CENTRAL ANGLE OF 89°15'28";
THENCE NORTH 23°40'56" WEST 310.59 FEET TO THE BEGINNING OF A CURVE, CONCAVE TO THE SOUTHEAST, HAVING A RADIUS OF 25.00 FEET;
THENCE NORTHEASTERLY ALONG SAID CURVE 39.47 FEET THROUGH A CENTRAL ANGLE OF 90°27'28";
THENCE NORTH 66°46'32" EAST 75.45 FEET;
THENCE NORTH 23°13'28" WEST 5.52 FEET;
THENCE NORTH 66°46'32" EAST 18.21 FEET;
THENCE SOUTH 23°13'28" EAST 5.52 FEET;
THENCE NORTH 66°46'32" EAST 31.62 FEET;
THENCE NORTH 23°13'28" WEST 11.04 FEET;

THENCE NORTH 66°46'32" EAST 41.39 FEET;
THENCE SOUTH 23°13'28" EAST 11.04 FEET;
THENCE NORTH 66°46'32" EAST 12.06 FEET;
THENCE NORTH 23°13'28" WEST 2.63 FEET;
THENCE NORTH 66°46'32" EAST 19.01 FEET;
THENCE NORTH 23°13'28" WEST 9.37 FEET;
THENCE NORTH 66°46'32" EAST 13.48 FEET TO THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE TO THE NORTHWEST, HAVING A RADIUS OF 50.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS SOUTH 63°45'05" EAST;
THENCE NORTHERLY ALONG SAID CURVE 40.78 FEET THROUGH A CENTRAL ANGLE OF 46°43'35" TO THE BEGINNING OF A REVERSE CURVE, CONCAVE TO THE SOUTHEAST, HAVING A RADIUS OF 25.00 FEET A RADIAL LINE TO SAID BEGINNING BEARS NORTH 69°31'20" EAST;
THENCE NORTHEASTERLY ALONG SAID CURVE 38.07 FEET THROUGH A CENTRAL ANGLE OF 87°15'40";

THENCE NORTH 66°47'00" EAST 54.46 FEET TO THE TRUE POINT OF BEGINNING OF THIS EXCEPTION.

PARCEL 8: GAS LINE EASEMENT AREA
THAT PORTION OF PARCEL 3, IN THE CITY OF EL SEGUNDO, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS DESCRIBED IN THE CERTIFICATE OF COMPLIANCE RECORDED DECEMBER 23, 1997 AS INSTRUMENT NO. 97-2012822, OFFICIAL RECORDS OF SAID COUNTY; SAID PARCEL 3 BEING ALSO SHOWN ON THE MAP FILED IN BOOK 163, PAGES 51 THROUGH 53, INCLUSIVE, OF RECORDS OF SURVEY, RECORDS OF SAID COUNTY, BEING A STRIP OF LAND 8 FEET WIDE, THE CENTERLINE OF WHICH IS DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID PARCEL 3, SAID NORTHEAST CORNER ALSO BEING A POINT ON THE SOUTHWESTERLY LINE OF VISTA DEL MAR BOULEVARD, 70 FEET WIDE, AS SHOWN ON SAID RECORD OF SURVEY;

THENCE ALONG THE EASTERLY LINE OF SAID PARCEL 3 THE FOLLOWING THREE COURSES:

1. SOUTH 50°44'00" EAST 116.26 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE SOUTHWEST HAVING A RADIUS OF 765.00 FEET;

2. SOUTHEASTERLY 367.40 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 27°31'00"; SOUTH 23°13'00" EAST 55.58 FEET;

3. THENCE LEAVING SAID EASTERLY LINE SOUTH 66°47'00" WEST 324.15 FEET;

THENCE NORTH 23°13'00" WEST 20.00 FEET;
THENCE SOUTH 66°47'00" WEST 102.50 FEET;
THENCE SOUTH 23°13'00" EAST 14.00 FEET;
THENCE SOUTH 66°19'04" WEST 124.84 FEET;
THENCE SOUTH 21°50'00" EAST 710.62 FEET;
THENCE NORTH 66°47'07" EAST 12.50 FEET TO THE TRUE POINT OF BEGINNING;
THENCE CONTINUING NORTH 66°47'07" EAST 8.13 FEET TO A POINT HEREINAFTER REFERRED TO AS POINT "A";
THENCE CONTINUING NORTH 66°47'07" EAST 84.43 FEET; THENCE NORTH 21°50'00" WEST 28.13 FEET;
THENCE NORTH 66°47'07" EAST 13.73 FEET TO A POINT HEREINAFTER REFERRED TO AS POINT "B";

THENCE CONTINUING NORTH 66°47'07" EAST 26.78 FEET;
THENCE SOUTH 21°50'00" EAST 35.75 FEET.

EXCEPTING THEREFROM A STRIP OF LAND 8.00 FEET WIDE, THE CENTERLINE OF WHICH IS DESCRIBED AS FOLLOWS:

BEGINNING AT THE HEREINABOVE DESCRIBED POINT "A" THENCE NORTH 66°47'07" EAST 70.71 FEET.

ALSO EXCEPTING THEREFROM A STRIP OF LAND 8.00 FEET WIDE, THE CENTERLINE OF WHICH IS DESCRIBED AS FOLLOWS:

BEGINNING AT THE HEREINABOVE DESCRIBED POINT "B" THENCE NORTH 66°47'07" EAST 15.00 FEET.

PARCEL 9: SEWER LINE EASEMENT AREA

THAT PORTION OF PARCEL 3, IN THE CITY OF EL SEGUNDO, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS DESCRIBED IN THE CERTIFICATE OF COMPLIANCE RECORDED DECEMBER 23, 1997 AS INSTRUMENT NO. 97-2012822 OF OFFICIAL RECORDS OF SAID COUNTY, SAID PARCEL 3 BEING ALSO SHOWN ON THE MAP FILED IN BOOK 163, PAGES 51 THROUGH 53, INCLUSIVE, OF RECORDS OF SURVEY, RECORDS OF SAID COUNTY, BEING A STRIP OF LAND 15 FEET WIDE, THE CENTERLINE OF WHICH IS DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID PARCEL 3, SAID NORTHEAST CORNER ALSO BEING A POINT ON THE SOUTHWESTERLY LINE OF VISTA DEL MAR BOULEVARD, 70 FEET WIDE, AS SHOWN ON SAID RECORD OF SURVEY;
THENCE ALONG THE EASTERLY LINE OF SAID PARCEL 3 THE FOLLOWING THREE COURSES:

1. SOUTH 50°44'00" EAST 116.26 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE SOUTHWEST HAVING A RADIUS OF 765.00 FEET;

2. SOUTHEASTERLY 367.40 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 27°31'00";

3. SOUTH 23°13'00" EAST 55.58 FEET;
THENCE LEAVING SAID EASTERLY LINE SOUTH 66°47'00" WEST 324.15 FEET;
THENCE NORTH 23°13'00" WEST 20.00 FEET;
THENCE SOUTH 66°47'00" WEST 102.50 FEET;
THENCE SOUTH 23°13'00" EAST 14.00 FEET;
THENCE SOUTH 66°19'04" WEST 129.84 FEET;
THENCE SOUTH 21°50'00" EAST 669.20 FEET TO THE TRUE POINT OF BEGINNING;
THENCE CONTINUING SOUTH 21°50'00" EAST 309.17 FEET;
THENCE SOUTH 23°05'36" EAST 232.20 FEET;
THENCE SOUTH 23°15'48" EAST 42.00 FEET TO THE SOUTHERLY LINE OF SAID PARCEL 3.

THE SIDELINES OF SAID STRIP SHALL BE LENGTHENED OR SHORTENED SO AS TO TERMINATE SOUTHERLY IN THE SOUTHERLY LINE OF SAID PARCEL 3.

PARCEL 10: POWER SYSTEM EASEMENT AREA

THAT PORTION OF PARCEL 3, IN THE CITY OF EL SEGUNDO, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS DESCRIBED IN THE CERTIFICATE OF COMPLIANCE RECORDED DECEMBER 23, 1997 AS INSTRUMENT NO. 97-2012822 OF OFFICIAL RECORDS OF SAID COUNTY, SAID PARCEL 3 BEING ALSO SHOWN ON THE MAP FILED IN BOOK 163, PAGES 51 THROUGH 53, INCLUSIVE, OF RECORDS OF SURVEY, RECORDS OF SAID COUNTY, BEING A STRIP OF LAND 60 FEET WIDE, THE CENTERLINE OF WHICH IS DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID PARCEL 3, SAID NORTHEAST CORNER ALSO BEING A POINT ON THE SOUTHWESTERLY LINE OF VISTA DEL MAR BOULEVARD, 70 FEET WIDE, AS SHOWN ON SAID RECORD OF SURVEY;
THENCE ALONG THE EASTERLY LINE OF SAID PARCEL 3 THE FOLLOWING THREE COURSES:

1. SOUTH 50°44'00" EAST 116.26 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 765.00 FEET;

2. SOUTHEASTERLY 367.40 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 27°31'00";

3. SOUTH 23°13'00" EAST 55.58 FEET;
THENCE LEAVING SAID EASTERLY LINE SOUTH 66°47'00" WEST 68.00 FEET TO A LINE PARALLEL WITH AND 68 FEET WESTERLY OF SAID EASTERLY LINE, AND THE TRUE POINT OF BEGINNING; THENCE ALONG SAID PARALLEL LINE SOUTH 23°13'00" EAST 645.12 FEET TO THE NORTHWESTERLY LINE OF PARCEL 1 OF SAID CERTIFICATE OF COMPLIANCE.

THE SIDELINES OF SAID STRIP SHALL BE LENGTHENED OR SHORTENED SO AS TO TERMINATE SOUTHERLY IN THE NORTHERLY LINE OF SAID PARCEL 1.

PARCEL 11: CONTROL ROOM EASEMENT AREA

THAT PORTION OF PARCEL 3, IN THE CITY OF EL SEGUNDO, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS DESCRIBED IN THE CERTIFICATE OF COMPLIANCE RECORDED DECEMBER 23, 1997 AS INSTRUMENT NO. 97-2012822, OFFICIAL RECORDS OF SAID COUNTY, SAID PARCEL 3 BEING ALSO SHOWN ON THE MAP FILED IN BOOK 163, PAGES 51 THROUGH 53, INCLUSIVE, OF RECORDS OF SURVEY, RECORDS OF SAID COUNTY, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWESTERLY CORNER OF SAID PARCEL 3;
THENCE SOUTH 23°40'56" EAST 804.77 FEET ALONG THE WESTERLY LINE OF SAID PARCEL 3;
THENCE LEAVING SAID WESTERLY LINE NORTH 66°19'04" EAST 138.12 FEET;
THENCE NORTH 23°40'56" WEST 16.69 FEET;
THENCE NORTH 66°19'04" EAST 22.61 FEET;
THENCE SOUTH 23°40'56" EAST 5.00 FEET TO THE TRUE POINT OF BEGINNING;
THENCE CONTINUING NORTH 66°19'04" EAST 91.02 FEET;
THENCE SOUTH 23°40'56" EAST 5.53 FEET;
THENCE NORTH 66°19'04" EAST 7.44 FEET;
THENCE NORTH 23°40'56" WEST 5.86 FEET;
THENCE NORTH 66°19'04" EAST 32.77 FEET;
THENCE NORTH 23°40'56" WEST 51.79 FEET;
THENCE SOUTH 66°19'04" WEST 32.45 FEET;
THENCE NORTH 23°40'56" WEST 6.39 FEET;
THENCE SOUTH 66°19'04" WEST 7.37 FEET;
THENCE SOUTH 23°40'56" EAST 4.80 FEET;

THENCE SOUTH 66°19'04" WEST 91.42 FEET;

THENCE SOUTH 23°40'56" EAST 48.71 FEET TO THE TRUE POINT OF BEGINNING.

PARCEL 12: UTILITY EASEMENT (CONTROL ROOM WIRING EASEMENT AREA)
THAT PORTION OF PARCEL 3, IN THE CITY OF EL SEGUNDO, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS DESCRIBED IN THE CERTIFICATE OF COMPLIANCE RECORDED DECEMBER 23, 1997 AS INSTRUMENT NO. 97-2012822, OFFICIAL RECORDS OF SAID COUNTY, SAID PARCEL 3 BEING ALSO SHOWN ON THE MAP FILED IN BOOK 163, PAGES 51 THROUGH 53, INCLUSIVE, OF RECORDS OF SURVEY, RECORDS OF SAID COUNTY, BEING A STRIP OF LAND 10 FEET WIDE, THE CENTERLINE OF WHICH IS DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWESTERLY CORNER OF SAID PARCEL 3;
THENCE SOUTH 23°40'56" EAST 804.77 FEET ALONG THE WESTERLY LINE OF SAID PARCEL 3;
THENCE NORTH 66°19'04" EAST 39.15 FEET TO THE TRUE POINT OF BEGINNING;
THENCE CONTINUING NORTH 66°19'04" EAST 98.97 FEET;
THENCE NORTH 23°40'56" WEST 16.69 FEET;
THENCE NORTH 66°19'04" EAST 22.61 FEET.

PARCEL 13: UTILITY EASEMENT (AMMONIA FACILITIES EASEMENT AREA)

THOSE PORTIONS OF PARCEL 3, IN THE CITY OF EL SEGUNDO, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS DESCRIBED IN THE CERTIFICATE OF COMPLIANCE RECORDED DECEMBER 23, 1997 AS INSTRUMENT NO. 97-2012822, OFFICIAL RECORDS OF SAID COUNTY, SAID PARCEL 3 BEING ALSO SHOWN ON THE MAP FILED IN BOOK 163, PAGES 51 THROUGH 53, INCLUSIVE, OF RECORDS OF SURVEY, RECORDS OF SAID COUNTY, DESCRIBED AS FOLLOWS:

PARCEL A:

A STRIP OF LAND, 5.00 FEET WIDE, THE CENTERLINE OF WHICH IS DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID PARCEL 3, SAID NORTHEAST CORNER ALSO BEING A POINT ON THE SOUTHWESTERLY LINE OF VISTA DEL MAR BOULEVARD, 70 FEET WIDE, AS SHOWN ON SAID RECORD OF SURVEY;
THENCE ALONG THE EASTERLY LINE OF SAID PARCEL 3 THE FOLLOWING THREE COURSES:

1. SOUTH 50°44'00" EAST 116.26 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 765.00 FEET;

2. SOUTHEASTERLY 367.40 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 27°31'00";

3. SOUTH 23°13'00" EAST 55.58 FEET;
THENCE LEAVING SAID EASTERLY LINE SOUTH 66°47'00" WEST 122.89 FEET TO THE TRUE POINT OF BEGINNING;
THENCE SOUTH 22°56'24" EAST 507.40 FEET;
THENCE SOUTH 21°39'14" WEST 82.87 FEET;
THENCE SOUTH 66°47'00" WEST 119.80 FEET TO A POINT HEREINAFTER REFERRED TO AS POINT "A", SAID POINT BEING ON THE NORTHERLY PROLONGATION OF A LINE, PARALLEL WITH AND 2.50 FEET WESTERLY OF THE WESTERLY LINE PARCEL 1 AS SHOWN ON SAID RECORD OF SURVEY;

THENCE ALONG SAID PARALLEL LINE SOUTH 23°13'00" EAST 367.77 FEET TO A POINT ON A LINE, PARALLEL WITH AND 7.50 FEET SOUTHWESTERLY OF THE SOUTHWESTERLY LINE OF PARCEL 1 OF SAID RECORD OF SURVEY;
THENCE SOUTHEASTERLY ALONG SAID PARALLEL LINE SOUTH 53°13'00" EAST 40.88 FEET;
THENCE NORTH 79°04'55" EAST 155.82 FEET TO A POINT HEREINAFTER REFERRED TO AS POINT "B", AND THE POINT OF TERMINUS OF THIS STRIP.

THE SIDELINES OF SAID STRIP ARE TO TERMINATE EASTERLY AT THE WESTERLY LINE OF THE HEREINAFTER DESCRIBED PARCEL "B".

TOGETHER WITH A STRIP OF LAND, 5.00 FEET, WIDE DESCRIBED AS FOLLOWS:

BEGINNING AT THE HEREINABOVE DESCRIBED POINT "A"; THENCE SOUTH 66°47'00" WEST 38.01 FEET.

CONTAINING 6,550 SQUARE FEET, OR 0.150 ACRES, MORE OR LESS.

PARCEL B:
A STRIP OF LAND, 21.00 FEET WIDE, THE CENTERLINE OF WHICH IS DESCRIBED AS FOLLOWS:

BEGINNING AT THE HEREINABOVE DESCRIBED POINT "B"; THENCE NORTH 70°22'42" EAST 52.50 FEET.

PARCEL 14: ADMINISTRATIVE TRAILER EASEMENT AREA

THAT PORTION OF PARCEL 3, IN THE CITY OF EL SEGUNDO, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS DESCRIBED IN THE CERTIFICATE OF COMPLIANCE RECORDED DECEMBER 23, 1997 AS INSTRUMENT NO. 97-2012822 OF OFFICIAL RECORDS OF SAID COUNTY, SAID PARCEL 3 BEING ALSO SHOWN ON THE MAP FILED IN BOOK 163, PAGES 51 THROUGH 53, INCLUSIVE, OF RECORDS OF SURVEY, RECORDS OF SAID COUNTY, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID PARCEL 3, SAID NORTHEAST CORNER ALSO BEING A POINT ON THE SOUTHWESTERLY LINE OF VISTA DEL MAR BOULEVARD, 70 FEET WIDE, AS SHOWN ON SAID RECORD OF SURVEY; THENCE ALONG THE EASTERLY LINE OF SAID PARCEL 3 THE FOLLOWING THREE COURSES:

1. SOUTH 50°44'00" EAST 116.26 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE SOUTHWEST HAVING A RADIUS OF 765.00 FEET;

2. SOUTHEASTERLY 367.40 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 27°31'00";

3. SOUTH 23°13'00" EAST 55.58 FEET;
THENCE LEAVING SAID EASTERLY LINE SOUTH 66°47'00" WEST 324.15 FEET;
THENCE NORTH 23°13'00" WEST 20.00 FEET;
THENCE SOUTH 66°47'00" WEST 102.50 FEET;
THENCE SOUTH 23°13'00" EAST 14.00 FEET;
THENCE SOUTH 66°19'04" WEST 124.84 FEET;
THENCE SOUTH 21°50'00" EAST 511.25 FEET;
THENCE NORTH 68°10'00" EAST 12.50 FEET TO THE TRUE POINT OF BEGINNING;

THENCE CONTINUING NORTH 68°10'00" EAST 58.00 FEET;
THENCE SOUTH 21°50'00" EAST 119.50 FEET;
THENCE SOUTH 68°10'00" WEST 58.00 FEET;

THENCE NORTH 21°50'00" WEST 119.50 FEET TO THE TRUE POINT OF BEGINNING.

PARCEL 15: PARKING EASEMENT AREA
THAT PORTION OF PARCEL 3, IN THE CITY OF EL SEGUNDO, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS DESCRIBED IN THE CERTIFICATE OF COMPLIANCE RECORDED DECEMBER 23, 1997 AS INSTRUMENT NO. 97-2012822 OF OFFICIAL RECORDS OF SAID COUNTY, SAID PARCEL 3 BEING ALSO SHOWN ON THE MAP FILED IN BOOK 163, PAGES 51 THROUGH 53, INCLUSIVE, OF RECORDS OF SURVEY, RECORDS OF SAID COUNTY, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID PARCEL 3, SAID NORTHEAST CORNER ALSO BEING A POINT ON THE SOUTHWESTERLY LINE OF VISTA DEL MAR BOULEVARD, 70 FEET WIDE, AS SHOWN ON SAID RECORD OF SURVEY;
THENCE ALONG THE EASTERLY LINE OF SAID PARCEL 3 THE FOLLOWING THREE COURSES:

1. SOUTH 50°44'00" EAST 116.26 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE SOUTHWEST HAVING A RADIUS OF 765.00 FEET;

2. SOUTHEASTERLY 367.40 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 27°31'00";

3. SOUTH 23°13'00" EAST 55.58 FEET;
THENCE LEAVING SAID EASTERLY LINE SOUTH 66°47'00" WEST 324.15 FEET;
THENCE NORTH 23°13'00" WEST 20.00 FEET;
THENCE SOUTH 66°47'00" WEST 102.50 FEET;
THENCE SOUTH 23°13'00" EAST 14.00 FEET;
THENCE SOUTH 66°19'04" WEST 124.84 FEET;
THENCE SOUTH 21°50'00" EAST 519.58 FEET;
THENCE NORTH 68°10'00" EAST 123.49 FEET TO THE TRUE POINT OF BEGINNING;
THENCE CONTINUING NORTH 68°10'00" EAST 32.00 FEET;
THENCE SOUTH 21°50'00" EAST 140.16 FEET;
THENCE SOUTH 68°10'00" WEST 32.00 FEET;

THENCE NORTH 21°50'00" WEST 140.16 FEET TO THE TRUE POINT OF BEGINNING.

PARCEL 16: PARKING EASEMENT AREA
THAT PORTION OF PARCEL 3, IN THE CITY OF EL SEGUNDO, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS DESCRIBED IN THE CERTIFICATE OF COMPLIANCE RECORDED DECEMBER 23, 1997 AS INSTRUMENT NO. 97-2012822 OF OFFICIAL RECORDS OF SAID COUNTY, SAID PARCEL 3 BEING ALSO SHOWN ON THE MAP FILED IN BOOK 163, PAGES 51 THROUGH 53, INCLUSIVE, OF RECORDS OF SURVEY, RECORDS OF SAID COUNTY, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID PARCEL 3, SAID NORTHEAST CORNER ALSO BEING A POINT ON THE SOUTHWESTERLY LINE OF VISTA DEL MAR BOULEVARD, 70 FEET WIDE, AS SHOWN ON SAID RECORD OF SURVEY; THENCE ALONG THE EASTERLY LINE OF SAID PARCEL 3 THE FOLLOWING THREE COURSES:

1. SOUTH 50°44'00" EAST 116.26 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE SOUTHWEST HAVING A RADIUS OF 765.00 FEET;

2. SOUTHEASTERLY 367.40 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 27°31'00";

3. SOUTH 23°13'00" EAST 1427.69 FEET;
THENCE LEAVING SAID EASTERLY LINE, NORTH 71°41'47" WEST 121.86 FEET;
THENCE NORTH 48°32'33" WEST 74.32 FEET;
THENCE NORTH 09°35'28" WEST 45.89 FEET;
THENCE NORTH 26°27'32" WEST 77.03 FEET TO THE TRUE POINT OF BEGINNING, SAID POINT ALSO BEING THE BEGINNING OF A CURVE, CONCAVE TO THE SOUTHWEST, HAVING A RADIUS OF 80.00 FEET; THENCE NORTHWESTERLY ALONG SAID CURVE 27.68 FEET THROUGH A CENTRAL ANGLE OF 19°49'27";
THENCE SOUTH 20°18'58" WEST 8.36 FEET;
THENCE SOUTH 58°06'01" WEST 43.73 FEET;
THENCE SOUTH 64°45'44" WEST 54.22 FEET;
THENCE SOUTH 25°14'16" EAST 59.39 FEET;
THENCE NORTH 64°45'44" EAST 60.53 FEET;
THENCE NORTH 25°14'16" WEST 39.54 FEET;
THENCE NORTH 52°28'00" EAST 41.03 FEET;

THENCE SOUTH 84°22'50" EAST 9.70 FEET TO THE TRUE POINT OF BEGINNING.

PARCEL 17: GAS CONDITIONING EQUIPMENT EASEMENT AREA
THAT PORTION OF PARCEL 3, IN THE CITY OF EL SEGUNDO, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS DESCRIBED IN THE CERTIFICATE OF COMPLIANCE RECORDED DECEMBER 23, 1997 AS INSTRUMENT NO. 97-2012822 OF OFFICIAL RECORDS OF SAID COUNTY, SAID PARCEL 3 BEING ALSO SHOWN ON THE MAP FILED IN BOOK 163, PAGES 51 THROUGH 53, INCLUSIVE, OF RECORDS OF SURVEY, RECORDS OF SAID COUNTY, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID PARCEL 3, SAID NORTHEAST CORNER ALSO BEING A POINT ON THE SOUTHWESTERLY LINE OF VISTA DEL MAR BOULEVARD, 70 FEET WIDE, AS SHOWN ON SAID RECORD OF SURVEY;
THENCE ALONG THE EASTERLY LINE OF SAID PARCEL 3 THE FOLLOWING THREE COURSES:

1. SOUTH 50°44'00" EAST 116.26 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE SOUTHWEST HAVING A RADIUS OF 765.00 FEET;

2. SOUTHEASTERLY 367.40 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 27°31'00";

3. SOUTH 23°13'00" EAST 55.58 FEET;
THENCE LEAVING SAID EASTERLY LINE SOUTH 66°47'00" WEST 324.15 FEET;
THENCE NORTH 23°13'00" WEST 20.00 FEET;
THENCE SOUTH 66°47'00" WEST 102.50 FEET;
THENCE SOUTH 23°13'00" EAST 14.00 FEET;
THENCE SOUTH 66°19'04" WEST 124.84 FEET;
THENCE SOUTH 21°50'00" EAST 519.58 FEET;
THENCE NORTH 68°10'00" EAST 155.49 FEET;
THENCE SOUTH 21°50'00" EAST 140.16 FEET;

THENCE SOUTH 68°10'00" WEST 22.09 FEET TO THE TRUE POINT OF BEGINNING;
THENCE SOUTH 21°50'00" EAST 35.00 FEET;
THENCE SOUTH 68°10'00" WEST 15.00 FEET;
THENCE NORTH 21°50'00" WEST 35.00 FEET;

THENCE NORTH 68°10'00" EAST 15.00 FEET TO THE TRUE POINT OF BEGINNING.

APN: 4138-029-802 AND 803

TRACT 2: EASEMENTS FROM EL SEGUNDO POWER II LLC

PARCEL 1: SEWER LINE EASEMENT AREA
THAT PORTION OF PARCEL 2, IN THE CITY OF EL SEGUNDO, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS DESCRIBED IN THE CERTIFICATE OF COMPLIANCE RECORDED DECEMBER 23, 1997 AS INSTRUMENT NO. 97-2012822 OF OFFICIAL RECORDS OF SAID COUNTY, SAID PARCEL 3 BEING ALSO SHOWN ON THE MAP FILED IN BOOK 163, PAGES 51 THROUGH 53, INCLUSIVE, OF RECORDS OF SURVEY, RECORDS OF SAID COUNTY, BEING A STRIP OF LAND 15 FEET WIDE, THE CENTERLINE OF WHICH IS DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF PARCEL 3 OF SAID RECORD OF SURVEY, SAID NORTHEAST CORNER ALSO BEING A POINT ON THE SOUTHWESTERLY LINE OF VISTA DEL MAR BOULEVARD, 70 FEET WIDE, AS SHOWN ON SAID RECORD OF SURVEY; THENCE ALONG THE EASTERLY LINE OF SAID PARCEL 3 THE FOLLOWING THREE COURSES:

1. SOUTH 50°44'00" EAST 116.26 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE SOUTHWEST HAVING A RADIUS OF 765.00 FEET;

SOUTHEASTERLY 367.40 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 27°31'00"; 3.

SOUTH 23°13'00" EAST 55.58 FEET;
THENCE LEAVING SAID EASTERLY LINE SOUTH 66°47'00" WEST 324.15 FEET;
THENCE NORTH 23°13'00" WEST 20.00 FEET;
THENCE SOUTH 66°47'00" WEST 102.50 FEET;
THENCE SOUTH 23°13'00" EAST 14.00 FEET;
THENCE SOUTH 66°19'04" WEST 124.84 FEET;
THENCE SOUTH 21°50'00" EAST 978.48 FEET;
THENCE SOUTH 23°05'36" EAST 232.14 FEET;
THENCE SOUTH 66°54'24" WEST 5.00 FEET;
THENCE SOUTH 23°15'48" EAST 42.00 FEET TO A POINT IN THE NORTHERLY LINE OF PARCEL 2 OF SAID RECORD OF SURVEY AND THE TRUE POINT OF BEGINNING;
THENCE CONTINUING SOUTH 23°15'48" EAST 636.44 FEET TO THE BEGINNING OF A CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 70.50 FEET; THENCE SOUTHEASTERLY ALONG SAID CURVE 41.59 FEET THROUGH A CENTRAL ANGLE OF 33°47'59"; THENCE NORTH 67°47'00" EAST 248.70 FEET; THENCE SOUTH 22°13'00" EAST 16.11 FEET TO THE SOUTHERLY LINE OF SAID PARCEL 2.

THE SIDELINES OF SAID STRIP SHALL BE LENGTHENED OR SHORTENED SO AS TO TERMINATE NORTHERLY IN THE NORTHERLY LINE OF SAID PARCEL 2 AND SOUTHERLY IN THE SOUTHERLY LINE OF SAID PARCEL 2.

PARCEL 2: LAYDOWN AND STAGING; AND SAFETY AND SECURITY SETBACKS EASEMENT

THAT PORTION OF PARCEL 2, IN THE CITY OF EL SEGUNDO, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS DESCRIBED IN THE CERTIFICATE OF COMPLIANCE RECORDED DECEMBER 23, 1997 AS INSTRUMENT NO. 97-2012822 OF OFFICIAL RECORDS OF SAID COUNTY, SAID PARCEL 2 BEING ALSO SHOWN ON THE MAP FILED IN BOOK 163, PAGES 51 THROUGH 53, INCLUSIVE, OF RECORDS OF SURVEY, RECORDS OF SAID COUNTY, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF PARCEL 3 OF SAID CERTIFICATE OF COMPLIANCE, SAID NORTHEAST CORNER ALSO BEING A POINT ON THE SOUTHWESTERLY LINE OF VISTA DEL MAR BOULEVARD, 70 FEET WIDE, AS SHOWN ON SAID RECORD OF SURVEY; THENCE ALONG THE NORTHEASTERLY LINE OF SAID PARCEL 3 THE FOLLOWING THREE COURSES:

1. SOUTH 50°44'00" EAST 116.26 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 765.00 FEET;

2. SOUTHEASTERLY 367.40 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 27°31'00";

3. SOUTH 23°13'00" EAST 1302.48 FEET;
THENCE LEAVING SAID NORTHEASTERLY LINE SOUTH 66°47'00" WEST 274.63 FEET TO THE TRUE POINT OF BEGINNING;
THENCE SOUTH 78°20'22" EAST 35.80 FEET;
THENCE SOUTH 48°06'30" EAST 75.23 FEET;
THENCE SOUTH 38°32'14" EAST 50.83 FEET;
THENCE SOUTH 15°36'40" EAST 41.06 FEET;
THENCE SOUTH 11°57'06" WEST 54.63 FEET;
THENCE SOUTH 21°28'30" EAST 130.42 FEET;
THENCE SOUTH 56°16'52" EAST 159.93 FEET;
THENCE SOUTH 21°21'39" EAST 106.00 FEET;
THENCE SOUTH 40°34'21" WEST 76.11 FEET;
THENCE SOUTH 67°12'40" WEST 64.61 FEET;
THENCE SOUTH 73°17'00" WEST 169.69 FEET;
THENCE NORTH 23°29'24" WEST 319.98 FEET;
THENCE NORTH 21°56'23" WEST 290.83 FEET;
THENCE NORTH 63°33'16" EAST 101.22 FEET;

THENCE NORTH 73°25'23" EAST 78.57 FEET TO THE TRUE POINT OF BEGINNING.

4138-029-004

APN: 4138-029-802, 803, 004

SCHEDULE B

EXCEPTIONS FROM COVERAGE

Except as provided in Schedule B - Part II, this policy does not insure against loss or damage, and the Company will not pay costs, attorneys' fees, or expenses that arise by reason of:

PART I

1. Property taxes, which are a lien not yet due and payable, including any assessments collected with taxes to be levied for the fiscal year 2014-2015.

   Property taxes, including any personal property taxes and any assessments collected with taxes are as

   follows: Tax Identification No.: 4138-029-004
   Fiscal Year: 2013-2014
   1st Installment: $12,028.11, Paid
   2nd Installment: $12,028.11, Unpaid
   Land: $1,583,561.00
   Improvements: $335,903.00

2. General and Special City and/or County taxes, bonds or assessments which may become due on said land, if and when title to said land is no longer vested in a Governmental or Quasigovernmental Agency. Tax Parcel for said land is current shown as 4138-029-802 and 803.

3. The lien of supplemental taxes, if any, assessed subsequent to the date hereof pursuant to the provisions of Chapter 3.5 (Commencing with Section 75) of the Revenue and Taxation code of the State of California, arising from changes in ownership or completion of construction on or after the date of the policy.

4. Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a

   document: Granted to: City of El Segundo, a California Municipal Corporation
   Purpose: Maintenance and repair of cut and fill slopes for the protection and support of Coast Boulevard, a public street
   Recording Date: August 23, 1954
   Recording No: Instrument No. 3675, Book 45389, Page 356, of Official
   Records Affects: said land

5. Covenants, conditions and restrictions but omitting any covenants or restrictions, if any, including but not limited to those based upon race, color, religion, sex, sexual orientation, familial status, marital status, disability, handicap, national origin, ancestry, source of income, gender, gender identity, gender expression, medical condition or genetic information, as set forth in applicable state or federal laws, except to the extent that said covenant or restriction is permitted by applicable law, as set forth in the document

   Recording Date: August 24, 1954

   Recording No: Instrument No. 2745, Book 45398, Page 396, of Official

   Records Said instrument provides for an option, as therein set forth.
   Reference is made to said document for full particulars

6. Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a

document: Granted to:	County of Los Angeles
Purpose:	public highway
Recording Date:	November 2, 1916
Recording No:	Instrument No. 95, Book 6388, Page 49, of Deeds
Affects:	Said matter affects a portion of said land as more particularly described in said document.

Also, the right to extend any pipes, culverts, bulkheads, passes or wing walls that may be necessary in the proper construction and drainage of the road, and to extend the slopes of cut or fill of the road beyond the limits of said roadway, as provided in deed recorded November 2, 1916 as Instrument No. 95 in Book 6388 Page 49 of Deeds.

Also, all rights to supervise or control the planting, maintaining, trimming or removing of any trees shrubs, flowers, grass or other plants within said roadway as granted to the county of Los Angeles in deed recorded November 2, 1916 as Instrument No. 95 in Book 6388 Page 49 of Deeds.

Also, a waiver of all rights to the maintaining of any improvements or obstructions with the roadway, as provided in deed recorded November 2, 1916 as Instrument No. 95 in Book 6388 Page 49 of Deeds.

7. The effect of a record of Survey Map, filed on December 21, 1998 in Book 163 Pages 51, 52 and 53 Records of Survey.

The purpose of the survey, as recited on the map:

"The purpose for the Record of Survey is to re-establish and monument the boundary for the Southern California Edison Company generation site as described in Book D2241 Page 74, of official records, Book 45398 Page 396 of Official Records and Book M1652 Page 122 of Official Records as Instrument No. 4670, as well as shown the location of monuments and how they relate to the property description and plats shown in certificate of compliance recorded in instrument no. 97-2012822, of official records, all in the county recorders office of Los Angeles County.

Reference is made to said document for full particulars.

8. Easements, rights incidental thereto and other rights or duties or other matters contained and set forth therein, as contained in that certain grant deed dated April 3, 1998 and recorded April 6, 1998 as Instrument No. 98-550445, of Official Records.

Reference is made to said document for full particulars.

Covenants, conditions and restrictions (restrictions, if any, based on race, color, religion, sex, handicap, familial status or national origin are deleted), as set forth in said document.

9. Matters contained in that certain document

Entitled:	Easement and Covenant Agreement
Dated:	April 3, 1998
Executed by:	Southern California Edison Company and El Segundo Power, LLC, a Delaware, Limited Liability Company
Recording Date:	April 6, 1998
Recording No:	98-550446, of Official Records

Reference is hereby made to said document for full particulars.

10. Matters contained in that certain document

Entitled:	Declaration of Easements
Dated:	December 17, 1997
Executed by:	Southern California Edison Company
Recording Date:	December 23, 1997
Recording No:	97-2012823, of Official Records

Reference is hereby made to said document for full particulars.

11. An instrument entitled "Covenant and Agreement Regarding Maintenance of Off-Street Parking"

Executed by:	Southern California Edison Company
In favor of:	City of El Segundo
Recording Date:	December 23, 1997
Recording No:	97-2012825, of Official Records

Reference is hereby made to said document for full particulars.

12. An instrument entitled "Covenant and Agreement"

Executed by:	Southern California Edison Company
In favor of:	The City of El Segundo (Department of Planning and Building Safety)
Recording Date:	December 23, 1997
Recording No:	97-2012824, of Official Records

Reference is hereby made to said document for full particulars.

13. Any adverse claim based upon the assertion that:

Some portion of said Land is tide or submerged land, or has been created by artificial means or has accreted to such portion so created.

Some portion of said Land has been brought within the boundaries thereof by an avulsive movement of Pacific Ocean or has been formed by accretion to any such portion.

14. Any rights, interests, or claims which may exist or arise by reason of the following matters disclosed by

survey, Job No.: 2NRG010101
Dated: January 10, 2014
Prepared by:
PSOMAS Matters shown:

A) Intentionally Deleted.
B) Power poles with guy anchors and overhead wires running north-south along the easterly portion of Tract 1, Parcel 1.
C) An unidentified conduit running along a retaining wall along the northeast portion of Tract 1, Parcel 1, near the northeast corner thereof.
D) Numerous unidentified tanks located over various portions of Tract 1, Parcel 1.
E) The existence of monitoring wells over various portions of Tract 1, Parcel 1.
F) The 0.3' encroachment of a power pole onto the subject property from the street right of way of Vista Del Mar Boulevard.
G) An encroachment of an unidentified building over the southeasterly boundary of Tract 1, Parcel 1, onto the land adjoining to the southeast, to an undisclosed amount.
H) Overhead wires running north-south, cross the southeast boundary of Tract 1, Parcel 1 near the southeast corner thereof.
I) Numerous transformers, electric control panels, electric manholes, electric pull boxes, unknown vaults, sewer cleanouts, storm drain inlets, fore water valves, fire hydrants, fire department connections and a backflow preventer located over various portions of Tract 1, Parcel 1.
J) Three unidentified tanks are located on Tract 1, Parcel 3.
K) An electric handhole located on Tract 1, Parcel 4.
L) The existence of a monitoring well located on Tract 1, Parcel 4.
M) Pipes located on a portion of Tract 1, Parcel 4.
N) An encroachment of a building, located on Tract 1, Parcel 2, onto the land adjoining to the south, to an undisclosed amount.
O) Intentionally Deleted.
P) Overhead wires cross over Tract 1, Parcel 6.
Q) Transformers, electric handholes, unidentified vaults and a tank are located over various portions of Tract 1, Parcel 6.
R) An encroachment of a building, located on Tract 1, Parcel 6, into Tract 1, Parcel 7, to an undisclosed amount.
S) An encroachment of a structure into Tract 1, Parcel 7, to an undisclosed amount.
T) An encroachment of a building into Tract 1, Parcel 7, located near the southeast portion thereof.
U) An encroachment of a building into Tract 1, Parcel 7, located near the southwest portion thereof.
V) An encroachment of two buildings into Tract 1, Parcel 7, located near the southerly portion thereof.
W) The existence of monitoring wells over various portions of Tract 1, Parcel 7.
X) Numerous transformers, electric control panels, electric manholes, electric pull boxes, unknown vaults, sewer cleanouts, storm drain inlets, fore water valves, fire hydrants, fire department connections and a backflow preventer located over various portions of Tract 1, Parcel 7.
Y) An encroachment of a seawall over the westerly boundary of Tract 1, Parcel 9, to an undisclosed amount.
Z) Electric pull boxes, electric cabinets, utility vaults and unknown vaults are located over various portions of Tract 1, Parcel 9.
AA) Two 6" telephone conduits cross the east-west across Tract 1, Parcel
10. BB) Stairs cross the westerly boundary of Tract 1, Parcel 10.
CC) A capped off underground pipeline is located on Tract 1, Parcel 10.
DD) Pipe crosses the easterly boundary of Tract 1, Parcel 10.
EE) Overhead wires cross the southerly and westerly boundaries of Tract 1, Parcel 10, at the southerly portion

thereof.

FF) An encroachment of a building and a structure over Tract 1, Parcel 11.

GG) A deck crosses a portion of Tract 1, Parcel 13, onto land adjoining to the north and south.

HH) The fact that a portion of the Ammonia Facility pipeline is located outside the easement area.

II) An encroachment of a building located on Tract 1, Parcel 14 onto the land adjoining to the south, to an undisclosed amount.

JJ) An encroachment of a building located on Tract 1, Parcel 14 onto the land adjoining to the north, to an undisclosed amount.

KK) An encroachment of a building onto Tract 1, Parcel 14 from the land adjoining to the east. LL) Intentionally Deleted.

MM) An encroachment of a building located on Tract 1, Parcel 15 onto the land adjoining to the south, to an undisclosed amount.

NN) An encroachment of a building located on Tract 1, Parcel 15 onto the land adjoining to the east, to an undisclosed amount.

OO) Pull boxes, vaults and electric vaults are located over various portions of Tract 2, Parcel 1. PP) A catch basin crosses the westerly boundary of Tract 2, Parcel 2.

QQ) Electric vaults, electric cabinets, electric risers, a water valve, a valve, storm drains, transformers and pull boxes are located over various portions of Tract 2, Parcel 2.

RR) The fact that there are buildings located on Tract 1, Parcel 15 which is intended for parking purposes only

15. Intentionally Deleted.

16. Easements reserved for the benefit of lessor and grantor in that certain document entitled "Amended and Restated Ground Lease and Easement Agreement" by and between El Segundo Power, LLC, a Delaware limited liability company, as lessor, and El Segundo Energy Center LLC, a Delaware limited liability company, as lessee, made and entered into as of July 15, 2011, but effective for all purposes as of March 31, 2011, a memorandum of which was recorded August 19, 2011 as Document No. 20111121480 of Official Records.

    Reference is made to said document for full particulars.

17. Covenants, conditions, restrictions and obligations owing to the grantor contained in that certain document entitled "Amended and Restated Easement Agreement" by and between El Segundo Power II LLC, a Delaware limited liability company, as grantor, and El Segundo Energy Center LLC, a Delaware limited liability company, as grantee, dated as of March 31, 2011 and recorded August 19, 2011 as Document No. 20111121481 of Official Records.

    Reference is made to said document for full particulars.

End of Schedule B – Part I

SCHEDULE

B PART II

In addition to the matters set forth in Part I of this Schedule, the Title is subject to the following matters, and the Company insures against loss or damage sustained in the event that they are not subordinate to the lien of the Insured Mortgage:

1. A deed of trust to secure an indebtedness in the amount shown

below, Dated:	July 25, 2013
Trustor/Grantor:	El Segundo Energy Center LLC
Trustee:	Fidelity National Title
Company	
Beneficiary:	Southern California Edison Company
Recording Date:	July 25, 2013
Recording No:	2013-1093855, of Official Records

2. Matters contained in that certain document

Entitled:	Intercreditor and Subordination Agreement
Dated:	July 25, 2013
Executed by:	Credit Agricole Corporate and Investment Bank, as collateral agent and Southern California Edison Company, a California corporation as offtaker
Recording Date:	July 25, 2013
Recording No:	2013-1093856, of Official Records

Reference is hereby made to said document for full particulars

3. A deed of trust which purports to secure performance of an agreement referred to therein, and any other obligations secured thereby

Dated:	April 17, 2013
Trustor/Grantor:	El Segundo Power, LLC, a Delaware limited liability
company Trustee:	Chicago Title Company, a California corporation
Beneficiary:	Deutsche Bank Trust Company Americas
Recording Date:	September 09, 2013
Recording No:	2013-1308118, of Official Records

An agreement to modify the terms and provisions of said deed of trust as therein provided

Executed by:	El Segundo Power, LLC, a Delaware limited liability company and Deutsche Bank Trust Company Americas
Recording Date:	September 09, 2013
Recording No:	2013-1308119, of Official Records

Affects: Fee Estate

Affects: A portion of the Land described herein and other land.

4. A deed of trust which purports to secure performance of an agreement referred to therein, and any other obligations secured thereby

Dated:	April 17, 2013
Trustor/Grantor:	El Segundo Power, LLC, a Delaware limited liability
company Trustee:	Chicago Title Company, a California corporation
Beneficiary:	Deutsche Bank Trust Company Americas
Recording Date:	September 09, 2013
Recording No:	2013-1308120, of Official Records

An agreement to modify the terms and provisions of said deed of trust as therein provided

Executed by:	El Segundo Power, LLC, a Delaware limited liability company and Deutsche Bank Trust Company Americas
Recording Date:	September 09, 2013
Recording No:	2013-1308121, of Official Records
Affects:	Fee Estate
Affects:	A portion of the Land described herein and other land.

End of Schedule B – Part II

This is a pro forma policy furnished to or on behalf of the party to be insured. It neither reflects the present status of title, nor is it intended to be a commitment to insured. The inclusion of endorsements as a part of the pro forma policy in no way evidences the willingness of the company to provide any affirmative coverage shown therein. There are requirements which must be met before a final policy can be issued in the same form as the pro forma policy. A commitment to insure setting forth these requirements should be obtained from the Company.

Additional Matters may be added or other amendments may be made to this pro forma policy by reason of any defects, liens or encumbrances that appear for the first time in the Public Records or come to the attention of the Company and are created or attached between the issuance of this pro forma policy and the issuance of a policy of title insurance. The Company shall have no liability because of such addition or amendment.

PRO FORMA ENDORSEMENT
Attached to Policy No. Pro Forma-23036266-AL
Issued By
Fidelity National Title Insurance Company
Restrictions, Encroachments, Minerals

The Company insures against loss or damage sustained by the Insured by reason of:

1. The existence, at Date of Policy, of any of the following unless expressly excepted in Schedule B:

a. Present violations on the Land of any covenants, conditions, or restrictions, or any existing improvements on the Land that violate any building setback lines shown on a plat of subdivision recorded or filed in the Public Records.

b. Any instrument referred to in Schedule B as containing covenants, conditions, or restrictions on the Land that, in addition,
(i) establishes an easement on the Land, (ii) provides for an option to purchase, a right of first refusal, or the prior approval of a future purchaser or occupant, or (iii) provides a right of reentry, possibility of reverter, or right of forfeiture because of violations on the Land of any enforceable covenants, conditions, or restrictions.

c. Any encroachment of existing improvements located on the Land onto adjoining land, or any encroachment onto the Land of existing improvements located on adjoining land.

d. Any encroachment of existing improvements located on the Land onto that portion of the Land subject to any easement excepted in Schedule B.

e. Any notices of violation of covenants, conditions, or restrictions relating to environmental protection recorded or filed in the Public Records.

2. Damage to existing buildings that are located on or encroach upon that portion of the Land subject to any easement excepted in Schedule B, which damage results from the exercise of the right to maintain the easement for the purpose for which it was granted or reserved.

3. Damage to improvements (excluding lawns, shrubbery, or trees) located on the Land on or after Date of Policy resulting from the future exercise of any right existing at Date of Policy to use the surface of the Land for the extraction or development of minerals excepted from the description of the Land or excepted in Schedule B.

4. Any final court order or judgment requiring the removal from any land adjoining the Land of any encroachment, other than fences, landscaping, or driveways, excepted in Schedule B.

5. Any final court order or judgment denying the right to maintain any existing building on the Land because of any violation of covenants, conditions, or restrictions, or building setback lines shown on a plat of subdivision recorded or filed in the Public Records.

Wherever in this endorsement the words "covenants, conditions, or restrictions" appear, they do not include the terms, covenants, conditions, or limitations contained in an instrument creating a lease.

As used in paragraphs 1.a. and 5, the words "covenants, conditions, or restrictions" do not include any covenants, conditions, or restrictions (a) relating to obligations of any type to perform maintenance, repair, or remediation on the Land, or (b) pertaining to environmental protection of any kind or nature, including hazardous or toxic matters, conditions, or substances, except to the extent that a notice of a violation or alleged violation affecting the Land has been recorded or filed in the Public Records at Date of Policy and is not excepted in Schedule B.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

Dated: **PRO FORMA**

Fidelity National Title Insurance Company

Countersigned by:

Pro Forma Specimen
Authorized Signature

This is a Pro Forma Endorsement. It does not reflect the present state of the Title and is not a commitment to (i) insure the Title or (ii) issue any of the attached endorsements. Any such commitment must be an express written undertaking on appropriate forms of the Company.

PRO FORMA ENDORSEMENT
Attached to Policy No. Pro Forma-23036266-AL
Issued by
Fidelity National Title Insurance Company

The Company insures against loss or damage sustained by the Insured in the event that the owners of the easements referred to in paragraphs 4, 6, 8, 9 and 10 of Schedule B shall, for the purpose of exercising the right of use or maintenance of said easements, compel the removal of any portion of the improvements on the Land which encroach upon said easement.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

Dated: **PRO FORMA**

Fidelity National Title Insurance Company

Countersigned by:

Pro Forma Specimen
Authorized Signature

This is a Pro Forma Endorsement. It does not reflect the present state of the Title and is not a commitment to (i) insure the Title or (ii) issue any of the attached endorsements. Any such commitment must be an express written undertaking on appropriate forms of the Company.

PRO FORMA ENDORSEMENT
Attached to Policy No. Pro Forma-23036266-AL
Issued by
Fidelity National Title Insurance Company
Easement, Access to Public Street

The Company insures against loss or damage sustained by the Insured by reason of the failure of the easement described in Section 1.2.12 of the Amended and Restated Ground Lease and Easement Agreement shown in Schedule A to provide the owner of the Title with ingress and egress to and from a public street known as Vista Del Mar Boulevard.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

Dated: **PRO FORMA**

Fidelity National Title Insurance Company

Countersigned by:

Pro Forma Specimen
Authorized Signature

This is a Pro Forma Endorsement. It does not reflect the present state of the Title and is not a commitment to (i) insure the Title or (ii) issue any of the attached endorsements. Any such commitment must be an express written undertaking on appropriate forms of the Company.

PRO FORMA ENDORSEMENT
Attached to Policy No. Pro Forma-23036266-AL
Issued by
Fidelity National Title Insurance Company

The Company insures against loss or damage sustained by the Insured by reason of the failure of the Land as described in Schedule A to be the same as that identified on the survey made by Jeremy L. Evans of Psomas dated January 10, 2014, and designated Job No. 2NRG010101.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

Dated: **PRO FORMA**

Fidelity National Title Insurance Company

Countersigned by:

Pro Forma Specimen
Authorized Signature

This is a Pro Forma Endorsement. It does not reflect the present state of the Title and is not a commitment to (i) insure the Title or (ii) issue any of the attached endorsements. Any such commitment must be an express written undertaking on appropriate forms of the Company.

PRO FORMA ENDORSEMENT
Attached to Policy No. Pro Forma-23036266-AL
Issued by
Fidelity National Title Insurance Company
Contiguity Endorsement

The Company hereby insures the insured against loss or damage which the insured shall sustain by reason of the failure of the land described in Schedule A to be contiguous along their common boundaries.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

Dated: **PRO FORMA**

Fidelity National Title Insurance Company

Countersigned by:

Pro Forma Specimen
Authorized Signature

This is a Pro Forma Endorsement. It does not reflect the present state of the Title and is not a commitment to (i) insure the Title or (ii) issue any of the attached endorsements. Any such commitment must be an express written undertaking on appropriate forms of the Company.

PRO FORMA ENDORSEMENT
Attached to Policy No. Pro Forma-23036266-AL
Issued by
Fidelity National Title Insurance Company

The Company insures against loss or damage sustained by the Insured by reason of an environmental protection lien that, at Date of Policy, is recorded in the Public Records or filed in the records of the clerk of the United States district court for the district in which the Land is located, unless the environmental protection lien is set forth as an exception in Schedule B.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

Dated: **PRO FORMA**

Fidelity National Title Insurance Company

Countersigned by:

Pro Forma Specimen
Authorized Signature

This is a Pro Forma Endorsement. It does not reflect the present state of the Title and is not a commitment to (i) insure the Title or (ii) issue any of the attached endorsements. Any such commitment must be an express written undertaking on appropriate forms of the Company.

PRO FORMA ENDORSEMENT
Attached to Policy No. Pro Forma-23036266-AL
Issued by
Fidelity National Title Insurance Company

The Company insures against loss or damage sustained by the Insured by reason of the invalidity or unenforceability of the lien of the Insured Mortgage on the ground that making the loan secured by the Insured Mortgage constituted a violation of the "doing business" laws of the State where the Land is located because of the failure of the Insured to qualify to do business under those laws.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

Dated: **PRO FORMA**

Fidelity National Title Insurance Company

Countersigned by:

Pro Forma Specimen
Authorized Signature

This is a Pro Forma Endorsement. It does not reflect the present state of the Title and is not a commitment to (i) insure the Title or (ii) issue any of the attached endorsements. Any such commitment must be an express written undertaking on appropriate forms of the Company.

PRO FORMA ENDORSEMENT
Attached to Policy No. Pro Forma-23036266-AL
Issued by
Fidelity National Title Insurance Company

The Company insures against loss or damage sustained by the Insured by reason of the invalidity or unenforceability of the lien of the Insured Mortgage as security for the Indebtedness because the loan secured by the Insured Mortgage violates the usury law of the state where the Land is located.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

Dated: **PRO FORMA**

Fidelity National Title Insurance Company

Countersigned by:

Pro Forma Specimen
Authorized Signature

This is a Pro Forma Endorsement. It does not reflect the present state of the Title and is not a commitment to (i) insure the Title or (ii) issue any of the attached endorsements. Any such commitment must be an express written undertaking on appropriate forms of the Company.

PRO FORMA ENDORSEMENT
Attached to Policy No. Pro Forma-23036266-AL
Issued by
Fidelity National Title Insurance Company
Utility Facility

The Company insures the Insured against loss or damage that the Insured may sustain by reason of the failure of the following lines

☑	Water	☑	Natural gas	☑	Telephone
☑	Electrical power	☑	Sanitary sewer	☑	Storm water drainage
☑	Television Cable	☐		☐	

to enter and service the premises described in Schedule A, either:

(i) directly from a public line located in a public roadway, or (ii) across private property to a public line in a public roadway pursuant to a permanent recorded easement.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

Dated: **PRO FORMA**

Fidelity National Title Insurance Company

Countersigned by:

Pro Forma Specimen
Authorized Signature

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PRO FORMA ENDORSEMENT
Attached to Policy No. Pro Forma-23036266-AL
Issued by
Fidelity National Title Insurance Company

The Company insures against loss or damage sustained by the Insured if the exercise of the granted or reserved rights to use or maintain the easement(s) referred to in Exception(s) 4, 6, 8, 9 and 10 of Schedule B results in:

(1) damage to an existing building located on the Land, or

(2) enforced removal or alteration of an existing building located on the Land.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

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PRO FORMA ENDORSEMENT
Attached to Policy No. Pro Forma-23036266-AL
Issued By
Fidelity National Title Insurance Company

1. As used in this endorsement, the following terms shall mean:

   a. "Evicted" or "Eviction": (a) the lawful deprivation, in whole or in part, of the right of possession insured by this policy, contrary to the terms of the Lease or (b) the lawful prevention of the use of the Land or the Tenant Leasehold Improvements for the purposes permitted by the Lease, in either case as a result of a matter covered by this policy.

   b. "Lease": the lease described in Schedule A.

   c. "Leasehold Estate": the right of possession granted in the Lease for the Lease Term.

   d. "Lease Term": the duration of the Leasehold Estate, as set forth in the Lease, including any renewal or extended term if a valid option to renew or extend is contained in the Lease.

   e. "Personal Property": property, in which and to the extent the Insured has rights, located on or affixed to the Land on or after Date of Policy that by law does not constitute real property because (i) of its character and manner of attachment to the Land and (ii) the property can be severed from the Land without causing material damage to the property or to the Land.

   f. "Remaining Lease Term": the portion of the Lease Term remaining after the Tenant has been Evicted.

   g. "Tenant": the tenant under the Lease and, after acquisition of all or any part of the Title in accordance with the provisions of Section 2 of the Conditions of the policy, the Insured Claimant.

   h. "Tenant Leasehold Improvements": Those improvements, in which and to the extent the Insured has rights, including landscaping, required or permitted to be built on the Land by the Lease that have been built at the Tenant's expense or in which the Tenant has an interest greater than the right to possession during the Lease Term.

2. Valuation of Estate or Interest Insured:

   If in computing loss or damage it becomes necessary to value the Title, or any portion of it, as the result of an Eviction of the Tenant, then, as to that portion of the Land from which the Tenant is Evicted, that value shall consist of the value for the Remaining Lease Term of the Leasehold Estate and any Tenant Leasehold Improvements existing on the date of the Eviction. The Insured Claimant shall have the right to have the Leasehold Estate and the Tenant Leasehold Improvements affected by a defect insured against by the policy valued either as a whole or separately. In either event, this determination of value shall take into account rent no longer required to be paid for the Remaining Lease Term.

3. Additional items of loss covered by this endorsement:

   If the Insured acquires all or any part of the Title in accordance with the provisions of Section 2 of the Conditions of this policy and thereafter is Evicted, the following items of loss, if applicable to that portion of the Land from which the Insured is Evicted shall be included, without duplication, in computing loss or damage incurred by the Insured, but not to the extent that the same are included in the valuation of the Title determined pursuant to Section 2 of this endorsement, any other endorsement to the policy, or Section 8(a)(iii) of the Conditions:

   a. The reasonable cost of (i) removing and relocating any Personal Property that the Insured has the right to remove and relocate, situated on the Land at the time of Eviction, (ii) transportation of that Personal Property for the initial one hundred miles incurred in connection with the relocation, (iii) repairing the Personal Property damaged by reason of the removal and relocation, and (iv) restoring the Land to the extent damaged as a result of the removal and relocation of the Personal Property and required of the Insured solely because of the Eviction.

b. Rent or damages for use and occupancy of the Land prior to the Eviction that the Insured as owner of the Leasehold Estate may be obligated to pay to any person having paramount title to that of the lessor in the Lease.

c. The amount of rent that, by the terms of the Lease, the Insured must continue to pay to the lessor after Eviction with respect to the portion of the Leasehold Estate and Tenant Leasehold Improvements from which the Insured has been Evicted.

d. The fair market value, at the time of the Eviction, of the estate or interest of the Insured in any lease or sublease permitted by the Lease and made by the Tenant as lessor of all or part of the Leasehold Estate or the Tenant Leasehold Improvements.

e. Damages caused by the Eviction that the Insured is obligated to pay to lessees or sublessees on account of the breach of any lease or sublease permitted by the Lease and made by the Tenant as lessor of all or part of the Leasehold Estate or the Tenant Leasehold Improvements.

f. The reasonable cost to obtain land use, zoning, building and occupancy permits, architectural and engineering services and environmental testing and reviews for a replacement leasehold reasonably equivalent to the Leasehold Estate.

g. If Tenant Leasehold Improvements are not substantially completed at the time of Eviction, the actual cost incurred by the Insured, less the salvage value, for the Tenant Leasehold Improvements up to the time of Eviction. Those costs include costs incurred to obtain land use, zoning, building and occupancy permits, architectural and engineering services, construction management services, environmental testing and reviews, and landscaping.

4. This endorsement does not insure against loss, damage or costs of remediation (and the Company will not pay costs, attorneys' fees or expenses) resulting from environmental damage or contamination.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

Dated: **PRO FORMA**

Fidelity National Title Insurance Company

Countersigned by:

Pro Forma Specimen
Authorized Signature

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PRO FORMA ENDORSEMENT
Attached to Policy No. Pro Forma-23036266-AL
Issued by
Fidelity National Title Insurance Company

The Company insures against loss or damage sustained by reason of the failure of the covenants of the lessor or grantor, as the case may be, in favor of the lessee or grantee, as the case may be, under the Amended and Restated Ground Lease and Easement Agreement and the Amended and Restated Easement Agreement recorded August 19, 2011 as Document No. 20111121480 and 20111121481, respectively, to do some act relating to the use, repair, maintenance of the improvements , or payment of taxes and assessments of the real property, or some part thereof, described in Schedule A to be binding, as shown by the Public Records, upon the lessor and each successive owner, during his or her ownership, of any portion of such real property, and upon each mortgagee of a mortgage, or the trustee or beneficiary of a deed of trust, whose interest is derived from the lessor or through any such successive owner thereof, while such mortgagee or trustee or beneficiary is in possession in such capacity.

Provided, however, that no insurance coverage is provided by this endorsement should such covenants fail to bind a successive owner who derives title through: a) a tax deed; b) a foreclosure of a bond or assessment; c) enforcement of a federal tax lien; d) a bankruptcy, as trustee or otherwise; e) a right or lien existing prior to the date of recording of the instrument containing said covenants.

This endorsement does not insure against loss or damage which the insured may sustain by reason of the non performance of any said covenants.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

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Issued by
Fidelity National Title Insurance Company

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Provided, however, that no insurance coverage is provided by this endorsement should such covenants fail to bind a successive owner who derives title through: a) a tax deed; b) a foreclosure of a bond or assessment; c) enforcement of a federal tax lien; d) a bankruptcy, as trustee or otherwise; e) a right or lien existing prior to the date of recording of the instrument containing said covenants.

This endorsement does not insure against loss or damage which the insured may sustain by reason of the non performance of any said covenants.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

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PRO FORMA ENDORSEMENT
Attached to Policy No. Pro Forma-23036266-AL
Issued by
Fidelity National Title Insurance Company
First Loss

In the event that a defect, lien, encumbrance, or other matter insured against by this Policy results in loss as determined under the Policy which exceeds (e.g., ten) percent of the Amount of Insurance stated in Schedule A, the amount which the company shall be liable to pay under the Policy shall be determined without requiring maturity of the indebtedness by acceleration or otherwise and without requiring the insured to pursue its remedies against other collateral securing the indebtedness.

In the event a loss is determined to exist under the Policy in accordance with the terms of this Endorsement, Company shall be subrogated to the rights, if any, of the insured at that time (other than maturity of the indebtedness) for any breach of warranty by reason of the defect, lien, encumbrance or other matter insured against. In all other respects, Company agrees that its rights of subrogation shall be subordinate to the rights and remedies which insured has or may have in accordance with paragraph 10 of the Conditions and Stipulations of the Policy.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

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PRO FORMA ENDORSEMENT
Attached to Policy No. Pro Forma-23036266-AL
Issued by
Fidelity National Title Insurance Company

The Company insures against loss or damage sustained by the Insured by reason of:

1. The invalidity or unenforceability of the lien of the Insured Mortgage resulting from its provisions that provide for changes in the rate of interest.

2. Loss of priority of the lien of the Insured Mortgage as security for the unpaid principal balance of the loan, together with interest as changed in accordance with the provisions of the Insured Mortgage, which loss of priority is caused by the changes in the rate of interest.

"Changes in the rate of interest", as used in this endorsement, shall mean only those changes in the rate of interest calculated pursuant to the formula provided in the loan documents secured by the Insured Mortgage at Date of Policy.

This endorsement does not insure against loss or damage based upon:

1. usury, or

2. any consumer credit protection or truth in lending law.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

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PRO FORMA ENDORSEMENT
Attached to Policy No. Pro Forma-23036266-AL
Issued By
Fidelity National Title Insurance Company
Tax Deed Wiping Out Easement

The Company insures the Insured against loss or damage which the Insured may sustain due to the entry of any final judgment extinguishing the easements described in Schedule A as parcels 5 through 17 of Tract 1 and Parcels 1 and 2 of Tract 2, or denying or limiting the use thereof by reason of the issuance of a tax deed for nonpayment of any general real estate tax or special assessment for improvements levied against the taxable parcel identified as follows:

4138-029-004

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.
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PRO FORMA ENDORSEMENT
Attached to Policy No. Pro Forma-23036266-AL
Issued By
Fidelity National Title Insurance Company
Interest Rate Protection

The Company hereby also insures the Insured against loss or damage that may be sustained by the Insured by reason of a final decree entered by a court of competent jurisdiction finding that the insured Mortgage, as it secures the "Default Rate" as defined in Appendix A (Defined Terms and Rules of Interpretation) paragraph 1 of the Credit Agreement secured by the insured Mortgage and referred to in said insured Mortgage:

(1) is invalid or unenforceable, or

(2) does not, at the Effective Date of the Policy, share the same priority in relation to any other claims or liens against the land as is afforded the principal of the loan secured by the insured Mortgage at the Effective Date of the Policy.

Nothing contained in this Endorsement shall be construed as insuring against loss or damage sustained or incurred by reason of:

(1) any usury, consumer credit protection or truth in lending law;

(2) costs, expenses or attorney's fees required to obtain a determination, by judicial proceedings or otherwise, of the amount of interest calculated pursuant to the Default Rate. Nothing in this Endorsement shall be construed as insuring a determination by a court of competent jurisdiction of the amount of the interest calculated pursuant to the Default Rate, but it does insure that the amount of interest calculated pursuant to the Default Rate which is determined by a court of competent jurisdiction to be outstanding and owed is secured by the insured Mortgage with the same priority in relation to any other claims or liens against the land as is afforded the principal of the loan secured by the Mortgage;

(3) invalidity or unenforceability of the lien of the insured mortgage with respect to interest calculated pursuant to the Default Rate due after the filing of a petition for relief under the Bankruptcy Code (11 U.S.C.) by, on behalf of, or with respect to the then owner of an interest in the land described in this Policy; or

(4) environmental protection liens arising or filed for record subsequent to the Date of Policy.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

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PRO FORMA ENDORSEMENT
Attached to Policy No. Pro Forma-23036266-AL
Issued By
Fidelity National Title Insurance Company
Going Concern

The Company agrees that in the event it becomes necessary to calculate loss or damage to the Insured arising from a Covered Matter (as hereinafter defined), the calculation of such loss or damage shall include the diminution of value, if any, of the other estates or interests insured by this Policy and described in Schedule A of this Policy, to the extent that said diminution is directly or indirectly caused by the covered matter and is not otherwise included in said calculation. A "Covered Matter" is any defect, lien or encumbrance, other than as shown in Schedule B or excluded by the exclusions from coverage in the Policy, which affects any easement or license described in Schedule A of this Policy, causing loss or damage to the Insured under the terms of this Policy.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

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PRO FORMA ENDORSEMENT
Attached to Policy No. Pro Forma-23036266-AL
Issued By
Fidelity National Title Insurance Company
Personalty

The Company hereby agrees that, in the event of a loss otherwise insured against by this Policy, such loss shall include the interest of the Insured in any improvements, including the electrical generating fixtures and equipment, which for the purpose of Paragraph 1(i) of the Conditions are hereby deemed to be real property, located on, adjacent or contiguous to, attached, affixed or otherwise connected to or used in connection with all or any portion of the Land on or after Date of Policy, regardless of whether such improvements are characterized by any parties or by state law as real or personal property.

Notwithstanding the aforesaid, should said improvements or fixtures be determined to be personal property, according to the final determination of a court of competent jurisdiction, this Endorsement should not be construed to insure the status of title to same.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

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PRO FORMA ENDORSEMENT
Attached to Policy No. Pro Forma-23036266-AL
Issued By
Fidelity National Title Insurance Company
Lender Group Variations

The Company has been advised that the holder of the indebtedness secured by the Insured Mortgage is or will be a group of lenders, the composition of which may change from time to time by reason of the addition of new members, the depletion of members or changes in the relative participation of members (the "Lender Group").

This Policy insures the Insured against loss or damage arising from a claim that the priority of the lien of the Insured Mortgage is lost or subordinated by reason of the exchange and/or replacement of promissory notes running to the individual participating lenders of the Lender Group.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

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PRO FORMA ENDORSEMENT
Attached to Policy No. Pro Forma-23036266-AL
Issued by
Fidelity National Title Insurance Company

The Company insures against loss or damage sustained by reason of the failure of the Land described as Parcels 1 through 4 of Tract 1 in Schedule A to constitute a lawfully created parcels according to the Subdivision Map Act (Section 66410, et seq., of the California Government Code) and local ordinances adopted pursuant thereto.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

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PRO FORMA ENDORSEMENT
Attached to Policy No. Pro Forma-23036266-AL
Issued by
Fidelity National Title Insurance Company

The policy is hereby amended by deleting Paragraph 13 of the Conditions, relating to Arbitration.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

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PRO FORMA ENDORSEMENT
Attached to Policy No. Pro Forma-23036266-AL
Issued by
Fidelity National Title Insurance Company
Validity of Lease

The Company insures against loss or damage sustained by reason of any defect in the execution of the lease referred to in Tract 1 of Schedule A of the policy.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

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PRO FORMA ENDORSEMENT
Attached to Policy No. Pro Forma-23036266-AL
Issued By
Fidelity National Title Insurance Company
Guaranty Endorsement

The Company has been informed by the insured that certain of the obligations secured by the lien of the insured mortgage
consist of a guaranty of the repayment of a loan or loans made, or to be made, to a person or entity other than the mortgagor under the insured mortgage. Subject to the Exclusions from Coverage and the Exceptions from Coverage in Schedule B, the Company agrees as follows:

1. The insurance provided by this policy respecting the priority of the lien of the insured mortgage as security for the guaranty of payment of any amounts of said loan or loans which are actually disbursed at Date of Policy shall be the identical to that which the policy would provide if the insured mortgage directly secured the repayment of the loan or loans; and

2. The Company insures the insured against loss or damage arising from failure of the following assurances to be true:

Advances made subsequent to the Date of Policy and in accordance with the terms of the Insured Mortgage providing security for revolving credit loan advances pursuant to the Credit Agreement and during the term provided for the revolving credit loan advances will be secured by the Insured Mortgage with the same priority over liens, encumbrances and the rights of purchasers for value without notice that this Policy insures to exist for amounts secured by the Insured Mortgage which were advanced prior to the Date of Policy.

The insurance provided by this Endorsement is not subject to Paragraph 3(d) of the Exclusions from Coverage and Paragraph 8(b) of the Conditions and Stipulations of this policy to the extent that it is inconsistent with them.

The insurance provided by this Endorsement is subject to the following provisions:

a. Every advance purporting to be made pursuant to the Insured Mortgage which, together with all other indebtedness and sums secured by it, exceeds the maximum principal amount to be outstanding at any time as stated in the Insured Mortgage is excluded from the assurances of this Endorsement.

b. Losses due to the following matters which arise, occur or attach to the title to the land or affect the Insured Mortgage after Date of Policy are excepted from the insurance provided by this Endorsement:

(i) Taxes, assessments, costs, charges, damages and other obligations to the government secured by statutory liens;

(ii) The effect of any bankruptcy affecting the estate or interest of the debtors or any present or future holders of any interest in the title to the land;

(iii) Liens, encumbrances, conveyances and other matters actually known to the insured prior to the advance;

(iv) Mechanic's and Materialmen's liens.

(v) (Missouri only) Advances made subsequent to notice of termination unless the lender complies with paragraph 9 of Section 443.0355 Missouri Statutes.

The total liability of the Company under said policy and any endorsements thereof shall not exceed, in the aggregate, the Amount of Policy stated in Schedule A and costs, attorneys fees and expenses which the Company may become obligated to pay by the terms of the Conditions and Stipulations of this Policy.

This Endorsement is made a part of the policy and is subject to all the terms and provisions thereof and all endorsements thereto. Except to the extent expressly stated herein, this Endorsement does not modify any of the terms and provisions of the policy and does not change the Date of Policy or increase the Amount of Policy shown in Schedule A. This Endorsement is subject to and does not modify the Exceptions from Coverage in the Policy and terms of any Endorsements to the Policy.

Dated: **PRO FORMA**

Fidelity National Title Insurance Company

Countersigned by:

Pro Forma Specimen

Authorized Signature

This is a Pro Forma Endorsement. It does not reflect the present state of the Title and is not a commitment to (i) insure the Title or (ii) issue any of the attached endorsements. Any such commitment must be an express written undertaking on appropriate forms of the Company.

PRO FORMA ENDORSEMENT
Attached to Policy No. Pro Forma-23036266-AL
Issued by
Fidelity National Title Insurance Company
Covenants, Conditions and
Restrictions,Violations

The Company insures against loss or damage sustained by reason of any existing violations on the Land of the covenants, conditions and restrictions contained in the documents referred to in paragraphs 16 and 17 of Schedule B.

As used in this endorsement, the words "covenants, conditions or restrictions" do not refer to or include any covenant, condition or restriction (a) relating to obligations of any type to perform maintenance, repair or remediation on the Land, or
(b) pertaining to environmental protection of any kind or nature, including hazardous or toxic matters, conditions or substances except to the extent that a notice of a violation or alleged violation affecting the Land has been recorded in the Public Records at Date of Policy and is not excepted in Schedule B.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

Dated: **PRO FORMA**

Fidelity National Title Insurance Company

Countersigned by:

Pro Forma Specimen
Authorized Signature

This is a Pro Forma Endorsement. It does not reflect the present state of the Title and is not a commitment to (i) insure the Title or (ii) issue any of the attached endorsements. Any such commitment must be an express written undertaking on appropriate forms of the Company.

PRO FORMA ENDORSEMENT
Attached to Policy No. Pro Forma-23036266-AL
Issued by
Fidelity National Title Insurance Company

1. The Company insures against loss or damage sustained by the Insured in the event that, at Date of Policy,
   a. according to applicable zoning ordinances and amendments, the Land is not classified Zone M2;
   b. the following use or uses are not allowed under that
      classification: Uses described in CEC-800-2005-001
      and/or CEC-800-2010-015c.
      There shall be no liability under this paragraph 1.b. if the use or uses are not allowed as the result of any lack of compliance with any conditions, restrictions, or requirements contained in the zoning ordinances and amendments, including but not limited to the failure to secure necessary consents or authorizations as a prerequisite to the use or uses. This paragraph 1.c. does not modify or limit the coverage provided in Covered Risk 5.
2. The Company further insures against loss or damage sustained by the Insured by reason of a final decree of a court of competent jurisdiction either prohibiting the use of the Land, with any existing structure, as specified in paragraph 1.b.; or requiring the removal or alteration of the structure, because, at Date of Policy, the zoning ordinances and amendments have been violated with respect to any of the following matters:
   a. Area, width, or depth of the Land as a building site for the structure
   b. Floor space area of the structure
   c. Setback of the structure from the property lines of the Land
   d. Height of the structure, or
   e. Number of parking spaces.
3. There shall be no liability under this endorsement based on:
   a. the invalidity of the zoning ordinances and amendments until after a final decree of a court of competent jurisdiction adjudicating the invalidity, the effect of which is to prohibit the use or uses;
   b. the refusal of any person to purchase, lease or lend money on the Title covered by this policy.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

Dated: **PRO FORMA**

Fidelity National Title Insurance Company

Countersigned by:

Pro Forma Specimen
Authorized Signature

This is a Pro Forma Endorsement. It does not reflect the present state of the Title and is not a commitment to (i) insure the Title or (ii) issue any of the attached endorsements. Any such commitment must be an express written undertaking on appropriate forms of the Company.

PRO FORMA ENDORSEMENT
Attached to Policy No. Pro Forma-23036266-AL
Issued By

Fidelity National Title Insurance Company

Survey Encroachment

The Company insures against loss or damage sustained by the insured as a result of any party compelling the removal from any land adjoining the land described in Schedule A of any of the encroachments shown in Exception 14 of Schedule B, Part I.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

Dated: **PRO FORMA**

Fidelity National Title Insurance Company

Countersigned by:

Pro Forma Specimen
Authorized Signature

This is a Pro Forma Endorsement. It does not reflect the present state of the Title and is not a commitment to (i) insure the Title or (ii) issue any of the attached endorsements. Any such commitment must be an express written undertaking on appropriate forms of the Company.

PRO FORMA ENDORSEMENT
Attached to Policy No. Pro Forma-23036266-AL
Issued By

Fidelity National Title Insurance Company

Future Insurance

The Company agrees that if (a) the Insured or any of its affiliates acquire the Title in satisfaction of the Indebtedness, and thereafter transfer the Title to a good faith purchaser for value, or (b) a good faith purchaser for value acquires the Title at a regularly conducted foreclosure sale under the Insured Mortgage, the Company will issue an ALTA Owner's Policy ("Owner's Policy") insuring Title in the purchaser. The amount of insurance to be issued will not exceed the fair market value of the Land at the date of the application. In the event a claim has been made or is pending against the Company, or a defect in the Title has been discovered, the Company shall not be required to issue insurance against such claim or defect for an amount greater than the face amount of this policy. Upon receipt of the application to issue an Owner's Policy, the Company will extend its examination of the Title to the then current date, and will then issue its Owner's Policy with the same exceptions and endorsements (to the extent applicable to an owner) as this policy, subject to any liens, encumbrances or other matters affecting the Title which shall have intervened, or occurred, or become for the first time disclosed of record between the date of this policy and the date of the Owner's Policy, except for any such matters which may have been extinguished by the foreclosure of the Insured Mortgage.

The insurance to be issued shall be subject to rules, regulations and rates in effect at the date the Owner's Policy is issued. The Company shall not be obligated to issue additional insurance coverage which would exceed the amount of the usual reinsurance retention of the Company if, after the exercise of reasonable effort, the Company is unable to obtain reinsurance or co-insurance as may be required in order for it to issue the full amount of additional insurance for which application is made.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

Dated: **PRO FORMA**

Fidelity National Title Insurance Company

Countersigned by:

Pro Forma Specimen

Authorized Signature

This is a Pro Forma Endorsement. It does not reflect the present state of the Title and is not a commitment to (i) insure the Title or (ii) issue any of the attached endorsements. Any such commitment must be an express written undertaking on appropriate forms of the Company.

PRO FORMA ENDORSEMENT
Attached to Policy No. Pro Forma-23036266-AL
Issued By
Fidelity National Title Insurance Company

The Company insures against loss or damage sustained by the Insured if the enforcement of the rights, interests or claims referred to in Exception 14 of Schedule B results in:

(1) material interference with the use of the Land for the purposes set forth in the Amended and Restated Ground Lease and Easement Agreement and the Amended and Restated Easement Agreement described in Schedule A; or

(2) enforced removal or alteration of an existing improvement (including any such improvement referred to in Exception 14 of Schedule B) located on the Land that encroaches onto adjoining land or onto that portion of the Land subject to an easement.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

Dated: **PRO FORMA**

Fidelity National Title Insurance Company

Countersigned by:

Pro Forma Specimen
Authorized Signature

This is a Pro Forma Endorsement. It does not reflect the present state of the Title and is not a commitment to (i) insure the Title or (ii) issue any of the attached endorsements. Any such commitment must be an express written undertaking on appropriate forms of the Company.

EXHIBIT 10.7

EXECUTION VERSION

This AMENDMENT NO. 4 TO THE CREDIT AGREEMENT and AMENDMENT NO. 1 TO THE COLLATERAL AGREEMENT (this "Amendment") dated as of May 16, 2014 is by and among NRG West Holdings LLC, as Borrower, El Segundo Energy Center LLC, as Project Owner and successor to the Procurement Sub, and Credit Agricole Corporate and Investment Bank, as Administrative Agent. Capitalized terms used herein and not otherwise defined herein shall have the respective meanings ascribed thereto in Appendix A to the Credit Agreement.

W I T N E S S E T H:

WHEREAS, the Borrower, the Administrative Agent and the Lenders are parties to that certain Credit Agreement dated as of August 23, 2011, as amended by Amendment No. 1 dated as of October 7, 2011, Amendment No. 2 dated as of February 29, 2012 and Amendment No. 3 dated as of January 27, 2014 (the "Credit Agreement");

WHEREAS, the Borrower, the Project Owner, the Procurement Sub and the Administrative Agent are parties to that certain Collateral Agreement dated as of August 23, 2011 (the "Collateral Agreement");

WHEREAS, the Procurement Sub has merged into the Project Owner;

WHEREAS, the Borrower wishes to enter into this Amendment on the terms and subject to the conditions herein specified;

WHEREAS, the Requisite Financing Parties have consented to this Amendment of the Credit Agreement on the terms and subject to the conditions herein specified and directed the Administrative Agent to therefore execute and deliver this Amendment in accordance with Sections 10.11 and 11.10 of the Credit Agreement; and

WHEREAS, the Requisite Creditors have consented to this Amendment of the Collateral Agreement on the terms and subject to the conditions herein specified and directed the Administrative Agent to therefore execute and deliver this Amendment in accordance with Sections 6.1(a) and 12.4 of the Collateral Agreement;

NOW THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which is hereby established and confirmed, the parties hereto hereby agree as follows:

1. Amendment to the Credit Agreement

(a) The Parties hereby agree to delete the definition of "TALC Issuing Bank" in Appendix A of the Credit Agreement in its entirety and replace it with the following:

> ""TALC Issuing Bank" shall mean DNB Bank ASA, New York Branch, or its permitted successors or assigns."

(b) The Parties hereby agree that the Credit Agreement is hereby amended, by deleting Appendix F to the Credit Agreement in its entirety and replacing it with the new Appendix F as set forth in Schedule 1 hereto.

(c) The Parties hereby agree to insert the following as a new Section 3.25(i) in the Credit Agreement:

"(i) To the extent that the Borrower for any reason fails to indefeasibly pay any Indemnified Liabilities to the TALC Issuing Bank in accordance with Section 11.2, each TALC Participating Bank severally agrees to pay to the TALC Issuing Bank such TALC Participating Bank's *pro rata* share (in accordance with each TALC Participating Bank's TALC Percentage) of such unpaid amount (including any such unpaid amount in respect of a claim asserted by such TALC Participating Bank against the TALC Issuing Bank)."

(d) The Parties hereby agree to delete the definition of "Change in Control" in Appendix A of the Credit Agreement in its entirety and replace it with the following:

> ""Change in Control" means any event as a result of which (i) on or prior to the Term Conversion Date, the Sponsor ceases to directly or indirectly own at least 50.1% of each class of Equity Interests of the Borrower, (ii) after the Term Conversion Date, the Sponsor ceases to directly or indirectly own at least 35% of each class of Equity Interests of the Borrower, (iii) after the Term Conversion Date, 50.1% of all Equity Interests of the Borrower cease to be owned directly or indirectly by the Sponsor or (iv) the Sponsor ceases to have the unilateral power to direct or cause the direction of the management and policy of the Borrower, whether through ownership of voting securities, by contract, management agreement, or common directors, officers or trustees or otherwise (other than with respect to customary significant and enumerated matters requiring the approval of minority equity holders)."

2. Amendment to the Collateral Agreement. The Parties hereby agree to delete the definition of "Secured Creditors" in Appendix A of the Collateral Agreement in its entirety and replace it with the following:

> ""Secured Creditors" shall mean the Administrative Agent, the Lenders, the Rate Swap Counterparties and the Issuing Banks."

3. No Waivers; Etc. Except as expressly provided in this Amendment, (i) all of the terms and conditions of the Financing Documents remain in full force and effect and none of such terms and conditions are, or shall be construed as, otherwise amended or modified and (ii) neither the Administrative Agent nor any Financing Party waives any Default or Event of Default, or any right or remedy available to the Administrative Agent or any Financing Party under the Financing Documents, whether any such defaults, rights or remedies presently exist or arise in the future. Notwithstanding anything contained herein, the amendments contained in this Amendment (i) are limited as specified, (ii) are effective only with respect to the transactions described in this Amendment for the specific instance and the specific purpose for which it is given, (iii) shall not be effective for any other purpose or transaction and (iv) do not constitute an amendment or basis for a subsequent consent or waiver of any of the provisions of the Financing Documents.

4. Representations and Warranties. The Borrower hereby represents and warrants that each of the representations and warranties set forth in the Credit Agreement and the Collateral Agreement are true and correct on and as of the date hereof as they relate to the execution and delivery of this Amendment and are otherwise true and correct on the date hereof in all material respects after giving effect thereto.

5. Full Force and Effect; Ratification. This Amendment shall be construed in connection with and as part of the Credit Agreement and Collateral Agreement (as applicable), and except as modified and expressly amended by this Amendment, all terms, conditions and covenants contained in the Credit Agreement and Collateral Agreement are hereby ratified and shall remain in full force and effect, enforceable in accordance with their respective terms.

6. References to the Collateral Agreement. Any and all notices, requests, certificates and other instruments executed and delivered after the Effective Date may refer to any Financing Document without making specific reference to this Amendment but nevertheless all such references shall include this Amendment unless the context otherwise requires.

7. Financing Document. Each of the parties hereto acknowledges and agrees that this Amendment shall be deemed a "Financing Document" for all purposes under the Credit Agreement and a "Collateral Document" for all purposes under the Collateral Agreement (as the case may be).

8. Governing Law. THIS AMENDMENT SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, AND THE RIGHTS OF THE PARTIES SHALL BE GOVERNED BY, THE LAW OF THE STATE OF NEW YORK EXCLUDING CHOICE-OF-LAW PRINCIPLES

OF THE LAW OF SUCH STATE THAT WOULD REQUIRE THE APPLICATION OF THE LAWS OF A JURISDICTION OTHER THAN SUCH STATE.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF the parties have caused this Amendment to be executed as of the day and year first above written.

NRG WEST HOLDINGS LLC,
as Borrower

By: /s/ Scott A. Valentino
Name: Scott A. Valentino
Title: President

With respect to Section 2 hereof,

EL SEGUNDO ENERGY CENTER LLC,
as Project Owner and successor to the Procurement Sub

By: /s/ John Chillemi

Name: John Chillemi
Title: President

CREDIT AGRICOLE CORPORATE
AND INVESTMENT BANK,
as Administrative Agent

CREDIT AGRICOLE CORPORATE
AND INVESTMENT BANK,

as Administrative Agent

By: /s/ Edward Chu

Name: Edward Chu
Title: Vice President

By: /s/ Dominique Schillio

Name: Dominique Schillio
Title: Director

SCHEDULE 1

COMMITMENTS

Lender and/or Issuing Bank	Tranche A Construction Loan Commitment	Tranche B Construction Loan Commitment	Revolving Commitment	TALC Percentage	DSR Commitment
Credit Agricole Corporate and Investment Bank	0.21%	16.67%	0.00%	23.33%	8.33%
Mizuho Bank, Ltd.	1.67%	16.67%	0.00%	0.00%	79.17%
ING Capital LLC	1.88%	16.67%	0.00%	27.78%	12.50%
Union Bank, N.A.	8.33%	16.67%	0.00%	0.00%	0.00%
Siemens Financial Services, Inc.	4.79%	0.00%	0.00%	0.00%	0.00%
CoBank, ACB	11.67%	0.00%	0.00%	0.00%	0.00%
DNB Capital LLC	6.88%	0.00%	0.00%	27.78%	0.00%
Landesbank Hessen Thüringen Girozentrale, New York Branch	8.96%	0.00%	0.00%	0.00%	0.00%
Societe Generale	1.67%	8.33%	0.00%	0.00%	0.00%
Sumitomo Mitsui Trust Bank, Limited., New York Branch	4.79%	0.00%	0.00%	0.00%	0.00%
Sumitomo Mitsui Banking Corporation	6.88%	0.00%	0.00%	0.00%	0.00%
Santander Bank, N.A.	6.88%	0.00%	0.00%	0.00%	0.00%
The Bank of Nova Scotia	0.00%	0.00%	100.00%	21.11%	0.00%
CIT Bank	2.08%	20.83%	0.00%	0.00%	0.00%
CIT Capital USA Inc	2.08%	4.17%	0.00%	0.00%	0.00%
Associated Bank, N.A.	5.21%	0.00%	0.00%	0.00%	0.00%
Credit Industriel et Commercial	5.21%	0.00%	0.00%	0.00%	0.00%
Landesbank Baden-Wuerttemberg, New York Branch	8.33%	0.00%	0.00%	0.00%	0.00%
DekaBank Deutsche Girozentrale	8.33%	0.00%	0.00%	0.00%	0.00%
OneWest Bank N.A.	4.17%	0.00%	0.00%	0.00%	0.00%
Total	100.00%	100.00%	100.00%	100.00%	100.00%

EXECUTION VERSION

AMENDMENT NO. 5

This AMENDMENT (this "Amendment"), is entered into as of May 29, 2015, by and between NRG WEST HOLDINGS LLC, a Delaware limited liability company, as Borrower (the "Borrower") and ING CAPITAL LLC, as Administrative Agent (the "Administrative Agent"). Capitalized terms used but not defined in this Amendment shall have the respective meanings assigned to such terms in the Restated Credit Agreement (as defined below).

RECITALS

WHEREAS, El Segundo Energy Center LLC ("Project Owner"), a Delaware limited liability company, a wholly-owned subsidiary of the Borrower, owns and operates a gas-fired combined cycle power plant consisting of two fast start, highly efficient units totaling approximately 550 megawatts, located on a site in El Segundo, Los Angeles County, California, in the United States (the "Project"); and

WHEREAS, to finance the construction and the operation of the Project, Borrower entered into that certain Credit Agreement, dated as of August 23, 2011 (as it may have been heretofore amended, supplemented or otherwise modified from time to time, the "Original Credit Agreement"), by and among the Borrower, the Administrative Agent and the Lenders party thereto;

WHEREAS, the Borrower wishes to amend and restate the Original Credit Agreement on the Repricing Date as more fully set forth herein; and

WHEREAS, each Financing Party that will be a party to the Restated Credit Agreement (as defined below) on the Repricing Date (the "Remaining Financing Parties") has instructed the Administrative Agent to execute this Amendment on the date hereof (and to execute the Restated Credit Agreement on the Repricing Date in accordance herewith) pursuant to instruction letters to the Administrative Agent compliant with Sections 10.11 and 11.10 of the Credit Agreement (the "Amendment No. 5 Instruction Letters").

AGREEMENT

NOW THEREFORE, in consideration of the agreements herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree, effective as of the Repricing Date (and solely to the extent that the Repricing Date occurs), as follows:

1. Amended and Restated Credit Agreement. On the Repricing Date (as hereinafter defined): (a) the Original Credit Agreement shall be amended and restated in its entirety to read as set forth on Exhibit A to this Amendment (the Original Credit Agreement, as so amended and restated, being referred to as the "Restated Credit Agreement") and (b) to the extent provided in the Restated Credit Agreement, any exhibits, schedules and annexes thereto, shall be automatically amended as reflected in the Restated Credit Agreement. For the avoidance of doubt, any exhibit, schedule or annex to the Original Credit Agreement that is not attached to the Restated Credit Agreement attached hereto shall continue to be in full force and effect, and shall remain unchanged, as an exhibit, schedule or annex, as applicable, to the Restated Credit Agreement following the Repricing Date. On the Repricing Date, the Borrower and the Administrative Agent shall evidence this Amendment No. 5 by duly executing and delivering to each other and to the Financing Parties the Restated Credit Agreement.

2. Effectiveness; Conditions Precedent; Repricing Date. The effectiveness of the amendments set forth herein is subject to (a) the receipt by the Administrative Agent of all of the Remaining Financing Parties' counterpart signature pages to the Amendment No. 5 Instruction Letter, and (b) the fulfillment, to the satisfaction of the Administrative Agent and the Remaining Financing Parties, of the conditions precedent set forth in Section 4.7 of the Restated Credit Agreement (the date of satisfaction of all of such conditions being referred to herein as the "Repricing Date"). For the avoidance of doubt (in particular, to determine which Remaining Financing Parties' counterpart signature

pages are required under this Section 2), any Assignment and Acceptance signed or made effective on the Repricing Date shall be deemed to have occurred prior the execution of this Amendment.

3. No Waivers; Etc. Except as expressly provided in this Amendment, (a) all of the terms and conditions of the Financing Documents remain in full force and effect and none of such terms and conditions are, or shall be construed as, otherwise amended or modified and (b) neither the Administrative Agent nor any Financing Party waives any Default or Event of Default, or any right or remedy available to the Administrative Agent or any Financing Party under the Financing Documents, whether any such defaults, rights or remedies presently exist or arise in the future. Notwithstanding anything contained herein, the amendments contained in this Amendment (i) are limited as specified, (ii) are effective only with respect to the transactions described in this Amendment for the specific instance and the specific purpose for which it is given, (iii) shall not be effective for any other purpose or transaction and (iv) do not constitute an amendment or basis for a subsequent consent or waiver of any of the provisions of the Financing Documents.

4. Representations and Warranties. The Borrower hereby represents and warrants that each of the representations and warranties set forth in the Restated Credit Agreement are true and correct on and as of the date hereof as they relate to the execution and delivery of this Amendment and are otherwise true and correct on the date hereof in all material respects after giving effect thereto.

5. Full Force and Effect; Ratification. This Amendment shall be construed in connection with and as part of the Original Credit Agreement, and except as modified and expressly amended by this Amendment, all terms, conditions and covenants contained in the Original Credit Agreement are hereby ratified and shall remain in full force and effect, enforceable in accordance with their respective terms.

6. References to the Credit Agreement. Any and all notices, requests, certificates and other instruments executed and delivered after the Repricing Date may refer to any Financing Document without making specific reference to this Amendment but nevertheless all such references shall include this Amendment unless the context otherwise requires. This Amendment shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

7. Financing Document. Each of the parties hereto acknowledges and agrees that this Amendment shall be deemed a "Financing Document" for all purposes under the Restated Credit Agreement.

8. Governing Law. THIS AMENDMENT SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, AND THE RIGHTS OF THE PARTIES SHALL BE GOVERNED BY, THE LAW OF THE STATE OF NEW YORK EXCLUDING CHOICE-OF-LAW PRINCIPLES OF THE LAW OF SUCH STATE THAT WOULD REQUIRE THE APPLICATION OF THE LAWS OF A JURISDICTION OTHER THAN SUCH STATE.

9. Counterparts. This Amendment may be executed in any number of counterparts and by the different parties hereto on separate counterparts, each of which when so executed and delivered shall be an original, but all of which shall together constitute one and the same instrument. Delivery of an executed counterpart to this Amendment by facsimile or electronic transmission in ".pdf" format shall be as effective as delivery of a manually signed original.

10. Effectiveness. This Amendment shall become effective solely on the Repricing Date.

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IN WITNESS WHEREOF, each of the parties hereto has caused this Amendment to be duly executed by its authorized representative thereunto duly authorized as of the day and year first above written.

NRG WEST HOLDINGS LLC, a Delaware limited liability company, as the borrower

By: /s/ Scott Valentino

Name: Scott Valentino

Title: President

ING CAPITAL LLC,

as Administrative Agent, acting upon the instructions of each Financing Party that has provided an Amendment No. 5 Instruction Letter

By: /s/ Sven Wellock

Name: Sven Wellock

Title: Director

By: /s/ David Barrick

Name: David Barrick

Title: Managing Director

Exhibit A
Restated Credit Agreement

EXECUTION VERSION

Amended and Restated CREDIT AGREEMENT

among

NRG WEST HOLDINGS LLC,
as Borrower,

MUFG UNION BANK, N.A.,
as Mandated Lead Arranger,

MIZUHO BANK, LTD.,
as Mandated Lead Arranger,

CREDIT AGRICOLE CORPORATE AND INVESTMENT BANK,
as Mandated Lead Arranger,

ING CAPITAL LLC,
as Coordinating Lead Arranger, Sole Bookrunner, Mandated Lead Arranger and Administrative Agent
and

THE LENDERS PARTY HERETO

---

in respect of

THE EL SEGUNDO ENERGY CENTER

Table of Contents

APPENDICES

EXHIBITS

SCHEDULES

This AMENDED AND RESTATED CREDIT AGREEMENT (this "Credit Agreement") is dated as of May __, 2015 and is by and among NRG West Holdings LLC, as Borrower, MUFG Union Bank, N.A., as Mandated Lead Arranger, Mizuho Bank, Ltd., as Mandated Lead Arranger, Credit Agricole Corporate and Investment Bank, as Mandated Lead Arranger, ING Capital LLC, as Coordinating Lead Arranger, Sole Bookrunner, Mandated Lead Arranger and Administrative Agent, and each of the financial institutions from time-to-time party hereto as Lenders and Issuing Banks.

W I T N E S S E T H:

WHEREAS, the Borrower, the Mandated Lead Arrangers, the Financing Parties, and the Administrative Agent entered into that certain Credit Agreement dated as of August 23, 2011, as amended, modified, and supplemented by that certain: (i) Amendment No. 1 dated as of October 7, 2011 by and between the Borrower and the Administrative Agent ("Amendment No. 1"), (ii) Amendment No. 2 dated as of February 29, 2012 by and between the Borrower and Administrative Agent ("Amendment No. 2"), (iii) Amendment No. 3 dated as of January 27, 2014 by and between the Borrower and Administrative Agent ("Amendment No. 3") (iv) Amendment No. 4 to the Credit Agreement and Amendment No. 1 to the Collateral Agreement dated as of May 16, 2014 by and among the Borrower, the Administrative Agent and the Project Owner ("Amendment No. 4") (as so amended, the "Original Credit Agreement") to among other things, provide the Borrower with the credit facilities to finance a portion of the Project Costs and other costs and expenses incurred in developing, constructing, owning, operating and managing a combined cycle power plant consisting of two fast start, highly efficient units totalling approximately 550 megawatts, to be located on a site in El Segundo, Los Angeles County, California, in the United States (as further defined below, the "Project"); and

WHEREAS, pursuant to that certain Amendment No. 5, dated as of May __, 2015 ("Amendment No. 5") and that certain Amendment No. 5 Instruction Letter by and among the Financing Parties and the Administrative Agent, the Borrower, Administrative Agent and each of the Financing Parties as of the date hereof approved the amendment, restatement, supersession and replacement of the Original Credit Agreement in its entirety on the Repricing Date with this Credit Agreement upon the execution hereof by the Borrower and the Administrative Agent; and

NOW, THEREFORE, in consideration of the premises and mutual agreements hereinafter contained, the parties hereto agree to amend, restate, supersede and replace the Original Credit Agreement as follows:

ARTICLE I

DEFINITIONS AND RULES OF INTERPRETATION

1.1 Defined Terms. Except as otherwise expressly provided herein, capitalized terms used in this Credit Agreement and its appendices, schedules and exhibits shall have the respective meanings assigned to such terms in Appendix A hereto.

1.2 Rules of Interpretation. Except as otherwise expressly provided herein, the rules of interpretation set forth in Appendix A hereto shall apply to this Credit Agreement.

1.3 Accounting Principles. Except as otherwise expressly provided in this Credit Agreement, all computations and determinations as to financial matters, and all financial statements to be delivered under this Credit Agreement shall be made or prepared in accordance with U.S. GAAP (including principles of consolidation where appropriate) applied on a consistent basis.

ARTICLE II

The Credit Facilities

2.1 Construction Facilities.

(a) The Tranche A Lenders hereby establish for the benefit of the Borrower a construction loan facility (the "Tranche A Construction Facility") having an initial committed principal amount equal to the Tranche A Loan Amount.

(b) The Tranche B Lenders hereby establish for the benefit of the Borrower a construction loan facility (the "Tranche B Construction Facility", and, together with the Tranche A Construction Facility, the "Construction Facilities") having an initial aggregate committed principal amount set forth opposite the heading "*Tranche B Loan Amount*" on Appendix B (the "Tranche B Loan Amount").

(c) Subject to and upon the terms and conditions set forth herein:

(a) each Tranche A Lender severally agrees to make, from time-to-time during the Tranche A Construction Loan Availability Period, loans under the Tranche A Construction Facility (the "Tranche A Construction Loans") to the Borrower in an aggregate principal amount that will not result in (x) such Tranche A Lender's Tranche A Construction Loans exceeding the Tranche A Construction Loan Commitment of such Tranche A Lender or (y) the aggregate amount of all Tranche A Construction Loans exceeding the Tranche A Loan Amount; and

(b) each Tranche B Lender severally agrees to make, from time-to-time during the Tranche B Construction Loan Availability Period, loans under the Tranche B Construction Facility (the "Tranche B Construction Loans" and, together with the Tranche A Construction Loans, the "Construction Loans") to the Borrower in an aggregate principal amount that will not result in (x) such Tranche B Lender's Tranche B Construction Loans exceeding the Tranche B Construction Loan Commitment of such Tranche B Lender or (y) the aggregate amount of all Tranche B Construction Loans exceeding the Tranche B Loan Amount.

(d) The Construction Loans are available only on the terms and subject to the conditions specified hereunder, and once repaid, in whole or in part, at maturity (in accordance with Sections 2.1(f), 2.2(e) and 3.15(a)) or by prepayment, may not be re-borrowed in whole or in part.

(e) The proceeds of the Construction Loans shall be used solely (x) to pay Project Costs in accordance with the Construction Budget and (y) to make no more than three True-Up Distributions in accordance with the next sentence and Section 7.9(c). Subject to the satisfaction of the conditions set forth in Section 4.2, on each of (i) the date of the initial Borrowing of the Construction Loans, (ii) a Business Day selected by the Borrower during the Tranche A Construction Loan Availability Period or the Tranche B Construction Loan Availability Period on which the Borrower has delivered a Borrowing Request (the "Optional True-Up Date") and (iii) the Term Conversion Date, the Borrower may draw Construction Loans equal to the positive difference between (x) the aggregate amount of Equity Contributions made (or, if less, deemed made in accordance with the definition thereof) prior to the date of such Disbursement and (y) the Required Equity Contribution (each such drawing, a "True-Up Drawing" and together, the "True-Up Drawings") and make a True-Up Distribution in accordance with Section 7.9(c).

(f) The Construction Loans shall, if the Term Conversion Date has not theretofore occurred, mature and be immediately payable on the Date Certain.

2.2 Term Facilities.

(a) The Tranche A Lenders hereby establish for the benefit of the Borrower a term loan facility (the "Tranche A Term Facility") in an aggregate principal amount equal to the Tranche A Loan Amount (or, if less on the Term Conversion Date, an amount equal to the principal amount of the Tranche A Construction Loans outstanding as of the Term Conversion Date (after giving effect to any Borrowing of Tranche A Construction Loans on such date and any prepayment of Tranche A Construction Loans on such date in accordance herewith).

(b) The Tranche B Lenders hereby establish for the benefit of the Borrower a term loan facility (the "Tranche B Term Facility", and together with the Tranche A Term Facility, the "Term Facility") in an aggregate principal amount equal to the Tranche B Loan Amount (or, if less on the Term Conversion Date, an amount equal to the principal amount of the Tranche B Construction Loans outstanding as of the Term Conversion Date (after giving effect to any Borrowing of Tranche B Construction Loans on such date and any prepayment of Tranche B Construction Loans on such date in accordance herewith)).

(c) Subject to and upon the terms and conditions set forth herein:

(i) each Tranche A Lender agrees that: (x) on the Term Conversion Date, all Tranche A Construction Loans of such Tranche A Lender outstanding on such date (after giving effect to any Borrowing of Tranche A Construction Loans on such date and any prepayment of Tranche A Construction Loans on such date in accordance herewith) shall automatically convert into term loans under the Tranche A Term Facility (collectively, the "Initial Tranche A Term Loans"); and (y) on the Repricing

Date, each Tranche A Lender severally agrees to make loans to the Borrower under the Tranche A Term Facility (collectively, the "Incremental Tranche A Term Loans") in an aggregate principal amount not to exceed the Incremental Tranche A Loan Amount, provided however, that (A) such Tranche A Lender's Incremental Tranche A Term Loans shall not exceed the Incremental Tranche A Commitment of such Tranche A Lender; and (B) the aggregate amount of all Tranche A Term Loans shall not exceed the Tranche A Loan Amount.

(ii) each Tranche B Lender agrees that on the Term Conversion Date, all Tranche B Construction Loans of such Tranche B Lender outstanding on such date (after giving effect to any Borrowing of Tranche B Construction Loans on such date and any prepayment of Tranche B Construction Loans on such date in accordance herewith) shall automatically convert into term loans under the Tranche B Term Facility (each, a "Tranche B Term Loan", and together with Tranche A Term Loans, the "Term Loans").

For the avoidance of doubt, the Tranche A Construction Loans and the Tranche B Construction Loans shall convert to Tranche A Term Loans and Tranche B Term Loans (respectively) on the same date.

(d) Construction Loans shall be deemed to be continued as and converted to Term Loans as provided hereby. The Term Loans are available only on the terms and conditions specified herein and, once repaid, in whole or in part, at maturity or by prepayment, may not be reborrowed in whole or in part.

(e) The Term Loans shall mature and be immediately payable on August 31, 2023 (the "Term Maturity Date").

(f) The proceeds of the Incremental Tranche A Term Loans shall be used solely to pay the costs and expenses associated with Amendment No. 5 and the transactions contemplated thereby and hereby in connection with the Repricing Date.

2.3 Revolving Facility.

(a) The Revolver Lenders hereby establish for the benefit of the Borrower a revolving facility (the "Revolving Facility") having an initial aggregate committed amount set forth opposite the heading "*Revolving Amount*" on Appendix B (the "Revolving Amount").

(b) Subject to and upon the terms and conditions set forth herein, each Revolver Lender agrees to:

(i) prior to the Term Conversion Date, issue one or more irrevocable standby letters of credit (collectively, the "LGIA Letter of Credit") for the account of the Borrower in respect of the Project Owner's obligation to provide performance guarantees under the Large Generator Interconnection Agreement for the benefit of

the Offtaker and CAISO, pursuant to the Large Generator Interconnection Agreement, and in the form set forth below the heading identifying such LGIA Letter of Credit on Appendix D; and

(ii) make, from time-to-time during the period from the Term Conversion Date until the last day of the Revolver Availability Period, revolving loans under the Revolving Facility (together with any LC Loan resulting from a drawing on any LGIA Letter of Credit, the "Revolving Loans") to the Borrower in an aggregate principal amount that will not result in the aggregate amount of all Revolving Loans (including any LC Loans resulting from a drawing under any LGIA Letter of Credit) exceeding the Revolving Amount.

(c) Each LGIA Letter of Credit shall expire on the date set forth therein, which shall be determined in accordance with Section 3.25 and Appendix D and shall not in any event be later than the last day of the LGIA Availability Period.

(d) The Revolving Loans may be prepaid in accordance with Section 3.16 and re-borrowed**,** subject to the terms and conditions set forth in this Credit Agreement, including the satisfaction or waiver of the conditions precedent set forth in Section 4.3 in accordance therewith.

(e) The proceeds of the Revolving Loans shall be applied solely to O&M Expenses.

(f) The Revolving Loans shall mature and be immediately payable on the last day of the Revolver Availability Period (or, if the Term Conversion Date does not occur on or prior to the Date Certain, the Date Certain) (the "Revolver Maturity Date").

2.4 TALC Facility.

(a) The TALC Issuing Bank and TALC Participating Banks hereby establish for the account of the Borrower a participating letter of credit facility (the "TALC Facility") having an initial aggregate committed amount set forth opposite the heading "*TALC Facility Amount*" on Appendix B (the "TALC Facility Amount").

(b) Subject to and upon the terms and conditions set forth herein, the TALC Issuing Bank agrees to issue, one or more irrevocable standby letters of credit (collectively, the "TA Letters of Credit") for the account of the Borrower and the benefit of the Offtaker pursuant to the Tolling Agreement, in the form set forth below the heading identifying such TA Letters of Credit on Appendix D.

(c) The TALC Participating Banks shall participate in each TA Letter of Credit issued under the TALC Facility in accordance with Section 3.25.

(d) Each TA Letter of Credit shall expire on the date set forth therein, which shall be determined in accordance with Section 3.25 and Appendix D and shall not in any event be later than the fifth Business Day after the last day of the TALC Availability Period.

(e) Any LC Loans resulting from drawings under the TA Letters of Credit shall mature and be immediately payable on the day that is five Business Days after the last day of the TALC Availability Period (or, if the Term Conversion Date does not occur on or prior to the Date Certain, the Date Certain) (the "TALC Maturity Date").

2.5 DSR LC Facility.

(a) The DSR Issuing Banks hereby establish for the account of the Borrower a non-participating letter of credit facility (the "DSR LC Facility") having an initial aggregate committed amount set forth opposite the heading "DSR Facility Amount" on Appendix B (the "DSR Facility Amount").

(b) Subject to and upon the terms and conditions set forth herein, each DSR Issuing Bank agrees to issue one or more irrevocable standby letters of credit (collectively, the "DSR Letters of Credit") for the account of the Borrower and for the benefit of the Collateral Agent in accordance with the Accounts Agreement in the form set forth below the heading identifying such DSR Letters of Credit on Appendix D.

(c) Each DSR Letter of Credit shall expire on the date set forth therein, which shall be determined in accordance with Section 3.25 and Appendix D and shall not in any event be later than the last day of the DSR Availability Period.

(d) Any LC Loans resulting from drawings under the DSR Letters of Credit shall mature and be immediately payable on the last day of the DSR Availability Period (or, if the Term Conversion Date does not occur on or prior to the Date Certain, the Date Certain) (the "DSR Maturity Date").

ARTICLE III

Terms of the Credit Facilities

3.1 Borrowings Generally.

(a) Each Borrowing shall consist of Loans of the same Tranche and shall be made by the relevant Lenders ratably in accordance with their respective Commitments under the relevant Tranche as of the date such Loans are made hereunder. Subject to Section 3.8, each Borrowing shall be comprised entirely of Base Rate Loans or LIBOR Loans as the Borrower may request in accordance herewith. The Commitments of the Lenders are several and no Lender shall be responsible for any other Lender's failure to make Loans as required hereunder. The failure of any Lender to make any Loan required to be made by it shall not relieve any other Lender of its obligations hereunder.

(b) Each Borrowing shall be in an aggregate amount that is not less than the Borrowing Minimum and, if more than the Borrowing Minimum, is an integral multiple of the Borrowing Multiple in excess thereof; provided, that a Borrowing may be in an aggregate amount that is equal to the entire unused balance of the aggregate applicable Commitments or, with respect to any LC

Loan deemed made in accordance with Section 3.25(f), the amount of the relevant drawing under the relevant Specified Letters of Credit.

(c) Borrowings of more than one Type may be outstanding at the same time. There shall not at any time be more than a total of twelve Interest Periods of LIBOR Loans outstanding hereunder at any one time. If two or more Borrowings of the same Tranche and having the same Interest Period are outstanding hereunder at any one time, then the Administrative Agent may in its sole discretion combine the Loans comprising such Borrowings into one Loan.

(d) Notwithstanding any other provision of this Credit Agreement, the Borrower shall not be entitled to request, or to elect to Convert or continue, any Borrowing of any Loan if the Interest Period requested with respect thereto would end after the Maturity Date of such Loan.

3.2 Borrowing Request. To request a Borrowing of a Construction Loan or a Revolving Loan, the Borrower shall deliver a Borrowing Request to the Administrative Agent at its Notice Office not later than 11:00 a.m. (New York City time) on (x) the third Business Day prior to the proposed date of Borrowing set forth therein in the case of LIBOR Loans or (y) the first Business Day prior to the proposed date of Borrowing set forth therein in the case of Base Rate Loans. Each Borrowing Request shall be appropriately completed to specify (i) the Tranches of Loans being requested, (ii) the aggregate principal amount of each such Tranche of Loans, (iii) the date of such Borrowing (which shall be a Business Day), (iv) the Type of Loans being requested and (v) in the case of LIBOR Loans, the initial Interest Period to be applicable thereto. The Administrative Agent shall promptly give each Lender notice of the proposed Borrowing, of such Lender's proportionate share thereof and of the other matters required by the immediately preceding sentence to be specified in the Borrowing Request. If the Borrowing Request does not elect a Type of Borrowing, then the requested Borrowing shall be a Base Rate Loan. If the Borrowing Request elects a Borrowing of LIBOR Loans but does not specify an Interest Period, then the requested Borrowing shall have an initial Interest Period of one month. This Section 3.2 shall not apply to Borrowings of Term Loans or LC Loans.

3.3 Disbursement of Funds.

(a) Subject to the terms and conditions hereof, on the date specified in each Borrowing Request, each Lender will make available through such Lender's Applicable Lending Office its *pro rata* portion (if any) of the aggregate amount of each Tranche of Construction Loans or Revolving Loans requested on such date, in each case, by wire transfer in Dollars and in immediately available funds to the AA Disbursement Account, and the Administrative Agent will deposit the aggregate of the amounts so made available by the Lenders in accordance with the Borrowing Request and the Accounts Agreement. Unless the Administrative Agent has been notified by any Lender prior to the applicable date of the Borrowing that such Lender does not intend to make available to the Administrative Agent such Lender's *pro rata* portion of the Borrowing of any Tranche of Construction Loans or Revolving Loans on such date, the Administrative Agent may assume that such Lender has made such amount available to the Administrative Agent on such date, and the Administrative Agent may (but shall have no obligation to), in reliance upon such assumption, make available to the Borrower a corresponding amount. If such corresponding amount is not in fact

made available to the Administrative Agent by such Lender, the Administrative Agent shall be entitled to recover such corresponding amount from such Lender on demand. If such Lender does not pay such corresponding amount forthwith upon the Administrative Agent's demand therefor, the Administrative Agent shall promptly notify the Borrower, and the Borrower shall be required to pay such corresponding amount to the Administrative Agent forthwith upon the Administrative Agent's demand therefor. The Administrative Agent shall also be entitled to recover on demand from such Lender or the Borrower, as the case may be, interest on such corresponding amount in respect of each day from the date such corresponding amount was made available by the Administrative Agent to the Borrower until the date such corresponding amount is recovered by the Administrative Agent, at a rate *per annum* equal to (a) if such amount is recovered from such Lender, the cost to the Administrative Agent of acquiring overnight federal funds at the then applicable rate and (b) if such amount is recovered from the Borrower, the then applicable rate of interest for the relevant Loans provided for herein. If such Lender shall repay to the Administrative Agent such corresponding amount, such amount shall constitute such Lender's Loan as part of such Borrowing for purposes of this Credit Agreement, and the Borrower's obligation to repay the Administrative Agent such corresponding amount pursuant to this Section 3.3 shall cease. Nothing in this Section 3.3 shall be deemed to relieve any Lender from its obligation to make any Loan hereunder or to prejudice any rights which the Borrower may have against any Lender as a result of any failure by such Lender to make Loans hereunder. This Section 3.3 shall not apply to Borrowings of Term Loans or LC Loans.

(b) Subject to the terms and conditions hereof, on the Repricing Date, each Lender will make available through such Lender's Applicable Lending Office its *pro rata* portion (if any) of the Incremental Tranche A Loan Amount by wire transfer in Dollars and in immediately available funds pursuant to the signed Incremental Tranche A Borrowing Request provided by the Borrower to the Administrative Agent.

3.4 Evidence of Secured Obligations and Notes.

(a) Each Lender will maintain in accordance with its usual practice an account or accounts evidencing the Indebtedness of the Borrower to such Lender as a result of the Loans of such Lender made hereunder, including the amounts of principal, interest and other Secured Obligations payable and paid to such Lender from time-to-time under this Credit Agreement and (if issued) the Notes. The entries made by each Lender in such account or accounts pursuant to the foregoing sentence shall constitute *prima facie* evidence of the existence and amounts of the Loans and other Secured Obligations therein recorded; provided, that the failure of any Lender to maintain such account or accounts, or any error therein, shall not in any manner affect the obligations of the Borrower to repay or pay the Loans made by such Lender, accrued interest thereon and the other Secured Obligations of the Borrower to such Lender hereunder in accordance with the terms of this Credit Agreement and the other Financing Documents. Each Lender will advise the Borrower of the outstanding Indebtedness hereunder to such Lender upon written request therefor.

(b) At the request of any Lender, the Borrower's obligation to pay the principal of, and interest on, any Tranche of Loans made by such Lender shall be evidenced by a Note in respect of

such Tranche duly executed and delivered by the Borrower with blanks appropriately completed in conformity herewith.

(c) Each Lender will note on its internal records the amount of each Loan made by it and each payment made in respect thereof and will prior to any transfer of any of its Notes endorse on the reverse side thereof the outstanding principal amount of Loans evidenced thereby. Failure to make such notation shall not affect the Borrower's obligations in respect of such Loans.

3.5 Conversions. The Borrower shall have the option to Convert on any Business Day the principal amount of the Loans made pursuant to one or more Borrowings from one Type of Loan into another Type of Loan; provided, that (a) Loans may not be so Converted into another Type unless the aggregate principal amount of Loans to be so Converted is not less than the Borrowing Minimum and, if more than the Borrowing Minimum, is an integral multiple of the applicable Borrowing Multiple in excess thereof, (b) no Conversion of all or any portion of any LIBOR Loan into a Base Rate Loan may be effected on any day other than the last day of an Interest Period applicable to such LIBOR Loan, unless the Borrower pays all amounts owing under Section 3.12 as a result of such Conversion, (c) no partial Conversion of LIBOR Loans shall reduce the outstanding principal amount of such LIBOR Loans made pursuant to a single Borrowing to less than the applicable Borrowing Minimum, (d) Base Rate Loans may only be Converted into LIBOR Loans if no Default or Event of Default is in existence on the date of Conversion and (e) no Conversion pursuant to this Section 3.5 shall result in a greater number of Interest Periods of LIBOR Loans being outstanding at any one time than is permitted under Section 3.1(c) hereof. Each such Conversion shall be effected by the Borrower by delivering a Conversion Request to the Administrative Agent at its Notice Office prior to 11:00 a.m. (New York City time) on the third Business Day prior to the proposed date of Conversion. Each Conversion Request shall be appropriately completed to specify (i) the principal amount of each Tranche of Loans to be so Converted, (ii) the date of such Conversion (which shall be a Business Day), (iii) the Type of Loans from which each such Tranche of Loans is being Converted and the Type of Loans into which each such Tranche of Loans is being Converted and (iv) if any Loans are being Converted into LIBOR Loans, the Interest Period to be initially applicable thereto. The Administrative Agent shall give each Lender prompt notice of any such proposed Conversion affecting any of its Loans.

3.6 Interest.

(a) The Borrower agrees to pay interest in respect of the unpaid principal amount of each Base Rate Loan from the date of Borrowing thereof or Conversion thereof into a Base Rate Loan, until the earlier of (i) the maturity of such Base Rate Loan (whether by acceleration or otherwise) and (ii) the Conversion of such Base Rate Loan to a LIBOR Loan pursuant hereto, at a rate *per annum* which shall be equal to the sum of (A) the Base Rate in effect from time-to-time *plus* (B) the Applicable Margin.

(b) The Borrower agrees to pay interest in respect of the unpaid principal amount of each LIBOR Loan from the date of Borrowing thereof or Conversion thereof into a LIBOR Loan until the earlier of (i) the maturity of such LIBOR Loan (whether by acceleration or otherwise) and (ii) the Conversion of such LIBOR Loan to a Base Rate Loan pursuant hereto, at a rate *per annum*

which shall, during each Interest Period applicable thereto, be equal to the sum of (x) the Adjusted LIBO Rate in effect for such Interest Period *plus* (y) the Applicable Margin.

(c) Accrued (and theretofore unpaid) interest shall be payable (i) in respect of each Base Rate Loan, quarterly in arrears on the last Business Day of each February, May, August and November, (ii) in respect of each LIBOR Loan, on the last day of each Interest Period applicable thereto and, in the case of an Interest Period in excess of six months, on each date occurring at six-month intervals after the first day of such Interest Period, and (iii) in respect of each Loan, upon any repayment or prepayment (on the amount repaid or prepaid), Conversion (on the amount Converted), at maturity (whether by acceleration or otherwise) and, after such maturity, on demand. Notwithstanding the foregoing, interest payable in accordance with Section 3.23 shall be payable as provided therein.

(d) On each Interest Determination Date in respect of any LIBOR Loan, the Administrative Agent shall determine the Adjusted LIBO Rate for the applicable Interest Period to be applicable to the Loans or to any portion thereof and shall promptly notify the Borrower and the Lenders thereof. Each such determination shall, absent manifest error, be final, conclusive and binding on all parties hereto.

3.7 Interest Periods for LIBOR Loans.

(a) The Borrower shall have the right to elect (i) in the case of the initial Interest Period applicable to any LIBOR Loan, in the Borrowing Request or, in respect of any LIBOR Loan being Converted from a Base Rate Loan, in the Conversion Request and (ii) in the case of any subsequent Interest Period applicable to any LIBOR Loan, in a written notice delivered to the Administrative Agent on the third Business Day prior to the expiration of the current Interest Period applicable to such Loan, the interest period (the "Interest Period") applicable to such LIBOR Loan, which Interest Period shall, at the option of the Borrower, be one, two, three or six months or (if available to all Lenders) nine or twelve months; provided, that:

i. the aggregate principal amount of Term Loans having an Interest Period of three months as of any date following the Term Conversion Date shall be not less than the aggregate notional amount of the Rate Swap Transactions as of the next succeeding Principal Payment Date to occur after such date;

ii. all LIBOR Loans comprising the same Borrowing shall have the same Interest Period;

iii. the initial Interest Period for any LIBOR Loan shall commence on the date of Borrowing of such LIBOR Loan (or the date of Conversion thereof from a Base Rate Loan) and each Interest Period occurring thereafter in respect of such LIBOR Loan shall commence on the last day of the immediately preceding Interest Period;

iv. if any Interest Period begins on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period, such Interest Period shall end on the last Business Day of such calendar month;

v. if any Interest Period would otherwise end on a day that is not a Business Day, such Interest Period shall be extended to the next succeeding Business Day unless the result of such extension would be to carry such Interest Period into another calendar month, in which event such Interest Period shall end on the immediately preceding Business Day;

vi. any Interest Period that would otherwise extend beyond the relevant Maturity Date shall end on such Maturity Date; and

vii. if the Term Conversion Date shall occur on a date that is not the last day of an Interest Period for any Construction Loans being converted to Term Loans on such date, then, notwithstanding any other provision herein to the contrary, the Interest Period applicable to such Construction Loans need not end on the Term Conversion Date but instead may be continued until the last day of such Interest Period (it being understood that the Applicable Margin relating to Term Loans shall apply to such Loans from and after the Term Conversion Date).

(b) If, upon the expiration of any Interest Period, the Borrower has failed to elect a new Interest Period to be applicable to any LIBOR Loan as provided above, the Borrower shall be deemed to have elected an Interest Period of three months effective as of the expiration date of such current Interest Period.

3.8 Inability to Determine Rates. If before the commencement of any Interest Period for any LIBOR Loan Borrowing the Administrative Agent determines that for any reason adequate and reasonable means do not exist for determining the Adjusted LIBO Rate for any Interest Period with respect to any LIBOR Loans, the Administrative Agent will promptly so notify the Borrower and each Lender. Thereafter, the obligation of the Lenders to make or continue LIBOR Loans hereunder shall be suspended until the Administrative Agent notifies the Borrower and the Lenders that the circumstances giving rise to such notice no longer exists. Upon the delivery of such notice, (a) the Borrower may revoke any pending Borrowing Request or Conversion Request or notice of continuation and (b) if the Borrower does not revoke such Borrowing Request, Conversion Request or notice, then the Lenders shall make, Convert or continue the Loans, as proposed by the Borrower, in the amount specified in the applicable notice submitted by the Borrower, but such Loans shall be made, Converted or continued as Base Rate Loans instead of LIBOR Loans.

3.9 LIBO Rate Dislocation. If the Majority Lenders notify the Administrative Agent in writing that their respective cost of obtaining matching deposits in the interbank market would be in excess of the Adjusted LIBO Rate in respect of any Interest Period, then the Administrative Agent will promptly so notify the Borrower and each Lender. Thereafter, the obligation of the affected Lenders to maintain, make or continue LIBOR Loans hereunder shall be suspended until the Administrative Agent notifies the Borrower and the Lenders that the circumstances giving rise to

such notice no longer exists. Upon the delivery of such notice, (a) each affected Lender may (by notice to the Administrative Agent and the Borrower) elect to convert all outstanding LIBOR Loans owed to such Lender and having such Interest Period to Base Rate Loans and the Borrower shall pay all Liquidation Costs incurred in connection therewith in accordance with Section 3.12, (b) the Borrower may revoke any pending Borrowing Request or Conversion Request or notice of continuation of any LIBOR Loans specifying such Interest Period and (c) if the Borrower does not revoke such Borrowing Request, Conversion Request or notice, then the Lenders shall make, Convert or continue the Loans, as proposed by the Borrower, in the amount specified in the applicable notice submitted by the Borrower, but such Loans shall be made, Converted or continued as Base Rate Loans instead of LIBOR Loans.

3.10 Illegality.

(a) If any Lender determines that the introduction of any Law, or any change in any Law, or in the interpretation or administration of any Law, has made it unlawful, or that any central bank or other Governmental Authority has asserted that it is unlawful, for any Lender or its Applicable Lending Office to make or maintain a LIBOR Loan, then, on notice thereof by the Lender to the Borrower through the Administrative Agent, any obligation of that Lender to make such Loan as a LIBOR Loan shall be suspended until the Lender notifies the Administrative Agent and the Borrower that the circumstances giving rise to such determination no longer exist.

(b) If, pursuant to Section 3.10(a), any Lender determines that it is unlawful for such Lender or its Applicable Lending Office to maintain a LIBOR Loan, then, on notice thereof by the Lender to the Borrower through the Administrative Agent, any obligation of that Lender to maintain Loans as LIBOR Loans shall be suspended until such Lender notifies the Borrower through the Administrative Agent that the circumstances giving rise to such determination no longer exist. The Borrower shall, upon its receipt of such notice and demand to do so from such Lender, Convert the LIBOR Loans of such Lender then outstanding into Base Rate Loans, either on the last day of the Interest Period in respect of such LIBOR Loans, if the Lender may lawfully continue to maintain such LIBOR Loans until such day, or immediately, if the Lender may not lawfully continue to maintain such LIBOR Loans until such day.

(c) If the obligation of any Lender to make or maintain LIBOR Loans has been suspended in accordance with this Section 3.10, then the Borrower may elect, by giving notice to such Lender through the Administrative Agent, that all Loans which would otherwise be made by such Lender as LIBOR Loans shall instead be made or maintained as Base Rate Loans.

(d) Before giving notice to the Borrower through the Administrative Agent under this Section 3.10, the affected Lender shall designate a different Applicable Lending Office with respect to its LIBOR Loans if such designation (i) will avoid the need for giving such notice or making any demand for Conversion and (ii) will not, in the judgment of such Lender, be illegal or otherwise disadvantageous to such Lender.

3.11 Increased Costs and Reduction of Return.

(a) If any Lender in good faith determines (which determination shall, absent manifest error, be final, conclusive and binding upon all parties hereto) at any time that such Lender shall incur increased costs or reductions in the amounts received or receivable hereunder with respect to any LIBOR Loan (other than any increased cost or reduction in the amount received or receivable resulting from the imposition of or a change in the rate of net income taxes or similar charges or otherwise duplicative of the provisions of Section 3.24) because of any Change in Law, then the Borrower shall pay to such Lender, upon written demand therefor by such Lender to the Borrower through the Administrative Agent, (such written demand notice to include a statement from the Lender certifying the Lender's good faith determination of increased costs or reduction of return under this Section 3.11(a), such additional amounts as shall be required to compensate such Lender for such increased costs or reductions in amounts received or receivable hereunder; provided, that the Borrower shall be under no obligation to compensate such Lender with respect to any period before the date that is 270 days prior to the date on which such Lender makes a claim hereunder if such Lender prior to such date knew or would reasonably be expected to know of the circumstances giving rise to the claim hereunder and the fact that such circumstances would result in the claim hereunder. A written notice as to the additional amounts owed to any Lender, showing in reasonable detail the basis for the calculation thereof, submitted to the Borrower by such Lender (through the Administrative Agent) shall, absent clearly demonstrable error, be final, conclusive and binding on all parties hereto.

(b) If any Lender shall have determined in good faith that (i) the introduction of any Capital Adequacy Regulation, (ii) any change in any Capital Adequacy Regulation, (iii) any change in the interpretation or administration of any Capital Adequacy Regulation by any central bank or other Governmental Authority charged with the interpretation or administration thereof, or (iv) compliance by such Lender (or its Applicable Lending Office) or any corporation controlling such Lender with any Capital Adequacy Regulation, affects or would affect the amount of capital required or expected to be maintained by such Lender or any corporation controlling such Lender and (taking into consideration such Lender's or such corporation's policies with respect to capital adequacy and such Lender's desired return on capital) determines that the amount of such capital is increased as a consequence of its Commitment, Loans, credits or other obligations under this Credit Agreement, then, upon demand of such Lender to the Borrower through the Administrative Agent, the Borrower shall pay to such Lender, from time-to-time as specified by such Lender, upon written demand therefor by such Lender to the Borrower through the Administrative Agent (such written demand notice to include a statement from the Lender certifying such Lender's determination of increased costs under this Section 3.11(b), which shall be conclusive and binding absent clearly demonstrable error), such additional amounts sufficient to compensate such Lender for such increase; provided, that the Borrower shall be under no obligation to compensate such Lender with respect to any period before the date that is 270 days prior to the date on which such Lender makes a claim hereunder if such Lender prior to such date knew or would reasonably be expected to know of the circumstances giving rise to the claim hereunder and the fact that such circumstances would result in the claim hereunder.

(c) Before giving notice to the Borrower through the Administrative Agent under Section 3.11(a) or 3.11(b), the affected Lender shall designate a different Applicable Lending Office with respect to its Loans if such designation (i) will avoid the need for giving such notice or making any demand for compensation under such section and (ii) will not, in the judgment of such Lender, be illegal or otherwise disadvantageous to such Lender.

(d) Any determination made by Lender in accordance with Sections 3.10(a), 3.10(b), 3.11(a) or 3.11(b) shall be set forth in a certificate of an authorized signatory of such Lender and shall be delivered to the Borrower and the Administrative Agent.

3.12 Liquidation Costs. The Borrower shall reimburse each Lender and hold such Lender harmless from any loss or expense which such Lender may sustain or incur as a consequence of:

(a) the failure of the Borrower to make on a timely basis any scheduled payment of principal of any Loan;

(b) the failure of the Borrower to borrow or Convert a Loan after the Borrower has given (or is deemed to have given) a Borrowing Request or a Conversion Request;

(c) the failure of the Borrower to make any prepayment in accordance with any notice delivered under Section 3.16;

(d) the prepayment or repayment or other payment (including after acceleration thereof) of a LIBOR Loan on a day that is not the last day of the relevant Interest Period; or

(e) the Conversion of any LIBOR Loan to a Base Rate Loan on a day that is not the last day of an Interest Period;

including any such loss or expense arising from the liquidation or reemployment of funds obtained by it to maintain such Lender's Loans or from fees payable to terminate the deposits from which such funds were obtained (as applicable, "Liquidation Costs").

3.13 Fees.

(a) Commitment Fees. The Borrower agrees to pay to the Administrative Agent the following commitment commission (each a "Commitment Fee"):

(i) for the account of each Tranche A Lender, a commitment fee for the Tranche A Construction Loan Availability Period, computed at a rate equal to 0.75% *per annum* on the daily average amount of the Unutilized Commitment of such Lender in respect of the Tranche A Construction Facility during such period, commencing on the date hereof and payable in arrears on (A) each Semi-Annual Date and (B) the last day of the Tranche A Construction Loan Availability Period;

(ii) for the account of each Tranche B Lender, a commitment fee for the Tranche B Construction Loan Availability Period, computed at a rate equal to 0.75%

per annum on the daily average amount of the Unutilized Commitment of such Lender in respect of the Tranche B Construction Facility during such period, commencing on the date hereof and payable in arrears on (A) each Semi-Annual Date and (B) the last day of the Tranche B Construction Loan Availability Period; and

(iii) for the account of the Revolver Lenders, a commitment fee for the Revolving Loan Availability Period equal to the sum of (x) 0.75% *per annum* on the daily average Unutilized Commitment of such Lender in respect of the Revolving Facility *plus* (y) prior to the Term Conversion Date, 0.50% *per annum* on daily average Unavailable Commitment of such Lender in respect of the Revolving Facility, in each case, commencing on the date hereof and payable in arrears on (A) each Semi-Annual Date and (B) the last day of the Revolver Availability Period.

(b) [Reserved].

(c) Letter of Credit Fees. The Borrower shall pay the following fees in respect of the LC Facilities (collectively, the "Letters of Credit Fees"):

(i) a commitment fee equal to the sum of (x) 0.75% *per annum* on the daily average Unutilized Commitment of each TALC Participating Bank *plus* (y) prior to the Term Conversion Date, 0.50% *per annum* on the daily average Unavailable Commitment of each TALC Participating Bank, commencing on the date hereof and payable semi-annually in arrears to the TALC Participating Banks on (A) each Semi-Annual Date and (B) the last Business Day of the TALC Availability Period;

(ii) a commitment fee equal to (x) prior to the Term Conversion Date, 0.50% *per annum* on the daily average Unavailable Commitment of each DSR Issuing Bank and (y) on and after the Term Conversion Date, 0.75% *per annum* on the daily average Unutilized Commitment of each DSR Issuing Bank, commencing on the date hereof and payable semi-annually in arrears to the DSR Issuing Banks on (A) each Semi-Annual Date and (B) the last Business Day of the DSR Availability Period;

(iii) a letter of credit fee in respect of the aggregate average daily maximum available amount of all TA Letters of Credit equal to the then-Applicable Margin on Tranche A Construction Loans or Tranche A Term Loans (as applicable as of the time of determination) bearing interest at the Adjusted LIBO Rate, payable semi-annually in arrears ratably to the TALC Participating Banks on (A) each Semi-Annual Date and (B) the last Business Day of the TALC Availability Period;

(iv) a letter of credit fee in respect of the aggregate average daily maximum available amount of all LGIA Letters of Credit equal to the then-Applicable Margin on Revolving Loans bearing interest at the Adjusted LIBO

Rate, payable semi-annually in arrears to the LGIA Issuing Bank on (A) each Semi-Annual Date and (B) the last Business Day of the Revolver Availability Period;

(v) a letter of credit fee in respect of the aggregate average daily maximum available amount of each DSR Letters of Credit equal to the then-Applicable Margin on the Tranche B Term Loans bearing interest at the Adjusted LIBO Rate, payable semi-annually in arrears to the relevant DSR Issuing Bank on (A) each Semi-Annual Date and (B) the last Business Day of the DSR Availability Period; and

(vi) a fronting fee in respect of each issued TA Letter of Credit equal to 0.20% of the undrawn stated amount of such TA Letter of Credit held by the TALC Participating Banks in accordance with Section 3.25(g) (other than the TALC Issuing Bank), payable semi-annually in arrears to the TALC Issuing Bank on (A) each Semi-Annual Date and (B) the last Business Day of the TALC Availability Period.

(d) Other Fees. The Borrower agrees to, and shall cause each other Borrower Party to, pay to the Agents, the Bookrunner and the Mandated Lead Arrangers, for their respective accounts, such other fees as have been agreed to in writing by the Borrower Parties and such other Person.

3.14 Tranche A Loan Amount; Etc.

(a) The updated Base Case Model delivered in accordance with Section 4.2(a)(m) and Section 4.7(i) shall set forth (i) the notional amortization for the Tranche A Term Loans constructed from the Contracted Amortization Amounts in respect of each Semi-Annual Date set forth on Appendix C (the "Tranche A Notional Amortization") and (ii) the aggregate sum of the projected Contracted Amortization Amounts in respect of each such Semi-Annual Date (such aggregate sum being the "Tranche A Loan Amount"). For purposes of the foregoing, the "Contracted Amortization Amounts" shall mean, with respect to each Semi-Annual Date, the principal payment amount that causes the Base Case Model delivered and updated in accordance with Section 4.2(a)(m) and Section 4.7(i) to yield not less than a 1.40:1.00 Projected DSCR as determined on a rolling twelve-month basis for the period ending on such Semi Annual Date (for the avoidance of doubt, taking into account solely those Project Revenues projected to be payable to the Project Owner under the Tolling Agreement assuming that the Initial Delivery Date thereunder in respect of each Generating Unit occurs on the Projected Completion Date and any reimbursed or other amounts projected to be received by the Borrower pursuant to the Large Generator Interconnection Agreement).

(b) The updated Base Case Model delivered in accordance with Section 4.2(a)(m) shall set forth the dates and the amounts (in Dollars) of the projected Disbursements under the Construction Facilities (which shall equal the Tranche A Loan Amount *plus* the Tranche B Loan Amount) (the "Notional Disbursement Schedule").

(c) The updated Base Case Model delivered in accordance with Section 4.2(a)(m) and Section 4.7(i) shall set forth a percentage amortization for the Tranche A Term Loans for each date set out on Appendix C constructed by (i) dividing (x) the Contracted Amortization Amount in respect of each Semi-Annual Date set out on Appendix C by (y) the Tranche A Loan Amount and (ii) with respect solely to the first Semi-Annual Date set out on Appendix C and each date prior to such first Semi-Annual Date, further dividing the percentage for such first Semi-Annual Date derived by application of subpart (i) of this Section 3.14(c) by six (the "Tranche A Percentage Amortization").

3.15 Amortization Schedules; Repayment of Principal.

(a) Upon the conversion of the Construction Loans to Term Loans on the Term Conversion Date in accordance with Section 2.2(c), such Construction Loans will no longer be outstanding as Loans hereunder. If the Term Conversion Date does not occur on or prior to January 28, 2014 (the "Date Certain"), then the Borrower shall repay the aggregate principal amount of the Construction Loans on the Date Certain.

(b) On the Term Conversion Date, the Borrower shall deliver to the Administrative Agent an amortization schedule for each Tranche of the Term Loans (the "Amortization Schedules") which shall be constructed by multiplying the aggregate amount of the relevant Tranche of Term Loans on the Term Conversion Date after giving effect to Section 3.15(a) by:

(i) in respect of the Semi-Annual Date occurring on or about February 28, 2014, the aggregate sum of the respective percentages set forth on the Projected Amortization Schedule under the relevant heading for such Tranche and opposite each month (if any) beginning on or after the last day of the full calendar month to occur after the Term Conversion Date and prior to February 28, 2014; and

(ii) in respect of each Semi-Annual Date set forth on the Projected Amortization Schedule that is after February 28, 2014, the respective percentages set forth on the Projected Amortization Schedule under the relevant heading for such Tranche and opposite such Semi-Annual Date.

The Amortization Schedules shall be effective solely upon the written confirmation by the Administrative Agent that such Amortization Schedules were constructed in accordance with this Section 3.15(b). The principal of the Term Loans shall be due and payable on each Semi-Annual Date in accordance with the Amortization Schedules constructed and confirmed in accordance with this Section 3.15(b).

(c) The difference between the aggregate sum of the percentages set out under the heading of each Tranche and opposite all months beginning on or prior to the second Semi-Annual Date set forth on Appendix C and the aggregate percentage of such months applied in accordance with Section 3.15(b) shall be multiplied by the aggregate amount of the relevant Tranche of Term Loans on the Term Conversion Date after giving effect to Section 3.15(a). The principal

amount of the Tranche A Term Loans resulting from such calculation is the "Tranche A Deferred Principal Amount". The principal amount of the Tranche B Term Loans resulting from such calculation is the "Tranche B Deferred Principal Amount" and, together with the Tranche A Deferred Principal Amount, the "Deferred Principal Amount". The Deferred Principal amount shall be payable in accordance with Sections 3.16 and 3.17.

(d) On the Repricing Date, the Amortization Schedules shall be updated to take into account the Incremental Tranche A Loan Amount, and the remaining principal of the Term Loans shall be due and payable on each Semi-Annual Date in accordance with the updated Amortization Schedules.

(e) The Borrower shall repay the aggregate outstanding principal amount of each Tranche of Loans on the respective Maturity Date of such Tranche of Loans.

3.16 Voluntary Prepayment of Principal. The Borrower shall have the right to prepay the Loans, without premium or penalty, in whole or in part at any time and from time-to-time after the Closing Date on the following terms and conditions: (i) the Borrower shall give the Administrative Agent at the Notice Office at least five Business Days' prior written notice of its intent to prepay the Loans, the aggregate principal amount of the prepayment, the Types of Loans to be prepaid and, in the case of LIBOR Loans, the specific Borrowing or Borrowings pursuant to which such LIBOR Loans were made (which notice the Administrative Agent shall promptly transmit to each of the Lenders); (ii) such prepayment shall be in an aggregate principal amount not less than the Borrowing Minimum and, if more than the Borrowing Minimum, in an integral multiple of the Borrowing Multiple (unless the entire Tranche of Loans is being prepaid); (iii) prepayments of a LIBOR Loan may only be made pursuant to this Section 3.16 on the last day of an Interest Period applicable thereto (unless the Borrower pays all Liquidation Costs resulting from the prepayment of such LIBOR Loan on a day other than the last day of the Interest Period applicable thereto); and (iv) each prepayment of Loans pursuant to this Section 3.16 shall be applied *first*, to reduce the Deferred Principal Amount *pro rata* between the Tranches and among the Term Lenders within each such Tranche to $0.00, *second*, to reduce the LC Loans resulting from a draw on the DSR Letters of Credit to $0.00, *third*, to reduce Revolving Loans to $0.00, *fourth*, to the scheduled principal payments of Tranche B Term Loans in inverse chronological order of their due dates to $0.00, *fifth*, to reduce the scheduled principal payments of Tranche A Term Loans on a *pro rata* basis to $0.00 and *finally*, to reduce any LC Loans resulting from a draw on the TA Letters of Credit on a *pro rata* basis. In no event shall any voluntary prepayment be funded from the proceeds of any Loan.

3.17 Mandatory Prepayments of Principal.

(a) The Borrower shall prepay the Loans, without premium or penalty (except for any Liquidation Costs), with the Mandatory Prepayment Portion of the following Collateral Proceeds:

(i) all Loss Proceeds received by any Borrower Party that are not applied, or are not permitted to be applied, to the Restoration of the Project in accordance with the Collateral Agreement or are not allowed to be retained or re-invested by the Borrower Parties in accordance with the Collateral Agreement;

(ii) all Disposition Proceeds received by any Borrower Party that are not applied, or are not permitted to be applied, to the purchase of replacement assets in accordance with the Collateral Agreement or are not allowed to be retained or re-invested by the Borrower Parties in accordance with the Collateral Agreement;

(iii) all proceeds of any Delay Liquidated Damages in accordance with the Collateral Agreement;

(iv) all Buy-down Proceeds in accordance with the Collateral Agreement; and

(v) all Distribution Sweep Proceeds in accordance with the Collateral Agreement.

(b) On the Term Conversion Date, all proceeds of any Delay Liquidated Damages shall be applied: *first* to repay any LC Loans resulting from a draw on the TA Letters of Credit; *second*, to reduce the Deferred Principal Amount *pro rata* between the Tranches and among the Term Lenders within each such Tranche to $0.00; *third*, to reduce remaining scheduled principal payments of the Term Loans *pro rata* between the Tranches and among the Term Lenders within each such Tranche in inverse chronological order of the due dates thereof to $0.00; *fourth*, LC Loans resulting from a draw on the DSR Letters of Credit on a *pro rata* basis to $0.00; and *finally*, Revolving Loans on a *pro rata* basis to $0.00.

(c) Loss Proceeds, Disposition Proceeds and Buy-down Proceeds received prior to the Term Conversion Date shall reduce the amount of the Construction Loans converted to Term Loans in accordance with Section 3.15(a) and used to construct the Amortization Schedule in accordance with Section 3.15(b) *pro rata*.

(d) Loss Proceeds, Disposition Proceeds, Buy-down Proceeds and Distribution Sweep Proceeds received on and after the Term Conversion Date shall be applied: *first*, to reduce the Deferred Principal Amount *pro rata* between the Tranches and among the Term Lenders within each such Tranche to $0.00; *second*, to reduce remaining scheduled principal payments of the Term Loans *pro rata* between the Tranches and among the Term Lenders within each such Tranche in inverse chronological order of their due dates to $0.00; *third*, to reduce the LC Loans resulting from a draw on the DSR Letters of Credit on a *pro rata* basis to $0.00; *fourth*, to reduce the Revolving Loans on a *pro rata* basis to $0.00; and *finally* to reduce any LC Loans resulting from a draw on the TA Letters of Credit on a *pro rata* basis.

(e) Mandatory prepayments to be made with Loss Proceeds, Disposition Proceeds and Buy-down Proceeds shall be made (i) in respect of any LIBOR Loan, on the last day of the relevant Interest Period in respect thereof or on such earlier date as selected by the Borrower (provided, that Borrower pays any Liquidation Costs arising from such earlier prepayment), (ii) in respect of any Base Rate Loan, on the fifth Business Day following receipt of the relevant Collateral Proceeds in the Proceeds Account and (iii) in respect of any Loan that has been Converted from a

LIBOR Loan to a Base Rate Loan prior to prepayment in accordance with subpart (i) of this Section 3.17(e), on the third Business Day following such Conversion. Mandatory prepayments to be made with Distribution Sweep Proceeds shall be made on the Monthly Transfer Date immediately following the relevant Semi-Annual Date or on the following Interest Period in respect of LIBOR Loans but in no event later than three months after such Monthly Transfer Date.

(f) Mandatory prepayments to be made with proceeds of any Delay Liquidated Damages shall be made on the Term Conversion Date (provided, that, if the Term Conversion Date occurs on a day that is not the last day of the relevant Interest Period in respect of any LIBOR Loan to be repaid, the Borrower pays any Liquidation Costs arising from such earlier prepayment).

3.18 Mandatory Reduction of Rate Swap Transactions.

(a) If the Borrower prepays the Construction Loans prior to the Term Conversion Date, then the Borrower shall (i) reconstruct the Notional Amortization on the Projected Amortization Schedule by multiplying (x) the aggregate amount of the relevant Tranche of Construction Loans after giving effect to such prepayment *plus* the aggregate remaining Construction Loan Commitments of such Tranche by (y) the percentages set forth on Appendix C and (ii) concurrently with such prepayment, partially terminate the Rate Swap Transactions by reducing the relevant notional amount thereunder in accordance with the Rate Swap Agreements to the extent necessary (if necessary) so that after giving effect to such prepayment and the application thereof in accordance with Section 3.16 or 3.17, the Borrower is in compliance with Section 7.26.

(b) If the Borrower prepays the Term Loans, then the Borrower shall, concurrently with such prepayment, partially terminate the Rate Swap Transactions by reducing the relevant notional amount thereunder in accordance with the Rate Swap Agreements to the extent necessary (if necessary) so that after giving effect to such prepayment and the application thereof in accordance with Section 3.16 or 3.17, the Borrower is in compliance with Section 7.26.

3.19 Cancellation of Commitments.

(a) Subject to Section 3.19(c), the Borrower may ratably cancel all or any part of (i) the Tranche A Construction Loan Commitments by written notice to the Tranche A Lenders, (ii) the Tranche B Construction Loan Commitments by written notice to the Tranche B Lenders or (iii) (after the Term Conversion Date) the Revolving Commitments by written notice to the Revolver Lenders.

(b) The Borrower may not cancel all or any part of the LC Facilities.

(c) Notwithstanding anything to the contrary set forth in this Credit Agreement, the Borrower shall not cancel all or any portion of the Tranche A Construction Loan Commitments or the Tranche B Construction Loan Commitments prior to the Term Conversion Date unless (i) no event has occurred or could reasonably be expected to occur to cause any Major Milestone Date to be delayed, (ii) the proposed reduction in Commitments requested by the Borrower will not result in a deficiency of funds necessary to achieve the Project Completion Date by the Date Certain and

otherwise satisfy the condition contained in Section 4.6(a)(e) and (iii) each Tranche A Lender or Tranche B Lender, as may be the case, shall have received a certificate from the Borrower, confirmed by the Independent Engineer, with respect to the matters set forth in this Section 3.19(c).

(d) Notwithstanding anything to the contrary set forth in this Credit Agreement, on the Term Conversion Date:

(i) all remaining Tranche A Construction Loan Commitments (after giving effect to (x) any Borrowing of Tranche A Construction Loans in accordance with Section 2.1 and (y) the Conversion of all Tranche A Construction Loans to Tranche A Term Loans in accordance with and pursuant to Sections 2.2 and 3.5(e)) shall automatically be cancelled; and

(ii) all remaining Tranche B Construction Loan Commitments (after giving effect to (x) any Borrowing of Tranche B Construction Loans in accordance with Sections 2.1 and (y) the Conversion of all Tranche B Construction Loans to Tranche B Term Loans in accordance with and pursuant to Sections 2.2 and 3.5(e)) shall automatically be cancelled.

(e) The Lenders may cancel their respective Commitments in accordance with Section 9.1.

(f) The Lenders may cancel their respective Commitments if the initial Borrowing of the Construction Loans has not occurred on or prior to the twelve month anniversary of the Closing Date.

3.20 Method and Place of Payment.

(a) Except as set forth in the following sentence or as otherwise specifically provided herein, all payments under this Credit Agreement or any Note shall be made to the Administrative Agent for the account of the Lender or Lenders entitled thereto not later than 2:00 p.m. (New York City time) on the date when due and shall be made in Dollars in immediately available funds to the AA Payment Account or pursuant to such other instructions as the Administrative Agent shall designate to the Borrower in writing. Whenever any payment to be made hereunder or under any Note is stated to be due on a day which is not a Business Day, the due date thereof shall be extended to the next succeeding Business Day and, with respect to payments of principal, interest thereon shall be payable at the applicable rate during such extension; provided, that if the day on which any such payment relating to a LIBOR Loan is due is not a Business Day but is a day of the month after which no further Business Day occurs in such month, then the due date thereof shall be the next preceding Business Day.

(b) With respect to any repayment of Loans pursuant to Section 3.15 or any mandatory prepayment of Loans pursuant to Section 3.17, the Borrower may designate the Types of Loans which are to be repaid or prepaid and, in the case of LIBOR Loans, the specific Borrowing or Borrowings pursuant to which such LIBOR Loans were made; provided, that (i) repayments and

prepayments of LIBOR Loans may only be made on the last day of an Interest Period applicable thereto unless all such LIBOR Loans with Interest Periods ending on or prior to the date of required repayment or prepayment and all Base Rate Loans have been paid in full or the Borrower pays Liquidation Costs, (ii) if any repayment or prepayment of LIBOR Loans made pursuant to a single Borrowing shall reduce the outstanding Loans made pursuant to such Borrowing to an amount less than the Borrowing Minimum, then such outstanding Loans shall immediately be Converted into Base Rate Loans, and (iii) each repayment or prepayment of Loans made pursuant to a single Borrowing shall be applied *pro rata* across such Loans. In the absence of a designation by the Borrower as described in the preceding sentence, the Administrative Agent shall, subject to the above, make such designation in its sole discretion.

3.21 Computations. All computations of interest and Fees hereunder shall be made on the basis of a 360-day year and the actual number of days elapsed; provided that computations of interest on Base Rate Loans calculated under clause (b) of the definition thereof hereunder shall be made on the basis of a 365- or 366-day year, as the case may be, and the actual number of days elapsed.

3.22 Application of Payments; Sharing.

(a) Subject to the provisions of this Section 3.22, the Administrative Agent agrees that promptly after its receipt of each payment from or on behalf of the Borrower in respect of any Secured Obligations of the Borrower hereunder or under any other Financing Document, it shall promptly distribute such payment to the Lenders *pro rata* based upon their respective shares, if any, of the Secured Obligations with respect to which such payment was received.

(b) If any Lender shall, by exercising any right of setoff or counterclaim or otherwise, obtain payment in respect of any principal of or interest on any of its Loans or other obligations hereunder resulting in such Lender receiving payment of a proportion of the aggregate amount of its Loans and accrued interest thereon or other such obligations greater than its *pro rata* share thereof as provided herein, then the Lender receiving such greater proportion shall (i) notify the Administrative Agent of such fact, and (ii) purchase (for cash at face value) participations in the Loans and such other obligations of the other Lenders, or make such other adjustments as shall be equitable, so that the benefit of all such payments shall be shared by the Lenders ratably in accordance with the aggregate amount of principal of and accrued interest on their respective Loans and other amounts owing them; provided, that: (i) if any such participations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations shall be rescinded and the purchase price restored to the extent of such recovery, without interest; and (ii) the provisions of this paragraph shall not be construed to apply to (x) any payment made by the Borrower pursuant to and in accordance with the express terms of this Credit Agreement (including the application of funds arising from the existence of a Defaulting Lender) or (y) any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans or TALC Participations to any assignee or participant, other than to the Borrower or any Subsidiary thereof (as to which the provisions of this paragraph shall apply). The Borrower consents to the foregoing and agrees, to the extent it may effectively do so under applicable Law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against the Borrower rights of

setoff and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of the Borrower in the amount of such participation.

(c) Notwithstanding the foregoing, if there are insufficient funds in the Secured Accounts to make each of the principal payments of the Loans in accordance with both Sections 3.4(e) and 7.8(iii) of the Collateral Agreement, then such funds shall be applied *first*, to the repayment in full of the outstanding principal amount of all Loans other than the Term Loans (if any); *second*, to the repayment in full of the outstanding principal amount of the Tranche A Term Loans; and *finally*, to the repayment of the outstanding principal amount of the Tranche B Term Loans.

3.23 Late Payments. If any amounts required to be paid by the Borrower under this Credit Agreement or the other Financing Documents (including the principal of or interest theretofore accrued on any Loan hereunder or any Fees or other amounts otherwise payable to the Administrative Agent, any Lender, any Issuing Bank or any Participating Banks) remain unpaid after such amounts are due, then (to the extent permitted by applicable Law) such overdue amounts shall bear interest from the date due until such amounts are paid in full at the Default Rate, with such interest to be payable on demand.

3.24 Net Payments.

(a) All payments made by the Borrower hereunder or under any other Financing Document will be made without setoff, counterclaim or other defense. Except as provided in Section 3.24(b), all such payments will be made free and clear of, and without deduction or withholding for, any present or future taxes, levies, imposts, duties, fees, assessments or other charges of whatever nature now or hereafter imposed by any jurisdiction or by any political subdivision or taxing authority thereof or therein with respect to such payments (but excluding, in the case of any Lender, except as provided in the second succeeding sentence, Excluded Taxes) and all interest, penalties or similar liabilities with respect thereto (all such non-excluded taxes, levies, imposts, duties, fees, assessments or other charges being referred to collectively as "Applicable Taxes"). If any Applicable Taxes are so levied or imposed, the Borrower agrees to pay the full amount of such Applicable Taxes, and such additional amounts as may be necessary so that every payment of all amounts due hereunder or under any other Financing Document, after withholding or deduction for or on account of any Applicable Taxes, will not be less than the amount provided for herein or in such other Financing Document. If any amounts are payable in respect of Applicable Taxes pursuant to the preceding sentence, then the Borrower shall be obligated to reimburse each Lender, upon the written request of such Lender, for (i) taxes imposed on or measured by the net income of such Lender pursuant to the laws of the jurisdiction in which such Lender is organized or the jurisdiction in which the principal office or Applicable Lending Office of such Lender is located or any political subdivision or taxing authority thereof or therein, and (ii) any withholding of Applicable Taxes, in each case as such Lender determines are payable by, or withheld from, such Lender in respect of any amounts paid to or on behalf of such Lender pursuant to the preceding sentence and this sentence. The Borrower will furnish to the Administrative Agent within 45 days after the date of the payment of any Applicable Taxes due pursuant to applicable Law certified copies of tax receipts evidencing such payment by the Borrower. The Borrower agrees to indemnify and hold harmless each Lender,

and reimburse such Lender upon its written request, for the amount of any Applicable Taxes so levied or imposed and paid by such Lender.

(b)

(i) Each Lender that is not a United States person (as such term is defined in Section 7701(a)(30) of the Internal Revenue Code) agrees to deliver to the Borrower and the Administrative Agent, on or prior to the Closing Date, (i) two accurate and complete original signed copies of Internal Revenue Service Form W-8ECI or Form W-8BEN (with respect to a complete exemption under an income tax treaty) (or successor forms) certifying to such Lender's entitlement as of such date to a complete exemption from United States withholding tax with respect to payments to be made to it under this Credit Agreement and under any other Financing Document or (ii) if such Lender is not a "bank" within the meaning of Section 881 (c)(3)(A) of the Internal Revenue Code and cannot deliver either Internal Revenue Service Form W-8ECI or Form W-8BEN (with respect to a complete exemption under an income tax treaty) pursuant to clause (i) above, (A) a certificate substantially in the form of Exhibit 3 (any such certificate, an "Applicable Tax Certificate") and (B) two accurate and complete original signed copies of Internal Revenue Service Form W-8BEN (with respect to the portfolio interest exemption) (or successor form) certifying to such Lender's entitlement as of such date to a complete exemption from United States withholding tax with respect to payments of interest to be made to it under this Credit Agreement and under any other Financing Document. In addition, each Lender agrees that from time-to-time after the Closing Date (or, in the case of a Lender that is an assignee or transferee of an interest under this Credit Agreement pursuant to Section 11.11 (unless such Lender was already a Lender hereunder prior to such assignment or transfer), from time-to-time after the date of such assignment or transfer to such Lender), when a lapse in time or change in circumstances renders the previous forms and/or Applicable Tax Certificate (as applicable) obsolete or inaccurate in any material respect, it will deliver to the Borrower and the Administrative Agent two new accurate and complete original signed copies of Internal Revenue Service Form W-8ECI, Form W-8BEN (with respect to a complete exemption under an income tax treaty), Form W-8BEN (with respect to the portfolio interest exemption) (or successor forms) and/or an Applicable Tax Certificate, as the case may be, and such other forms as may be required in order to confirm or establish the entitlement of such Lender to a continued exemption from or reduction in United States withholding tax with respect to payments made to it under this Credit Agreement and any other Financing Document. If any Lender is unable to deliver any such form and/or Applicable Tax Certificate, it shall immediately notify the Borrower and the Administrative Agent of such inability, in which case such Lender shall not be required to deliver any such form and/or Applicable Tax Certificate pursuant to this Section 3.24(b). Notwithstanding anything to the contrary contained in Section 3.24(a), but subject to Section 11.11(d) and the immediately succeeding sentence: (x) the Borrower shall be entitled, to the extent it is required to do so by law, to deduct or withhold income or similar taxes imposed by the United States (or any political subdivision or taxing authority thereof or therein) from interest, fees

or other amounts payable hereunder for the account of any Lender which is not a United States person (as such term is defined in Section 7701(a)(30) of the Internal Revenue Code) for U.S. Federal income tax purposes to the extent that such Lender has not provided to the Borrower U.S. Internal Revenue Service forms that establish a complete exemption from such deduction or withholding and (y) the Borrower shall not be obligated pursuant to Section 3.24(a) hereof to gross-up payments to be made to a Lender in respect of income or similar taxes imposed by the United States if (I) such Lender has not provided to the Borrower the Internal Revenue Service forms required to be provided pursuant to this Section 3.24(b) or (II) in the case of a payment, other than interest, to a Lender that is not a "bank" as described in clause (ii) above, to the extent that such forms do not establish a complete exemption from withholding of such Applicable Taxes. Notwithstanding anything to the contrary contained in the preceding sentence or elsewhere in this Section 3.24, the Borrower agrees to pay additional amounts and to indemnify each Lender in the manner set forth in Section 3.24(a) (without regard to the identity of the jurisdiction requiring the deduction or withholding) in respect of any amounts deducted or withheld by it as described in the immediately preceding sentence as a result of any changes after the Closing Date in any applicable Law relating to the deducting or withholding of income or similar Applicable Taxes.

(ii) Each Lender that is a United States Person (as such term is defined in Section 7701(a)(30) of the Internal Revenue Code) shall deliver to the Borrower and the Administrative Agent executed originals of the Internal Revenue Service Form W-9 to enable the Borrower and the Administrative Agent, as the case may be, to determine whether or not such Lender is subject to backup withholding or information reporting requirements.

(c) Each Lender described in Section 3.24(b)(a)(i) shall provide, promptly upon the reasonable demand of the Borrower or the Administrative Agent, any information, form or document as prescribed by the Internal Revenue Service to (x) demonstrate that such Lender has complied with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) and 1472(b) of the Internal Revenue Code, as applicable), or (y) to determine the amount to deduct and withhold from such payment.

(d) Unless required by applicable Laws, at no time shall the Administrative Agent have any obligation to file or otherwise pursue on behalf of a Lender, or have any obligation to pay to any Lender, any refund of taxes withheld or deducted from funds paid for the account of such Lender. If the Administrative Agent or any Lender determines, in its sole discretion, that it has received a refund of any Applicable Taxes as to which it has been indemnified by the Borrower or with respect to which the Borrower has paid additional amounts pursuant to Section 3.24(a), it shall pay to such Borrower an amount equal to such refund (but only to the extent of the indemnity payments made, or additional amounts paid, by such Borrower under Section 3.24 with respect to the Applicable Taxes giving rise to such refund), net of all out-of-pocket expenses and net of any loss or gain realized in the conversion of such funds from or to another currency incurred by the Administrative Agent or any Lender, as the case may be, and without interest (other than any interest

paid by the relevant Governmental Authority with respect to such refund); provided, that the Borrower, upon the written request of the Administrative Agent or any Lender, agrees to repay the amount paid over to the Borrower (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Administrative Agent or any Lender in the event the Administrative Agent or any such Lender is required to repay such refund to such Governmental Authority. This subsection shall not be construed to require the Administrative Agent or any Lender to make available its tax returns (or any other information relating to its taxes that it deems confidential) to the Borrower or any other Person.

3.25 Specified Letter of Credit Mechanics.

(a) To request the issuance of a Specified Letter of Credit under the TALC Facility, the Borrower shall deliver an appropriately completed and duly executed LC Request to the TALC Issuing Bank and the Administrative Agent not less than the second Business Day prior to the proposed Issuance Date thereof. To request the issuance of a Specified Letter of Credit under any other LC Facility, the Borrower shall deliver an appropriately completed and duly executed LC Request to the relevant Issuing Bank and the Administrative Agent not less than three Business Days in advance of the proposed Issuance Date thereof. If requested by any relevant Issuing Bank, the Borrower shall submit a letter of credit application on such Issuing Bank's standard form in connection with any request for a Specified Letter of Credit.

(b) To request the amendment, renewal or extension of an outstanding Specified Letter of Credit (to the extent such amendment, renewal or extension is in accordance with the terms, conditions and requirements of this Credit Agreement), the Borrower shall deliver an appropriately completed and duly executed LC Request to the relevant Issuing Bank and the Administrative Agent not less than two Business Days in advance of the requested date of amendment, renewal or extension thereof.

(c) Each LC Request shall include or attach such information as shall be necessary to issue, amend, renew or extend such Specified Letter of Credit (including the beneficiary, maturity, initial stated amount, and form thereof).

(d) The making of each LC Request shall be deemed to be a representation and warranty by the Borrower to the relevant Issuing Banks and the TALC Participating Banks (as applicable) that such Specified Letter of Credit may be issued, amended, renewed or extended in accordance with, and will not violate the requirements of, this Credit Agreement or any other Financing Document. The relevant Issuing Bank shall, on the terms and subject to the conditions of this Credit Agreement, on the date requested by the Borrower in the relevant LC Request, issue, amend, renew or extend (as applicable) the requested Specified Letter of Credit in accordance with the Issuing Bank's usual and customary practices; provided, that in the case of the issuance of a Specified Letter of Credit, the relevant Issuing Bank shall not have received notice prior to such issuance from the Borrower, the Administrative Agent or any TALC Participating Bank (as applicable) that one or more of the conditions specified in Section 4.1, Section 4.3, Section 4.4 or Section 4.5 (as applicable) are not then satisfied. Upon the issuance, amendment, renewal or extension of any Specified Letter of Credit in accordance with the terms of this Credit Agreement,

the relevant Issuing Bank shall promptly notify the Borrower, and the Administrative Agent and, if applicable, the TALC Participating Banks in writing of such issuance, amendment, renewal or extension, and such notice shall be accompanied by a copy of the relevant Specified Letter of Credit or the amendment thereto, as the case may be.

(e) If the Issuing Bank shall make an LC Disbursement, the Issuing Bank shall give the Borrower, the Administrative Agent and (with respect to an LC Disbursement under a TA Letter of Credit) each TALC Participating Bank prompt written notice of such LC Disbursement; provided, that the failure to give any such notice shall in no way affect, impair or diminish the Borrower's obligations hereunder (other than in respect of timing of its reimbursement obligations hereunder). The stated amount of any Specified Letter of Credit shall be reduced by the amount of each LC Disbursement thereunder.

(f) Each LC Disbursement shall be automatically converted into loans hereunder in an aggregate initial principal amount equal to the amount of such LC Disbursement (or in the case of an LC Disbursement in respect of any TA Letter of Credit, each TALC Participating Bank's TALC Percentage of the amount of such LC Disbursement) (each, an "LC Loan"). Upon the deemed Borrowing of LC Loans in accordance with this Section 3.25(f), the relevant LC Disbursement shall be deemed retired in full. The LC Loans made pursuant to this Section 3.25(f) shall be Base Rate Loans until Converted in accordance with Section 3.5.

(g) Immediately upon the issuance by the TALC Issuing Bank of each TA Letter of Credit, the TALC Issuing Bank shall be deemed to have sold and transferred to each TALC Participating Bank and each TALC Participating Bank shall be deemed irrevocably and unconditionally to have purchased and received from the TALC Issuing Bank, without recourse or warranty, an undivided interest and participation, to the extent of such TALC Participating Bank's TALC Percentage, in such TA Letter of Credit, each LC Disbursement made thereunder and the obligations of the Borrower under this Credit Agreement with respect thereto (including any LC Disbursement and the resulting LC Loans). In determining whether to pay under any TA Letters of Credit, the TALC Issuing Bank shall have no obligation relative to the other Lenders other than to confirm that any documents required to be delivered under such TA Letters of Credit appear to have been delivered and that they appear to substantially comply on their face with the requirements thereof. Any action taken or omitted to be taken by the TALC Issuing Bank under or in connection with any TA Letters of Credit shall not create any resulting liability to the Borrower, any Lender or any other Person unless such action is taken or omitted to be taken with gross negligence or willful misconduct on the part of the TALC Issuing Bank (as determined by a court of competent jurisdiction in a final and non-appealable decision). If the TALC Issuing Bank makes an LC Disbursement, then the TALC Issuing Bank shall promptly notify the Administrative Agent, and the Administrative Agent shall promptly notify each TALC Participating Bank, and each TALC Participating Bank shall promptly and unconditionally pay to the TALC Issuing Bank the amount of such TALC Participating Bank's TALC Percentage of the amount of such LC Disbursement (less any amount received by the Issuing Bank from the Borrower in respect of such LC Disbursement prior to such payment) (as applicable to each TALC Participating Bank, such TALC Participating Bank's "TALC Participation Amount") in Dollars and in same day funds. If the Administrative Agent so notifies a TALC Participating Bank prior to 12:00 noon (New York City time) on any Business Day, then

such TALC Participating Bank shall make available to the TALC Issuing Bank its TALC Participation Amount on such Business Day in same day funds. If the Administrative Agent so notifies a TALC Participating Bank after 12:00 noon (New York City time) on any Business Day, then such TALC Participating Bank shall make available to the TALC Issuing Bank its TALC Participation Amount on the next succeeding Business Day in same day funds. If and to the extent such TALC Participating Bank shall not have made its TALC Participation Amount available to the TALC Issuing Bank in accordance with this Section 3.25(g), such TALC Participating Bank agrees to pay to the TALC Issuing Bank, forthwith on demand its TALC Participation Amount, together with interest thereon, for each day from such date until the date such amount is paid to such TALC Issuing Bank at the interest rate applicable to Tranche B Construction Loans or Tranche B Term Loans, as applicable, that are maintained as Base Rate Loans. The failure of any TALC Participating Bank to make available to the TALC Issuing Bank its TALC Participation Amount shall not relieve any other TALC Participating Bank of its obligation hereunder to make available to the TALC Issuing Bank its TALC Participation Amount on the date required, as specified above, but no TALC Participating Bank shall be responsible for the failure of any other TALC Participating Bank to make available to the TALC Issuing Bank such other TALC Participating Bank's TALC Participation Amount. Whenever the TALC Issuing Bank receives a payment of a reimbursement obligation as to which it has received any payments from the TALC Participating Banks pursuant to this Section 3.25(g), the TALC Issuing Bank shall pay to each such TALC Participating Bank which has paid a TALC Participation Amount, in Dollars and in same day funds, an amount equal to such TALC Participating Bank's share (based upon the proportionate aggregate amount originally funded by such TALC Participating Bank to the aggregate amount funded by all TALC Participating Banks) of the principal amount of such reimbursement obligation and interest thereon accruing after the purchase of the respective participations in accordance herewith. Upon the request of any TALC Participating Bank, the TALC Issuing Bank shall furnish to such TALC Participating Bank copies of any TA Letters of Credit issued by it and such other documentation as may reasonably be requested by such TALC Participating Bank. The obligations of the TALC Participating Banks to make payments to the TALC Issuing Bank hereunder shall be irrevocable and not subject to any qualification or exception whatsoever and shall be made in accordance with the terms and conditions of this Credit Agreement under all circumstances, including any of the following circumstances: (i) any lack of validity or enforceability of this Credit Agreement or any of the other Financing Documents; (ii) the existence of any claim, setoff, defense or other right which the Borrower or any other Borrower Party may have at any time against a beneficiary named in any TA Letters of Credit, any transferee of any TA Letters of Credit (or any Person for whom any such transferee may be acting), the Administrative Agent, any TALC Participating Bank, or any other Person, whether in connection with this Credit Agreement, any TA Letters of Credit, the transactions contemplated herein or any unrelated transactions (including any underlying transaction between the Borrower or any other Borrower Party and the beneficiary named in any such TA Letters of Credit); (iii) any draft, certificate or any other document presented under any TA Letters of Credit proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect; (iv) the surrender or impairment of any security for the performance or observance of any of the terms of any of the Financing Documents; or (v) the occurrence of any Default or Event of Default.

(h) The obligations of the Borrower under this Section 3.25 to reimburse the relevant Issuing Bank with respect to drafts, demands and other presentations for payment under any Specified Letter of Credit (including, in each case, interest on such payments) in cash or by the automatic conversion thereof into LC Loans shall be absolute and unconditional under any and all circumstances and irrespective of any setoff, counterclaim or defense to payment which the Borrower or any other Borrower Party may have or have had against the Issuing Bank, including, any defense based upon the failure of any drawing under any Specified Letter of Credit to conform to the terms of such Specified Letter of Credit or any non-application or misapplication by the beneficiary of the proceeds of such drawing; provided, that the Borrower shall not be obligated to reimburse the Issuing Bank for any wrongful payment made by the Issuing Bank under any Specified Letter of Credit as a result of acts or omissions constituting willful misconduct or gross negligence on the part of the Issuing Bank (as determined by a court of competent jurisdiction in a final and non-appealable decision); provided, further, that such Issuing Bank shall not be excused from liability to the Borrower to the extent of any damages suffered by the Borrower that are caused by the Issuing Bank's willful misconduct or gross negligence when determining whether drafts and other documents presented under a Specified Letter of Credit comply with the terms thereof.

(i) To the extent that the Borrower for any reason fails to indefeasibly pay any Indemnified Liabilities to the TALC Issuing Bank in accordance with Section 11.2, each TALC Participating Bank severally agrees to pay to the TALC Issuing Bank such TALC Participating Bank's *pro rata* share (in accordance with each TALC Participating Bank's TALC Percentage) of such unpaid amount (including any such unpaid amount in respect of a claim asserted by such TALC Participating Bank against the TALC Issuing Bank).

3.26 Replacement of Lenders.

(a) If (i) any Lender delivers a certificate requesting compensation pursuant to Section 3.11, (ii) any Lender delivers a notice described in Section 3.10, (iii) the Borrower is required to pay any additional amount to any Lender or any Governmental Authority on account of any Lender pursuant to Section 3.24, (iv) any Lender or Issuing Bank becomes a Non-Consenting Creditor, (v) any Lender becomes a Defaulting Lender or (vi) any Issuing Bank fails to issue a Specified Letter of Credit in accordance herewith, then the Borrower may, at its sole expense and effort (including with respect to the processing and recordation fee referred to in Section 11.11 except to the extent paid by the Eligible Assignee), upon notice to such Lender or Issuing Bank and the Administrative Agent, require such Lender or Issuing Bank to transfer and assign, without recourse (in accordance with and subject to the restrictions contained in Section 11.11), all of its interests, rights and obligations under this Credit Agreement to an Eligible Assignee that shall assume such assigned obligations; provided, that:

(A) in the case of any such assignment resulting from the circumstances set forth in subparts (i), (ii) or (iii) above, such assignment will result in a reduction in the relevant compensation or payments thereafter;

(B) in the case of any such assignment resulting from a Lender or Issuing Bank becoming a Non-Consenting Creditor, the applicable assignee

shall have consented in writing to the applicable amendment, waiver or consent;

(C) such assignment shall not conflict with any applicable requirement of Law;

(D) the Borrower shall have received each consent required by Section 11.11 in accordance therewith;

(E) the Borrower or such Eligible Assignee shall have paid to the affected Lender or the Issuing Bank in immediately available funds an amount equal to the sum of the principal of its Loans, accrued interest thereon, Fees and other amounts payable to it hereunder and under the other Financing Documents (including any amounts under Section 3.12) from the assignee (to the extent of such outstanding principal and accrued interest and Fees) or the Borrower (in the case of all other amounts); and

(F) if such Defaulting Lender is an Issuing Bank, the Borrower shall have delivered the originals of all Specified Letters of Credit issued by such Issuing Bank for cancelation by such Issuing Bank.

(b) A Lender or Issuing Bank shall not be required to make any such assignment or delegation if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling the Borrower to require such assignment and delegation cease to apply.

3.27 Defaulting Lender Adjustments. Notwithstanding anything to the contrary contained in this Credit Agreement, if any Lender or Issuing Bank becomes a Defaulting Lender, then, until such time as such Lender or Issuing Bank is no longer a Defaulting Lender, to the extent permitted by applicable Law:

(a) Waivers and Amendments. The amount of such Defaulting Lender's applicable Commitment, applicable Loans and TALC Participation shall be excluded for purposes of voting, and the calculation of voting, on any matters (including the granting of any consents or waivers) with respect to any of the Financing Documents (other than consents, modification or waivers that (i) extend the final scheduled maturity of any Loan or Note held by such Defaulting Lender or extend the stated expiration date of any Specified Letter of Credit issued by such Defaulting Lender beyond the Maturity Date of such Loan, Note or Specified Letter of Credit, (ii) reduce the rate or extend the time of payment of interest or Fees on or in respect of any Loan or Note held by such Defaulting Lender or Specified Letter of Credit issued by such Defaulting Lender (except in connection with the waiver of applicability of any post-default increase in interest rates), (iii) reduce (or forgive) the principal amount of any Loan or Note held by such Defaulting Lender, (iv) increase the amount of any Commitment of such Defaulting Lender or (v) change the voting provisions hereof).

(b) Defaulting Lender Waterfall. Any payment of principal, interest, Fees or other amounts received by the Administrative Agent for the account of such Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to ARTICLE IX or otherwise) or received by the Administrative Agent from a Defaulting Lender pursuant to Section 11.14 shall be applied at such time or times as may be determined by the Administrative Agent as follows: *first*, to the payment of any amounts owing by such Defaulting Lender to the Administrative Agent hereunder; *second*, to the payment of any amounts owing by such Defaulting Lender to the TALC Issuing Bank hereunder; *third*, if such Defaulting Lender is a TALC Participating Bank, to Cash Collateralize the TALC Issuing Bank's Fronting Exposure with respect to such Defaulting Lender in accordance with Section 3.28; *fourth*, as the Borrower may request (so long as no Default or Event of Default exists), to the funding of any Loan in respect of which such Defaulting Lender has failed to fund its portion thereof as required by this Credit Agreement, as determined by the Administrative Agent; *fifth*, if so determined by the Administrative Agent and the Borrower, to be held in a deposit account and released *pro rata* in order to (x) satisfy such Defaulting Lender's potential future funding obligations with respect to Loans under this Credit Agreement and (y) if such Defaulting Lender is a TALC Participating Bank, Cash Collateralize the TALC Issuing Bank's future Fronting Exposure with respect to such Defaulting Lender with respect to future TA Letters of Credit issued under this Credit Agreement, in accordance with Section 3.28; *sixth*, to the payment of any amounts owing to the Lenders or the Issuing Banks as a result of any judgment of a court of competent jurisdiction obtained by any Lender or Issuing Bank against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Credit Agreement; *seventh*, so long as no Default or Event of Default exists, to the payment of any amounts owing to the Borrower as a result of any judgment of a court of competent jurisdiction obtained by the Borrower against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Credit Agreement; and *eighth*, to such Defaulting Lender or as otherwise directed by a court of competent jurisdiction; provided, that if (x) such payment is a payment of the principal amount of any Loans in respect of which such Defaulting Lender has not fully funded its appropriate share, and (y) such Loans were made or the related Specified Letters of Credit were issued at a time when the relevant conditions set forth in ARTICLE IV were satisfied or waived, such payment shall be applied solely to pay the Loans of all Non-Defaulting Lenders on a *pro rata* basis prior to being applied to the payment of any Loans of such Defaulting Lender until such time as all Loans are held by the Lenders *pro rata* in accordance with the Commitments under the applicable Credit Facility without giving effect to Section 3.27 (a)(d). Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender or to post Cash Collateral pursuant to this Section 3.27(a)(b) shall be deemed paid to and redirected by such Defaulting Lender, and each Lender irrevocably consents hereto.

(c) Certain Fees.

(i) No Defaulting Lender shall be entitled to receive any Commitment Fee under Sections 3.13(a) for any period during which the relevant Lender is a Defaulting Lender (and, notwithstanding anything to the contrary herein, the Borrower shall not be required to pay any such Fee that otherwise would have been required to have been paid to that Defaulting Lender).

(ii) Each TALC Participating Bank that is a Defaulting Lender shall be entitled to receive Letter of Credit Fees under Sections 3.13(c)(a)(i) or 3.13(c)(a)(iii) for any period during which that Issuing Bank is a Defaulting Lender only to the extent allocable to that portion of the TALC Participation for which it has provided Cash Collateral pursuant to Section 3.28.

(iii) With respect to any Fees not required to be paid to any Defaulting Lender pursuant to Section 3.27(a)(c)(ii), the Borrower shall (x) pay to each Non-Defaulting Lender that portion of any such Fee otherwise payable to such Defaulting Lender with respect to such Defaulting Lender's TALC Participation that has been reallocated to such Non-Defaulting Lender pursuant to Section 3.27(a)(d), (y) pay to the TALC Issuing Bank the amount of any such Fee otherwise payable to such Defaulting Lender to the extent allocable to such Issuing Bank's Fronting Exposure to such Defaulting Lender, and (z) not be required to pay the remaining amount of any such Fee.

(d) Reallocation of TALC Participations to Reduce Fronting Exposure. All or any part of any Defaulting Lender's TALC Participation shall be reallocated among the Non-Defaulting Lenders in accordance with their respective TALC Percentages (calculated without regard to such Defaulting Lender's TALC Percentages) but only to the extent that (x) the conditions set forth in Section 4.4 are satisfied at the time of such reallocation (and, unless the Borrower shall have otherwise notified the Administrative Agent at such time, the Borrower shall be deemed to have represented and warranted that such conditions are satisfied at such time), and (y) such reallocation would not cause the aggregate TALC Participating Amount of any Non-Defaulting Lender to exceed such Non-Defaulting Lender's TALC Commitment. For the avoidance of doubt, the TALC Issuing Bank and the TALC Participating Banks agree that drawings under the TA Letter of Credit under the Tolling Agreement result from or are otherwise predicated upon facts that constitute Defaults or Events of Default and that no reallocation will occur hereunder if a TALC Participating Bank becomes a Defaulting Lender solely as a result of its failure to pay to the TALC Issuing Bank its relevant TALC Participation Amount upon such drawing. No reallocation hereunder shall constitute a waiver or release of any claim of any party hereunder against a Defaulting Lender arising from that TALC Participating Bank having become a Defaulting Lender, including any claim of a Non-Defaulting Lender as a result of such Non-Defaulting Lender's increased exposure following such reallocation.

(e) Cash Collateral by Borrower; Prepayment of LC Loans. If the reallocation described in Section 3.27(a)(d) cannot, or can only partially, be effected, then the Borrower shall, without prejudice to any right or remedy available to it hereunder or under applicable Law, Cash Collateralize the TALC Issuing Bank's Fronting Exposure in accordance with the procedures set forth in Section 3.28; provided, that if any TALC Participating Bank becomes a Defaulting Lender solely as a result of its failure to pay to the TALC Issuing Bank its relevant TALC Participation Amount upon the drawing of a TA Letter of Credit, then the Borrower shall have the right, in lieu of Cash Collateralization and notwithstanding the provisions of Section 3.22, to prepay such LC Loans as are owed to the TALC Issuing

Bank in aggregate amount equal to such Defaulting Lender's TALC Participation Amount in accordance with Section 3.16 within five Business Days.

(f) Defaulting Lender Cure. If the Borrower, the Administrative Agent and (if the Defaulting Lender is a TALC Participating Bank) the TALC Issuing Bank agree in writing that a Lender is no longer a Defaulting Lender, the Administrative Agent will so notify the parties hereto, whereupon as of the effective date specified in such notice and subject to any conditions set forth therein (which may include arrangements with respect to any Cash Collateral), that Lender will, to the extent applicable, purchase at par that portion of outstanding Loans of the other Lenders or take such other actions as the Administrative Agent may determine to be necessary to cause the Loans and funded and unfunded participations of the Credit Facilities to be held *pro rata* by the Lenders in accordance with the Commitments under the applicable Credit Facility (without giving effect to Section 3.27 (a)(d)), whereupon such Lender will cease to be a Defaulting Lender; provided, that no adjustments will be made retroactively with respect to Fees accrued or payments made by or on behalf of the Borrower while that Lender was a Defaulting Lender; and provided, further, that except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender.

(g) New TA Letters of Credit. So long as any TALC Participating Bank is a Defaulting Lender, the TALC Issuing Bank shall not be required to issue, extend, renew or increase any TA Letter of Credit unless it is satisfied that it will have no Fronting Exposure after giving effect thereto.

3.28 Cash Collateralization.

(a) Cash Collateralization. If at any time there shall exist a Defaulting Lender that is a TALC Participating Bank, then within five Business Days following the written request of the Administrative Agent or the TALC Issuing Bank (with a copy to the Administrative Agent) the Borrower shall Cash Collateralize or shall cause the Cash Collateralization of the TALC Issuing Bank's Fronting Exposure with respect to such Defaulting Lender (determined after giving effect to Section 3.27(a)(d) and any Cash Collateral provided by such Defaulting Lender) from funds that are not credited or creditable to the Secured Accounts in an amount not less than the Minimum Collateral Amount.

(b) Grant of Security Interest. The Borrower, and to the extent provided by any Defaulting Lender, such Defaulting Lender, hereby grants to the Administrative Agent, for the benefit of the TALC Issuing Bank, and agrees to maintain, a first priority security interest in all such Cash Collateral as security for the Defaulting Lender's obligation to fund participations in respect of TALC Facility, to be applied pursuant to Section 3.28(c). If at any time the Administrative Agent determines that Cash Collateral is subject to any right or claim of any Person other than the Administrative Agent and the TALC Issuing Bank as herein provided, or that the total amount of such Cash Collateral is less than the Minimum Collateral Amount, then the Borrower will, within five Business Days of demand by the Administrative Agent, pay or provide to the Administrative

Agent additional Cash Collateral in an amount sufficient to eliminate such deficiency (after giving effect to any Cash Collateral provided by the Defaulting Lender).

(c) Application. Notwithstanding anything to the contrary contained in this Credit Agreement, Cash Collateral provided under this Section 3.28 or Section 3.27 in respect of TA Letters of Credit shall be applied to the satisfaction of the Defaulting Lender's obligation to fund participations of TA Letters of Credit (including, as to Cash Collateral provided by a Defaulting Lender, any interest accrued on such obligation) for which the Cash Collateral was so provided, prior to any other application of such property as may otherwise be provided for herein.

(d) Termination of Requirement. Cash Collateral (or the appropriate portion thereof) provided to reduce the TALC Issuing Bank's Fronting Exposure shall no longer be required to be held as Cash Collateral pursuant to this Section 3.28 following (i) the elimination of the applicable Fronting Exposure (including by the termination of Defaulting Lender status of the applicable Lender), or (ii) the determination by the TALC Issuing Bank that there exists excess Cash Collateral; provided, that, subject to Section 3.27, the Person providing Cash Collateral and the TALC Issuing Bank may agree that Cash Collateral shall be held to support future anticipated Fronting Exposure or other obligations; and, provided, further, that to the extent that such Cash Collateral was provided by the Borrower, such Cash Collateral shall remain subject to the security interest granted pursuant to the Collateral Documents.

ARTICLE IV

CONDITIONS PRECEDENT

4.1 Conditions to Closing. The closing of the transactions hereunder (the "Closing") is subject to the prior satisfaction of each of the following conditions (unless waived in writing by each Financing Party):

(a) Representations and Warranties. The representations and warranties of the Borrower Parties set forth in the Financing Documents shall be true and correct in all material respects on and as of the Closing Date, except to the extent such representations and warranties expressly relate to an earlier date (in which case such representations and warranties shall be true and correct in all material respects as of such earlier date).

(b) Transaction Documents. Each of the Transaction Documents (other than the Term Notes, any Additional Project Documents not then in existence and the Rate Swap Confirmations) shall have been duly authorized, executed, delivered and (if applicable) released from documentary escrow by each party thereto. The Administrative Agent shall have received a fully-executed version of each such Transaction Document (it being understood that, to the extent an original counterpart thereof is not required to be delivered to the Administrative Agent as a condition to the effectiveness or enforceability thereof under applicable Law, a photostatic or electronic copy thereof shall satisfy this condition).

(c) Notes. The Borrower shall have duly authorized and executed each Note (other than a Term Note) for the account of each Lender that has made a request therefor pursuant to Section 3.4(b). Each such Note shall be appropriately completed with the name of the payee, the maximum principal amount thereof and the date of issuance (which shall be the Closing Date) inserted therein. An original of each such Note shall have been delivered by the Borrower to the Administrative Agent for further distribution to the payee listed therein.

(d) No Default or Event of Default. No Default or Event of Default shall have occurred and be continuing.

(e) Funding of Equity Contributions. The Pledgor shall have contributed to the Borrower the Required Equity Contribution. The proceeds of such Required Equity Contribution shall have been applied to the payment of Project Costs (directly by the Borrower or through the further contribution to and payment by the Procurement Sub or Project Owner).

(f) Closing Certificates. The Borrower shall have appropriately completed, duly authorized, executed, and delivered to the Administrative Agent and (if applicable) released from documentary escrow the Borrower Closing Certificate. The Pledgor shall have appropriately completed, duly authorized, executed and delivered to the Administrative Agent and (if applicable) released from documentary escrow the Pledgor Closing Certificate. Each such Closing Certificate is true and correct in all respects and attaches true and correct copies of all documents specified therein appropriately completed as specified therein.

(g) Good Standing. Each Borrower Party and the Pledgor shall be in good standing under the jurisdiction of its formation and the Administrative Agent shall have received a certificate of good standing in respect of each such Borrower Party and the Pledgor certified by the Secretary of State of such state and dated not more than ten days prior to the Closing Date. Each Borrower Party and the Pledgor shall be qualified to do business in the jurisdiction where the Project is located and the Administrative Agent shall have received a certificate of the relevant state official evidencing such qualification dated not more than ten days prior to the Closing Date.

(h) Insurance. Insurance complying with the Collateral Agreement shall be in full force and effect, and each Financing Party shall have received a binder or certificates signed by the insurer or a broker authorized to bind the insurer with respect to each policy of insurance required to be in effect pursuant to the Collateral Agreement evidencing such insurance (including the designation of the Collateral Agent as loss payee or additional insured thereunder to the extent required by the Collateral Agreement). In addition, each Financing Party shall have received a report from the Insurance Consultant in accordance with Section 4.1(a)(i) and a certificate from the Insurance Consultant dated the Closing Date, certifying that all insurance policies required to be maintained (or caused to be maintained) by the Borrower Parties pursuant to Section 7.17 and the Collateral Agreement have been

obtained and are in full force and effect on the Closing Date, and that such insurance policies comply in all respects with the requirements of the Collateral Agreement.

(i) Consultants' Reports. Each Financing Party shall have received an electronic copy of a report of each Independent Consultant as to the matters set forth opposite such report on Appendix I.

(j) Permits. Each Financing Party shall have received photostatic or electronic copies of (x) all Material Permits held in the name of the Borrower Parties and Affiliate Project Participants and, if requested, certified copies of all applications made for such Material Permits required to have been obtained on or before the Closing Date and (y) all Material Permits known to the Borrower that are held in the name of any Material Project Participants that are not Affiliate Project Participants except those Material Permits listed on Schedule 4.1(a)(j).

(k) Creation, Perfection and Priority of Liens. The Liens of the Collateral Agent over the Collateral shall have been created and perfected in accordance with the Collateral Agreement and such Liens shall constitute first-priority Liens subject only to (i) Permitted Priority Liens and (ii) other Permitted Liens to the extent junior to the Liens granted to the Collateral Agent under the Security Documents and the Administrative Agent shall have received evidence reasonably satisfactory to it of the foregoing.

(l) Lien Searches. The Administrative Agent shall have received lien search reports of a recent date before the Closing Date for each of the jurisdictions in which UCC-1 financing statements, fixture filings and the Mortgage are intended to be filed in respect of the Collateral which such reports shall not include any Liens other than (i) Permitted Priority Liens and (ii) other Permitted Liens to the extent junior to the Liens granted to the Collateral Agent under the Security Documents. The Administrative Agent shall have received each California 20-Day Preliminary Notice issued pursuant to California Civil Codes §3097, 3098, 3111 and 3259.5 and delivered to the Borrower Parties on or prior to the Closing Date.

(m) Legal Opinions. The Administrative Agent shall have received photostatic or electronic copies of the following legal opinions, which legal opinions shall be dated the Closing Date and addressed to, and be in form and substance satisfactory to, each Agent and each Financing Party:

(i) a legal opinion of in-house counsel to each of the Borrower Parties and the Pledgor;

(ii) a legal opinion of Jones Day, special New York and California counsel to the Borrower Parties, the Pledgor and each Affiliated Project Party;

(iii) a legal opinion of Jones Day, special federal energy regulatory and federal permitting counsel to the Borrower Parties, the Pledgor and each Affiliated Project Party;

(iv) a legal opinion of Stoel Rives LLP, special federal and state environmental counsel, state energy regulatory and state and local permitting counsel to the Borrower Parties, the Pledgor and each Affiliated Project Party;

(v) a legal opinion of counsel to the Equipment Supplier and Equipment Servicer as to the matters set forth on Appendix 2 to each Consent Agreement with the Equipment Supplier and the Equipment Servicer; and

(vi) a legal opinion of counsel to the BOP Contractor as to the matters set forth on Appendix 2 to each Consent Agreement with the BOP Contractor.

(n) Financial Information, etc. Each Financing Party shall have received an electronic copy of a *pro forma* balance sheet of each Borrower Party and the Pledgor, dated the Closing Date.

(o) U.S.A. Patriot Act. Each Financing Party shall have received, at least three Business Days prior to the Closing Date, electronic copies of all documentation and other information required by bank regulatory authorities or the generally applicable internal policies of the such Financing Party under applicable "know your customer" and anti-money laundering rules and regulations, including the U.S.A. Patriot Act.

(p) Environmental Matters. Each Financing Party shall have received an electronic copy of a "Phase 1 Environmental Site Assessment" confirming that there are no recognized environmental conditions in connection with the Project, the Facility or the Site, except to the extent set forth on Schedule 5.14.

(q) Fees and Expenses. The Borrower shall have paid or arranged for the payment when due of all reasonable and documented Fees, expenses (including Attorney Costs) and other charges due and payable by it on or prior to the Closing Date under this Credit Agreement or under any of the other Financing Documents.

(r) Construction Budget and Project Schedule; Sources and Uses. Each Financing Party shall have received an electronic copy (whether delivered separately or as part of the Base Case Model delivered in accordance with Section 4.1(a)(t)) of (i) the Construction Budget, (ii) each Project Schedule and (iii) a sources and uses of funds demonstrating that the Construction Facilities are sufficient to timely fund all future Project Costs set forth in the Construction Budget, including the Contingency, each of which shall be reasonably satisfactory to such Financing Party.

(s) *Pro Forma* Operating Budget; *Pro Forma* Operating Report. Each Financing Party shall have received an electronic copy (whether delivered separately or as part of the Base Case Model delivered in accordance with Section 4.1(a)(t)) of a *pro forma* Operating Budget and a *pro forma* Operating Report, in each case, in form, scope and substance reasonably satisfactory to such Financing Party.

(t) Base Case Model. The Borrower shall have delivered to each Financing Party an electronic copy of the Base Case Model, incorporating the inputs from the Construction Budget, the Project Schedules, the projected Operating Performance and sources and uses of funds delivered in accordance with Section 4.1(a)(r), the *pro forma* Operating Budget delivered in accordance with Section 4.1(a)(s), and the anticipated fixed rate payable by the Borrower under each of the Rate Swap Transactions to be entered into in accordance with Section 7.26, and otherwise in form, scope and substance reasonably satisfactory to such Financing Party.

(u) Financial Ratios. The Base Case Model delivered in accordance with Section 4.1(a)(t) shall project a minimum Projected DSCR on a rolling twelve-month basis beginning on August 30, 2013 and ending on August 31, 2023 of not less than 1.40:1.00.

(v) Commencement of Work. The Administrative Agent shall have received evidence that: (i) the Construction Manager shall have received and accepted the "Notice to Proceed" (as defined in the Construction Management Agreement); (ii) the BOP Contractor shall have received and accepted the "Full Notice to Proceed" (as defined in the BOP Contract); (iii) the Equipment Servicer shall have received and accepted the "Full Notice to Proceed" (as defined in the Equipment Services Agreement); and (iv) the Equipment Supplier shall have received and accepted the "Full Notice to Proceed" (as defined in the Equipment Purchase Agreement).

(w) Debt Repayment. Each Borrower Party shall have repaid all of its existing Indebtedness, other than Permitted Indebtedness and all Liens associated therewith encumbering any Collateral, other than Permitted Liens, shall have been released.

(x) Additional Matters. All corporate and other proceedings, and all documents, instruments and other legal matters in connection with the transactions contemplated by this Credit Agreement and the other Transaction Documents shall be reasonably satisfactory in form and substance to the Administrative Agent, and the Administrative Agent shall have received such other documents, certificates, and instruments relating to this Credit Agreement or any other Transaction Document or the transactions contemplated hereby or thereby as the Administrative Agent shall have reasonably requested, in each case in form and substance reasonably satisfactory to the Administrative Agent.

For purposes of this Section 4.1, a Financing Party shall be deemed to have received an electronic copy of any document that was posted on the Borrower's online data site located at www.intralinks.com as of 5:00 p.m. (New York time) on the day immediately preceding the Closing Date; unless, (x) such Financing Party did not receive electronic notice of such posting or (y) such Financing Party notifies the Administrative Agent and the Borrower that such Financing Party has not had reasonably sufficient time to review such electronic copy prior to the Closing Date.

4.2 Conditions to the Disbursement of Construction Loans. The obligation of any (a) Tranche A Lender to make any Tranche A Construction Loan or (b) Tranche B Lender to

make any Tranche B Construction Loan, as the case may be, on any Disbursement Date is subject to the prior satisfaction of each of the following conditions (unless waived in writing by (x) in the case of Tranche A Construction Loans, the Requisite Tranche A Lenders or (y) in the case of Tranche B Construction Loans, Requisite Tranche B Lenders):

(a) Closing Date. The Closing shall have theretofore occurred.

(b) Borrowing Request. The Administrative Agent shall have received a Borrowing Request pursuant to and in compliance with Section 3.2 in respect of the Disbursement of Construction Loans on such Disbursement Date.

(c) Construction Requisition. The Administrative Agent shall have received (i) not less than five Business Days prior to such Disbursement Date, a Construction Requisition and (ii) not less than two Business Days prior to such Disbursement Date, a certificate of the Independent Engineer confirming such Construction Requisition.

(d) Representations and Warranties. The representations and warranties of the Borrower contained in ARTICLE V hereof and the representations and warranties of each Borrower Party, and the Pledgor and the Affiliated Project Parties contained in any other Financing Document to which any such Person is a party shall be true and correct in all material respects on and as of such Disbursement Date as if made on and as of such date (both before and after giving effect to the Disbursement to be made on such date) (or, if stated to have been made solely as of an earlier date, were true and correct in all material respects as of such earlier date).

(e) No Default or Event of Default. No Default or Event of Default shall have occurred and be continuing.

(f) Construction Budget; Notional Disbursement Schedule. The making of such Construction Loan shall be in accordance with the Construction Budget and the Notional Disbursement Schedule (subject to variances to the Notional Disbursement Schedule that are reasonably commensurate with modifications to the Construction Budget that are made in accordance with Section 7.28). The aggregate amount of Project Costs set forth in the then-applicable Construction Budget are sufficient to cause the Term Conversion Date to occur prior to the Date Certain and the Available Construction Funds both before and after giving effect to such Disbursement shall be equal to or greater than the aggregate amount of unpaid Project Costs set forth in the Construction Budget.

(g) No Liens. There shall not have been filed against or served upon the Collateral Agent or any of the Borrower Parties with respect to the Project or any part thereof any Stop Notice or notice of any Lien or claim of Lien or attachment upon or claim affecting the right to receive payment of any of the moneys payable to any of the Persons named on the relevant Construction Requisition (other than a Permitted Lien) which has not been released by prior payment (after the date hereof with the proceeds of Construction Loans) or in respect of which a bond or other security acceptable to Administrative Agent has not been posted or

provided or which will not be released with the payment of the related obligation out of Construction Loans to be disbursed on the relevant Disbursement Date.

(h) Lien Releases; Etc. The Borrower shall have delivered to the Administrative Agent (i) a Lien Waiver Report completed in good faith using commercially reasonable efforts setting forth the information required thereby in respect of each M&M Party known to the Borrower Parties, including any Person identified in a notice delivered to the Borrower Parties or their Affiliates in accordance with Section 8.1 of any of the BOP Contract, the Equipment Purchase Agreement or the Equipment Services Agreement and any Person that has delivered to the Borrower Parties or (if relating to the Project) their Affiliates a California 20-Day Preliminary Notice pursuant to California Civil Codes §3097, 3098, 3111 or 3259.5, (ii) properly completed and duly executed conditional lien waivers (in the form provided under California Civil Code §3262, as amended) from each M&M Party that is to be directly or indirectly paid from funds requested under the related Borrowing of the Construction Loans, each of which shall be dated not earlier than the Relevant Work Date, (iii) one or more properly completed and duly executed unconditional lien waivers (in the form provided under California Civil Code §3262, as amended) from each M&M Party that is to be directly or indirectly paid from funds requested under the related Borrowing, each of which shall be dated not earlier than the date of the most recent conditional lien waiver delivered in accordance with subpart (ii) of this sentence. All work previously done on the Project shall have been done in all material respects in accordance with the applicable M&M Contracts. Other than with respect to the initial Borrowing of the Construction Loans (to the extent amounts are funded from sources other than the Construction Loans on the date thereof), all amounts directly or indirectly paid to any M&M Party since the initial Borrowing of the Construction Loans have been directly or indirectly funded with the proceeds of the Construction Loans (unless otherwise approved by the Administrative Agent, such approval not to be unreasonably withheld, conditioned or delayed).

(i) Fees and Expenses. The Borrower shall have paid or arranged for the payment when due (including, to the extent permitted, out of Disbursements) of all reasonable and documented Fees, expenses (including Attorney Costs) and other charges payable by it on or prior to such Disbursement Date under this Credit Agreement or under any other Financing Document.

(j) Title Policy Endorsement. The Administrative Agent shall have received (i) a "bring-down" endorsement to the Title Policy to the Disbursement Date of such Construction Loans, insuring the continuing first priority Lien of the Mortgage (subject only to (A) Permitted Priority Liens and (B) other Permitted Liens to the extent junior to the Liens for the benefit of the Secured Parties under the Mortgage) and otherwise in form and substance satisfactory to the Administrative Agent and (ii) either (A) with respect to the initial Borrowing of the Construction Loans only, a 32-06 Endorsement and (B) with respect to each other Borrowing of the Construction Loans, a 33-06 Endorsement, in each case, with a Date of Coverage (as defined therein) that is the same as the date of the relevant Borrowing of the Construction Loans with copies of all executed conditional and

unconditional lien waivers required to be delivered pursuant to Section 4.2(a)(h) attached thereto.

(k) Funding of Equity Contributions. The Pledgor shall have contributed to the Borrower the Required Equity Contribution. The proceeds of such Required Equity Contribution shall have been applied to the payment of Project Costs (directly by the Borrower or through the further contribution to and payment by the Procurement Sub or Project Owner).

(l) Remediation. With respect solely to the initial Borrowing of the Construction Loans: (i) the U.S. Environmental Protection Agency shall have issued EPA Letters that set forth, with a reasonable level of certainty, the remediation that is as of such date required in respect of all environmental conditions identified at the Site on or prior to the initial Borrowing of the Construction Loans; (ii) the Borrower shall have delivered to the Administrative Agent the Remediation Work Plan, as updated as of the initial Borrowing of the Construction Loans; (iii) the Borrower shall, or shall have caused the relevant Borrower Parties to, have entered into such Change Orders, in accordance with Section 7.15, as are necessary to reflect the Remediation Work Plan; (iv) the Borrower shall have amended the Construction Budget, in accordance with Section 7.28, to the extent necessary to incorporate the costs of all such Change Orders, (v) the Borrower shall have delivered to the Administrative Agent a sources and uses of funds demonstrating that the Construction Facilities and the Required Equity Contribution are sufficient to fund all past and future Project Costs set forth in the then-applicable Construction Budget, including the Contingency and (vi) the Borrower shall have delivered to the Administrative Agent a written confirmation of the Independent Engineer that (A) the Remediation Work Plan as of the date of the initial Borrowing of the Construction Loans sets forth with reasonable certainty all corrective actions that are necessary or reasonably appropriate to satisfy the conditions and comply with any other requirements set forth in the EPA Letters and (B) the Change Orders referenced in subpart (iii) of this Section 4.2(a)(l) incorporate with reasonable certainty all schedule and cost impacts to the Project that can reasonably be expected to result from the remaining execution of the Remediation Work Plan in accordance therewith. With respect solely to the initial Borrowing of the Construction Loans, the aggregate undrawn amount of the Environmental Indemnity is not less than $37,500,000.00.

(m) Updated Base Case Model. With respect solely to the initial Borrowing of the Construction Loans, the Borrower shall have delivered to the Administrative Agent the updated Base Case Model, modified solely to reflect (x) any amendment to the Construction Budget prior to such initial Borrowing, (y) the fixed interest rate payable under the Rate Swap Transactions entered into in accordance with Section 7.26 and (z) the Tranche A Loan Amount as of the initial Borrowing of the Construction Loans, and such updated Base Case Model shall project a minimum Projected DSCR on a rolling twelve-month basis beginning on August 30, 2013 and ending on August 31, 2023 of not less than 1.40:1.00.

(n) Updated Projected Amortization Schedule. With respect solely to the initial Borrowing of the Construction Loans, the Borrower shall have delivered to the

Administrative Agent an updated Projected Amortization Schedule, modified solely to include the Tranche A Notional Amortization and the Tranche A Percentage Amortization.

4.3 Conditions to the Issuance of LGIA Letters of Credit or Disbursement of Revolving Loans. The obligation of the Revolver Lenders to make (x) any Revolving Loan on any Disbursement Date, or (y) issue an LGIA Letter of Credit, on any Issuance Date, is subject to the prior satisfaction of each of the following conditions (unless waived in writing by the Requisite Revolver Lenders):

(a) Closing Date; Etc. The Closing shall have theretofore occurred. The initial Borrowing of the Construction Loans shall have been made or will be made concurrently therewith.

(b) Borrowing Request. In the case of a request for Revolving Loans, the Administrative Agent shall have received a Borrowing Request pursuant to and in compliance with Section 3.2.

(c) LGIA Letter of Credit Request. In the case of a request for the issuance of the LGIA Letter of Credit, the Revolver Lender shall have received an LC Request pursuant to and in compliance with Section 3.25(a) in respect of the issuance of such LGIA Letter of Credit.

(d) Representations and Warranties. The representations and warranties of the Borrower contained in ARTICLE V hereof and the representations and warranties of each Borrower Party, and the Pledgor and the Affiliated Project Parties contained in any other Financing Document to which any such Person is a party shall be true and correct in all material respects on and as of such Issuance Date or Disbursement Date (both before and after giving effect to any Loans or the issuance of any Specified Letter of Credit on such Issuance Date or Disbursement Date) (or, if stated to have been made solely as of an earlier date, were true and correct in all material respects as of such earlier date).

(e) No Default or Event of Default. No Default or Event of Default shall have occurred and be continuing (unless the issuance of any LGIA Letter of Credit would cure any Default).

(f) Fees and Expenses. The Borrower shall have paid or arranged for the payment when due (including, if a Disbursement Date, out of Disbursements) of all reasonable and invoiced Fees, expenses (including Attorney Costs) and other charges payable by it on or prior to such Disbursement Date or Issuance Date under this Credit Agreement or under any other Financing Document.

4.4 Conditions to the Issuance of the TA Letter of Credit. The obligation of the TALC Issuing Bank to issue a TA Letter of Credit on any Issuance Date is subject to the prior satisfaction of each of the following conditions (unless waived in writing by the TALC Issuing Bank and the Requisite TALC Participating Banks):

(a) Closing Date; Etc. The Closing shall have theretofore occurred. The initial Borrowing of the Construction Loans shall have been made or will be made concurrently therewith.

(b) LC Request. The TALC Issuing Bank shall have received an LC Request pursuant to and in compliance with Section 3.25(a) in respect of the issuance of such TA Letter of Credit.

(c) Representations and Warranties. The representations and warranties of the Borrower contained in ARTICLE V hereof and the representations and warranties of each Borrower Party, and the Pledgor and the Affiliated Project Parties contained in any other Financing Document to which any such Person is a party shall be true and correct in all material respects on and as of such Issuance Date as if made on and as of such Issuance Date (both before and after giving effect to the issuance of the TA Letter of Credit on such date) (or, if stated to have been made solely as of an earlier date, were true and correct in all material respects as of such earlier date).

(d) No Default or Event of Default. No Default or Event of Default shall have occurred and be continuing (unless the issuance of any TALC Letter of Credit would cure any Default).

(e) Fees and Expenses. The Borrower shall have paid or arranged for the payment when due (including, to the extent such Issuance Date is also a Disbursement Date, out of Disbursements) of all reasonable and invoiced Fees, expenses (including Attorney Costs) and other charges payable by it on or prior to such Issuance Date under this Credit Agreement or under any other Financing Document.

4.5 Conditions to the Issuance of the DSR Letter of Credit. The obligation of each DSR Issuing Bank to issue a DSR Letter of Credit on any Issuance Date is subject to the prior satisfaction of each of the following conditions (unless waived in writing by such DSR Issuing Bank):

(a) Closing Date; Etc. The Closing shall have theretofore occurred. The initial Borrowing of the Construction Loans shall have been made. The Term Conversion Date shall have theretofore occurred.

(b) LC Request. Such DSR Issuing Bank shall have received an LC Request pursuant to and in compliance with Section 3.25(a) in respect of the issuance of such DSR Letter of Credit.

(c) Representations and Warranties. The representations and warranties of the Borrower contained in ARTICLE V hereof and the representations and warranties of each Borrower Party, and the Pledgor and the Affiliated Project Parties contained in any other Financing Document to which any such Person is a party shall be true and correct in all material respects on and as of such Issuance Date as if made on and as of such date (both before and after giving effect to the issuance of the DSR Letters of Credit on such Issuance Date) (or, if stated to have been made solely as of an earlier date, were true and correct in all material respects as of such earlier date).

(d) No Default or Event of Default. No Default or Event of Default shall have occurred and be continuing (unless the issuance of any DSR Letter of Credit would cure any Default).

(e) Fees and Expenses. The Borrower shall have paid or arranged for the payment when due (including, to the extent such Issuance Date is also a Disbursement Date, out of Disbursements) of all reasonable and invoiced Fees, expenses (including Attorney Costs) and other charges payable by it on or prior to such Disbursement Date under this Credit Agreement or under any other Financing Document.

4.6 Conditions to the Term Conversion Date. The occurrence of the Term Conversion Date shall be subject to the conditions precedent that the Administrative Agent shall have received, or the Requisite Term Lenders shall have waived receipt of, the following documents, materials and other written information, each of which shall be in form and substance satisfactory to the Requisite Term Lenders, and that the other conditions set forth below shall have been satisfied or waived by the Requisite Term Lenders:

(a) Term Notes. Each Lender that has made a request therefor pursuant to Section 3.4(b) shall have received original Term Notes in respect of the Term Loans made or maintained by it, duly completed, executed and delivered by the Borrower, each of which shall (i) be dated the Term Conversion Date, (ii) mature on the Term Maturity Date, and (iii) bear interest as provided in ARTICLE III.

(b) Insurance. The Administrative Agent shall have received a certified copy of the insurance policies required to have been obtained and be in effect on the Term Conversion Date in accordance with Section 7.17 and the Collateral Agreement or certificates of insurance with respect thereto, together with evidence of the payment of all premiums therefor, and a certificate of the Insurance Consultant, certifying that insurance complying with the Collateral Agreement, covering the risks and otherwise satisfying the requirements referred to therein, has been obtained and is in full force and effect.

(c) Permits. All Material Permits shall have been duly obtained, shall be held solely in the name of the Project Owner (or, if necessary, the applicable Project Participant) shall be in full force and effect, shall be final and not subject to any appeal or modification and all appeal periods applicable hereto have expired and shall be free from conditions or requirements the compliance with which could reasonably be expected to have either a

Material Adverse Effect or a material adverse effect on the ability of any Material Project Participant to timely perform any of its material obligations under any of the Material Project Documents to which it is a party, or which the relevant Borrower Party does not reasonably expect to be able to satisfy; provided, that with respect to Material Permits which cannot be obtained on or prior to the Term Conversion Date in the exercise of reasonable diligence (but which are routinely obtainable, can be obtained only after completion of certain operations testing or can be obtained only after a period of operations), the Administrative Agent shall have received assurances satisfactory to the Independent Engineer that such Permits will be obtained by the time needed in connection with the operation of the Project.

(d) Completion Certificates. The Administrative Agent shall have received (i) an original executed counterpart of the Borrower Completion Certificate (the statements contained in which shall be true and correct in all material respects), and (ii) an original executed counterpart of the Independent Engineer Completion Certificate.

(e) Project Completion Date. The Project Completion Date shall have occurred.

(f) Opinions. The Administrative Agent shall have received supplemental opinions of counsel to the Borrower, dated as of the Term Conversion Date, opining as to each of the matters set forth on Appendix K, subject to such qualifications and assumptions as are customary in New York, California or Federal opinion practice (as applicable).

(g) Operating Budget. The Borrower shall have proposed an Operating Budget in accordance with Section 6.6 for the period described in Section 6.6, and such Operating Budget shall have been adopted in accordance with Section 6.6.

(h) Title Insurance; Survey.

(i) The Borrower shall have delivered to the Administrative Agent a Title Policy which has been reissued by the Title Insurer (the "Reissued Title Policy") and such Reissued Title Policy (a) insures the continuing first priority of the Mortgage (subject only to (A) Permitted Priority Liens and (B) other Permitted Liens to the extent junior to the Liens granted for the benefit of the Secured Parties pursuant thereto) and otherwise in form and substance reasonably satisfactory to Administrative Agent, (b) is issued as of the Term Conversion Date, (c) contains only the coverage exceptions set forth in the Title Policy as of the Closing Date or that are otherwise approved by the Administrative Agent (provided, that any mechanics' and materialmen's exceptions included in the Title Policy shall be deleted in the Reissued Title Policy), (d) provides that the ALTA 32 endorsement to the Title Policy is of no further force or effect and (e) is in an amount equal to the Title Policy Amount.

(ii) The Borrower shall have delivered to the Administrative Agent a final "as-built" survey of the Site, addressed to the Collateral Agent for the benefit of the Secured Parties, the Title Insurance Companies and the Borrower, updated to within thirty days of the Term Conversion Date, showing the completed Project, which survey shall be in form and substance reasonably satisfactory to the Collateral Agent and the Title Insurance

Companies, and shall disclose no easements, rights-of-way or encumbrances, other than (A) Permitted Priority Liens and (B) other Permitted Liens to the extent junior to the Liens granted for the benefit of the Secured Parties pursuant to the Mortgage.

(iii) The Borrower shall have prepared and caused to be executed and recorded such amendments to the Mortgage or other confirmatory documents as may be reasonably requested by the Collateral Agent in order to protect, confirm or maintain the first-priority Lien of the Mortgage on the Mortgaged Property, as reflected in the final survey delivered pursuant to this Section 4.6(a)(h).

(i) Lien Releases; Etc. The Borrower shall have delivered to the Administrative Agent (i) a properly completed and duly executed unconditional lien waiver upon final payment (in the form provided under California Civil Code §3262, as amended) from each M&M Party, each of which waivers shall be substantially consistent with any relevant requirements of the applicable M&M Contract, (ii) a properly completed and duly executed conditional lien waiver upon final payment (in the form provided under California Civil Code §3262, as amended) from each M&M Party together with evidence reasonably satisfactory to Administrative Agent that the amount set forth in such conditional lien waiver upon final payment has been paid, each of which waivers shall be substantially consistent with any relevant requirements of the applicable M&M Contract or (iii) other evidence reasonably satisfactory to Administrative Agent that such M&M Party has been paid in full or otherwise has no mechanics lien rights with respect to the Project. Notwithstanding anything to the contrary with the foregoing, the requirements under this Section 4.6(a)(i) shall not be applicable with respect to work performed prior to the Closing Date by an M&M Party that does not perform work after the Closing Date to the extent payment for such work and such M&M Party are identified on the certificate delivered to the Title Company and attached hereto as Schedule 4.6(a)(i).

(j) No Liens. (i) There shall not have been filed against or served upon the Collateral Agent or any of the Borrower Parties with respect to the Project or any part thereof any Stop Notice or notice of any Lien or claim of Lien or attachment upon or claim affecting the right to receive payment of any of the moneys payable to any of the Persons named on any relevant Construction Requisition in respect of Construction Loans to be disbursed on the Term Conversion Date (other than a Permitted Lien) which has not been released by prior payment (after the date hereof, with the proceeds of Construction Loans) or in respect of which a bond or other security acceptable to Administrative Agent has not been posted or provided or which will not be released with the payment of the related obligation out of Construction Loans to be disbursed on the Term Conversion Date and (ii) all applicable filing periods for any such Liens that are mechanics' and/or materialmen's Liens shall have expired; unless, the Reissued Title Policy delivered pursuant to Section 4.6(a)(h) above insures against any and all losses arising by reason of any such pending or potential relevant mechanics or materialmen's Lien or other Lien gaining priority over the Mortgage.

(k) Merger. The Procurement Sub and the Project Owner shall have effected the Merger contemplated by Section 7.33.

(l) Borrower Equity Interests. The Borrower shall own no assets, other than the Pledged Equity Interests of the Project Owner.

(m) Expected Initial Delivery Date. The Expected Initial Delivery Date shall have theretofore occurred.

(n) Funding of DSRA. The Debt Service Reserve Account shall have been funded in cash or by the posting of DSR Letters of Credit to the DSR Required Balance in accordance with the Collateral Agreement.

(o) TALC Facility. All LC Loans resulting from drawings under any TA Letter of Credit, together with any Liquidation Costs incurred by the Borrower as a result of such prepayment, have been repaid in accordance with Sections 3.17(b) and 3.17(f).

(p) Other Documents. The Administrative Agent shall have received original counterparts of such other statements, certificates and documents as the Administrative Agent may reasonably request.

4.7 Conditions to the Repricing Date. The occurrence of the Repricing Date shall be subject to the conditions precedent below unless waived in writing by Administrative Agent with the consent of each Financing Party:

(a) Amendment No. 5. Administrative Agent shall have received counterpart signature pages to Amendment No. 5 by each party thereto.

(b) Term Notes. Each Lender that has made a request therefor pursuant to Section 3.4(b) shall have received a new or replacement (as applicable) Term Note.

(c) Incremental Tranche A Term Loan Borrowing Request. The Administrative Agent shall have received an Incremental Tranche A Borrowing Request signed by the Borrower in respect of funding of the Incremental Tranche A Term Loan on the Repricing Date.

(d) Representations and Warranties. The representations and warranties of the Borrower set forth in ARTICLE V hereof shall be true and correct in all material respects on and as of the Repricing Date as if made on and as of such date (both before and after giving effect to the Disbursement to be made on such date) (or, if stated to have been made solely as of an earlier date, were true and correct in all material respects as of such earlier date).

(e) No Default or Event of Default. No Default or Event of Default shall have occurred and be continuing.

(f) Officer Certificate. The Administrative Agent shall have received a certificate from the Borrower dated the Repricing Date, attaching and certifying the true

and correct: (i) copy of its certificate of formation; (ii) copy of its operating agreement; (iii) copy of its board or other resolutions; and (iv) incumbency of the appropriate authorized representatives of the Borrower.

(g) Good Standing. Delivery to the Administrative Agent of certificates of good standing issued by the Secretary of the State of Delaware and the Secretary of the State of California, certifying the Borrower is in good standing and is authorized to transact business in each such state.

(h) Legal Opinions. Delivery to the Administrative Agent of an opinion of Ballard Spahr LLP, counsel to the Borrower, in form and substance satisfactory to the Administrative Agent, the Lenders and the Issuing Banks.

(i) Updated Base Case Model. Delivery to the Administrative Agent an updated Base Case Model, modified to reflect the Incremental Tranche A Term Loans, and such Base Case Model shall project a minimum Projected DSCR on a rolling twelve-month basis beginning on February 27, 2015 and ending on August 31, 2023 of not less than 1.40:1.00.

(j) Updated Projected Amortization Schedule. Delivery to the Administrative Agent of an updated Projected Amortization Schedule, modified to reflect the Incremental Tranche A Term Loans.

(k) Fees and Expenses. The Borrower shall have paid or arranged for the payment when due (including, to the extent permitted, out of Disbursements) of all reasonable and documented Fees, expenses (including Attorney Costs) and other charges payable by it on or prior to the Repricing Date under this Credit Agreement or under any other Financing Document.

(l) Additional Matters. All corporate and other proceedings, and all documents, instruments and other legal matters in connection with the transactions contemplated by this Credit Agreement and the other Transaction Documents shall be reasonably satisfactory in form and substance to the Administrative Agent, and the Administrative Agent shall have received such other documents, certificates, and instruments relating to this Credit Agreement or any other Transaction Document or the transactions contemplated hereby or thereby as the Administrative Agent shall have reasonably requested, in each case in form and substance reasonably satisfactory to the Administrative Agent.

ARTICLE V

REPRESENTATIONS, WARRANTIES AND AGREEMENTS

In order to induce each of the Lenders to enter into this Credit Agreement and to make the Loans and issue or participate in the Specified Letters of Credit, the Borrower makes the following representations, warranties and agreements as of the date hereof (or as of such other date as may be expressly specified with respect to such representation, warranty or agreement), all of

which shall survive the execution and delivery of this Credit Agreement and the Notes, the making, Conversion and continuance of the Loans and the issuance of the Specified Letters of Credit:

5.1 Organization. Each Borrower Party is a limited liability company duly organized, validly existing and in good standing under the laws of Delaware. Each Borrower Party is duly authorized and qualified to do business and is in good standing in each jurisdiction in which it owns or leases Property or in which the conduct of its business requires it to so qualify, except where the failure to so qualify would not have a Material Adverse Effect. Each Borrower Party has the requisite limited liability company power and authority to own or lease and operate its Properties, to carry on its business (including with respect to the Project), to borrow money, to create the Liens as contemplated by the Security Documents and to execute, deliver and perform each Transaction Document (including the Notes) to which it is or will be a party.

5.2 Authority and Consents.

(a) The execution, delivery and performance by each Borrower Party of each Financing Document to which it is or will be a party, and the transactions contemplated by the Financing Documents: (i) have been duly authorized by all necessary limited liability company action (including any necessary member action); (ii) will not breach, contravene, violate, conflict with or constitute a default under (A) any of its Charter Documents, (B) any applicable Law or (C) any contract, loan, agreement, indenture, mortgage, lease or other instrument to which it is a party or by which it or any of its Properties may be bound or affected, including all Permits and the Transaction Documents; and (iii) except for the Liens created by the Security Documents, will not result in or require the creation or imposition of any Lien upon or with respect to any of the Properties of the Borrower.

(b) Each Financing Document (i) has been duly executed and delivered by each Borrower Party and (ii) when executed and delivered by each of the other parties thereto will be the legal, valid and binding obligation of each such Borrower Party, enforceable against each Borrower Party, as the case may be, in accordance with its terms, except as the enforceability thereof may be limited by (A) applicable bankruptcy, insolvency, moratorium or other similar Laws affecting the enforcement of creditors' rights generally and (B) the application of general principles of equity (regardless of whether such enforceability is considered in a proceeding at law or in equity).

(c) Except for the authorizations, consents, approvals, notices and filings listed on Schedule 5.2 or as contemplated under Section 4.6(a)(c), no authorization, consent or approval of, or notice to or filing with, any Governmental Authority or any other Person has been, is or will be required to be obtained or made (i) for the due execution, delivery, recordation, filing or performance by each Borrower Party of any of the Financing Documents to which it is a party or any transaction contemplated by the Financing Documents, (ii) for the grant by each Borrower Party, or the perfection and maintenance, of the Liens contemplated by the Security Documents (including the first priority nature thereof) or (iii) for the exercise by the Collateral Agent or any other Secured Party of any of its rights under any Financing Document or any remedies in respect of the Collateral pursuant to the Security Documents, except for the authorizations, consents, approvals, notices and filings listed on Schedule 5.2, all of which have been duly obtained, taken,

given or made, have been (where applicable) validly issued, are in full force and effect, are final and not subject to modification or appeal and all appeal periods applicable thereto have expired.

5.3 Capitalization; Indebtedness; Investments.

(a) Schedule 5.3 contains a true and complete list of all of the authorized and outstanding Equity Interests of each Borrower Party by class, all commitments by the Pledgor to make capital contributions to the Borrower and all capital contributions previously made by the Pledgor to the Borrower. All of the Equity Interests of each Borrower Party have been duly authorized and validly issued and are fully paid and nonassessable. None of such Equity Interests have been issued in violation of any applicable Law. Except as set forth in Schedule 5.3, no Borrower Party is a party or subject to, has outstanding and is bound by, any subscriptions, options, warrants, calls, agreements, preemptive rights, acquisition rights, redemption rights or any other rights or claims of any character that restrict the transfer of, require the issuance of, or otherwise relate to any shares of its Equity Interests. The Equity Interests of each Borrower Party are owned beneficially and of record by the Persons set forth in Schedule 5.3. Except for the Liens created by the Pledge Agreements, there is no Lien on any of the Equity Interests of any Borrower Party, and no Borrower Party has been notified of the assignment of all or any part of (x) the Pledgor's Investments in the Borrower other than the assignment in favor of the Collateral Agent pursuant to the Pledgor Pledge Agreement and (y) the Borrower's investments in each of the Procurement Sub and the Project Owner other than the assignment in favor of the Collateral Agent pursuant to the Borrower Pledge Agreement.

(b) As of the Closing Date, (i) none of the Borrower Parties has Indebtedness of any nature, whether due or to become due, absolute, contingent or otherwise (other than Permitted Indebtedness set forth on Schedule 5.3), and (ii) none of the Borrower Parties holds Investments other than Investments permitted by Section 7.7.

5.4 Financial Condition.

(a) Each of the financial statements of the Borrower Parties and the Pledgor delivered in accordance with Sections 4.1(a)(n), 6.1(a)(a) and 6.1(a)(b) fairly present the financial condition of such Person as at the relevant dates specified and (if applicable) the results of its operations for the periods ended on such dates, subject, in the case of interim statements, to normal year-end audit adjustments. Such financial statements have been prepared in accordance with U.S. GAAP consistently applied.

(b) None of the Borrower Parties or the Pledgor has outstanding obligations or liabilities, fixed or contingent, except as disclosed in the financial statements described in Section 5.4(a) above. Since the date of the last financial statements described in 5.4(a) above, no event, condition or circumstance exists or has occurred which has resulted in or could reasonably be expected have a Material Adverse Effect.

5.5 Litigation; Labor Disputes. Except as set forth in Schedule 5.5, there is no action, suit, other legal proceeding, arbitral proceeding, inquiry or investigation pending or, to the Borrower's knowledge, threatened, by or before any Governmental Authority or in any arbitral or other forum, nor any order, decree or judgment in effect, pending, or, to the Borrower's knowledge, threatened, (a) against or affecting any Borrower Party or any of its Properties or rights or (b) to the Borrower's knowledge, against or affecting any Project Participant or any of its Properties or rights, that, in the case of this clause (b), (i) relates to the Project, any of the Transaction Documents or any of the transactions contemplated thereby or (ii) has, or if adversely determined, could reasonably be expected to have, either a Material Adverse Effect or a material adverse effect on the ability of any Material Project Participant to timely perform any of its material obligations under any of the Material Project Documents to which it is a party. There are no ongoing, or, to the knowledge of the Borrower, currently threatened, strikes, slowdowns or work stoppages by the employees of any Borrower Party, any EPC Contractor or any Operator.

5.6 Material Permits.

(a) As of the date hereof, to the knowledge of the Borrower, (i) all Material Permits are set forth in Schedule 5.6 hereto and (ii) the Material Permits set forth in Part B of Schedule 5.6 hereto are not currently required by the applicable Governmental Authorities but will be required at a later stage of the acquisition, importation, ownership, construction, installation, operation, insurance or maintenance of the Project.

(b) The Project Owner, the Procurement Sub (prior to the Merger) and the Affiliated Project Parties and, to the knowledge of the Borrower, each other Material Project Participant holds each Material Permit required to be held by it for the current stage of the acquisition, importation, ownership, construction, installation, operation, insurance or maintenance of the Project. Each such Material Permit held by Project Owner, the Procurement Sub (prior to the Merger) and the Affiliated Project Parties and, to the knowledge of the Borrower, each other Material Project Participant has been duly obtained or made, was validly issued, is in full force and effect, is final and not subject to modification or appeal and all appeal periods applicable thereto have expired, is held in the name of such Person and is free from conditions or requirements the compliance with which could reasonably be expected to have either a Material Adverse Effect or a material adverse effect on the ability of any Material Project Participant to timely perform any of its material obligations under any of the Material Project Documents to which it is a party. No event has occurred that could reasonably be expected to (A) result in the reversal, rescission, revocation, termination or adverse modification of any such Material Permit held by the Project Owner, the Procurement Sub (prior to the Merger) or the Affiliated Project Parties or, to the knowledge of the Borrower, each other Material Project Participant or (B) adversely affect any rights of the Project Owner, the Procurement Sub (prior to the Merger) or the Affiliated Project Parties or, to the knowledge of the Borrower, each other Material Project Participant under any such Material Permit.

(c) The Borrower has no reason to believe that any Material Permits which are not required to have been obtained as of the date of this Credit Agreement, but which will be required in the future (including those set forth in Part B of Schedule 5.6), will not be granted in due course prior to the time needed free from conditions or requirements which the Borrower does not

reasonably expect the relevant Person to be able to satisfy or compliance with which could reasonably be expected to have either a Material Adverse Effect or a material adverse effect on the ability of any Material Project Participant to timely perform any of its material obligations under any of the Material Project Documents to which it is a party.

(d) The information set forth in each application submitted by or on behalf of the Project Owner, the Procurement Sub (prior to the Merger) or the Affiliated Project Parties or, to the knowledge of the Borrower, each other relevant Person in connection with each Material Permit held by such Person and in all correspondence sent by or on behalf of any such Person in respect of each such application is accurate and complete in all material respects.

(e) The Project, if imported, installed, constructed, owned and operated in accordance with the Plans and Specifications and the Transaction Documents, will conform to and comply in all material respects with all covenants, conditions, restrictions and requirements in all Material Permits, in the Transaction Documents applicable thereto and under all zoning, environmental, land use and other Laws applicable thereto.

5.7 Material Project Documents.

(a) As of the date hereof (i) all Material Project Documents are set forth in Schedule 5.7 hereto, (ii) all Project Documents that have been entered into by the Borrower, the Project Owner, or the Procurement Sub (prior to the Merger) or the Affiliated Project Parties but are not Material Project Documents are set forth in Part B of Schedule 5.7 and (iii) each of the Affiliated Project Documents are denoted on Schedule 5.7 with an "*". Each of the Project Documents set forth in Schedule 5.7 consist only of the original document (including appendices, exhibits, schedules and disclosure letters) and any amendments, waivers or supplements thereto expressly described in the relevant definitions appearing in Schedule 5.7 hereto, and there are no other amendments, waivers or supplements, written or oral, with respect thereto. The Financing Parties have received a true and complete copy of each Project Document set forth in Schedule 5.7, including all appendices, exhibits, schedules, disclosure letters, amendments, waivers or supplements referred to therein or delivered pursuant thereto, if any.

(b) Each Material Project Document entered into by the Borrower, the Project Owner, or the Procurement Sub (prior to the Merger) or the Affiliated Project Parties has been duly authorized, executed and delivered by such Person, is in full force and effect and constitutes the legal, valid and binding obligation of such Person, enforceable against such Person (and, to the knowledge of the Borrower, each other Material Project Participant) in accordance with its terms, except as the enforceability thereof may be limited by (A) applicable bankruptcy, insolvency, moratorium or other similar laws affecting the enforcement of creditors' rights generally and (B) the application of general principles of equity (regardless of whether such enforceability is considered in a proceeding at law or in equity). Each of the Borrower, the Project Owner, and the Procurement Sub (prior to the Merger) and the Affiliated Project Parties, and to the knowledge of the Borrower, each other Material Project Participant, is in compliance in all material respects with the terms and conditions of the Material Project Documents to which it is a party, and no event has occurred that could reasonably be expected to (x) result in a default under, or a material breach of,

any Material Project Document, (y) result in the revocation, termination or adverse modification of any Material Project Document or (z) adversely affect the rights of any Borrower Party under any Material Project Document.

(c) All representations and warranties of the Borrower, the Project Owner, and the Procurement Sub (prior to the Merger) and the Affiliated Project Parties and, to the Borrower's knowledge, the other parties thereto, contained in the Material Project Documents are true and correct in all material respects (except to the extent that any such representation or warranty is expressed to be made only as of an earlier date, in which case such representation or warranty was true and correct in all material respects on and as of such earlier date).

(d) All conditions precedent to the obligations of the respective parties under the Material Project Documents have been satisfied, except for such conditions precedent which by their terms cannot be (and are not required to be) met until a later stage in the construction or operation of the Project, and the Borrower has no reason to believe that any such conditions precedent cannot be satisfied prior to the time when such conditions are required to be met pursuant to the applicable Project Document.

5.8 Use of Proceeds.

(a) The proceeds of the Loans will be used in accordance with Section 7.27.

(b) None of the Borrower Parties is engaged principally, or as one of its important activities, in the business of extending credit for the purpose, whether immediate, incidental or ultimate, of buying or carrying Margin Stock and no part of the proceeds of any Loan will be used to purchase or carry any Margin Stock.

(c) Neither the making of any Loan nor the use of the proceeds thereof will violate or be inconsistent with the provisions of Regulation U or Regulation X.

(d) Since the date of this Agreement, no Project Costs have been paid except from the proceeds of Construction Loans in accordance with Construction Requisitions properly issued in accordance with the Accounts Agreement.

(e) Neither the making of any Loan nor the use of proceeds of any Loan will violate or cause any violation of any Sanctions. None of the Borrower Parties, the Pledgor, the Sponsor, nor, to the knowledge of the Borrower, any of their respective other Affiliates (a) is a Restricted Party, (b) has received notice or is aware of any claim, action, suit, proceeding, or investigation against it with respect to Sanctions by any Sanctions Authority, (c) is in violation of any Anti-Terrorism and Money Laundering Laws or Anti-Corruption Laws, or (d) has engaged in dealings or transactions with any Restricted Party.

5.9 ERISA.

(a) Each Pension Plan is in compliance in form and operation with its terms and with ERISA and the Code and all other applicable laws and regulations, except where any failure

to comply would not reasonably be expected to have a Material Adverse Effect. No ERISA Event has occurred, or is reasonably expected to occur, other than as would not, individually or in the aggregate, have a Material Adverse Effect.

(b) There exists no Unfunded Pension Liability with respect to any Pension Plan, except as would not reasonably be expected to have a Material Adverse Effect.

(c) No Multiemployer Plan is insolvent or in reorganization and no member of the ERISA Group has incurred a complete or partial withdrawal from any Multiemployer Plan, except, in each case, as would not reasonably be expected to have a Material Adverse Effect. If each member of the ERISA Group were to withdraw in a complete withdrawal from all Multiemployer Plans as of the date this assurance is given, the aggregate withdrawal liability that would be incurred would not reasonably be expected to have a Material Adverse Effect.

(d) Except as would not reasonably be expected, either singly or in the aggregate, to have a Material Adverse Effect, there are no actions, suits or claims pending against or involving a Pension Plan (other than routine claims for benefits) or, to the knowledge of any member of the ERISA Group, which would reasonably be expected to be asserted successfully against any Pension Plan.

(e) All members of the ERISA Group have made all contributions to or under each Pension Plan and Multiemployer Plan required by law within the applicable time limits prescribed thereby, the terms of such Pension Plan or Multiemployer Plan, respectively, or any contract or agreement requiring contributions to a Pension Plan or Multiemployer Plan, save in each case where any failure to comply, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect.

(f) Except as would not reasonably be expected to have a Material Adverse Effect, (i) no Pension Plan which is subject to Section 412 of the Code or Section 302 of ERISA has applied for or received an extension of any amortization period, within the meaning of Section 412 of the Code or Section 302 or 304 of ERISA; (ii) no member of the ERISA Group has ceased operations at a facility so as to become subject to the provisions of Section 4062(e) of ERISA, withdrawn as a substantial employer so as to become subject to the provisions of Section 4063 of ERISA or ceased making contributions to any Pension Plan subject to Section 4064(a) of ERISA to which it made contributions; (iii) no member of the ERISA Group has incurred or reasonably expects to incur any liability to the PBGC save for any liability for premiums in the ordinary course; (iv) no lien imposed under the Code or ERISA on the assets of any member of the ERISA Group exists or is likely to arise on account of any Pension Plan; and (v) no member of the ERISA Group has any liability under Section 4069 or 4212(c) of ERISA.

(g) Each Foreign Pension Plan has been maintained in compliance with its terms and with the requirements of any and all applicable laws, statutes, rules, regulations and orders and has been maintained, where required, in good standing with applicable regulatory authorities, except as would not reasonably be expected to result in a Material Adverse Effect. Except as would not reasonably be expected to result in a Material Adverse Effect, (i) all contributions required to be made with respect to a Foreign Pension Plan have been timely made, and (ii) neither the Borrower

nor any of its Subsidiaries has incurred any obligation in connection with the termination of, or withdrawal from, any Foreign Pension Plan. Except as would not reasonably be expected to result in a Material Adverse Effect, the present value of the accrued benefits liabilities (whether or not vested) under each Foreign Pension Plan, determined as of the end of the Borrower's most recently ended fiscal year, did not exceed the current value of the assets of such Foreign Pension Plan allocable to such benefit liabilities.

5.10 Taxes.

(a) Each Borrower Party has timely filed with the appropriate taxing authority all federal and material state, county and municipal income tax returns, and all other material tax and informational returns which are required to be filed by or with respect to the income, Properties or operations of the relevant Borrower Party. Each Borrower Party has paid all material taxes due pursuant to such returns or otherwise payable by the relevant Borrower Party, except such taxes, if any, as are being contested in good faith and by proper proceedings and as to which adequate reserves have been provided or the failure to pay which could not reasonably be expected to have a Material Adverse Effect. There is no action, suit, proceeding, investigation, audit, or claim now pending or, to the knowledge of the Borrower, threatened by any authority regarding any material taxes relating to any Borrower Party. The Base Case Projections accurately reflect all material taxes that, under present Law, will be due and payable by the Borrower Parties assuming that such Borrower Parties have the income and expenses reflected in the Base Case Projections.

(b) No material liability for any tax will be incurred by any Borrower Party as a result of the execution, delivery or performance of this Credit Agreement or any other Transaction Document or the consummation of the transactions contemplated hereby or thereby.

5.11 Investment Company Act. None of the Borrower Parties is an "investment company," or an "affiliated person" of, or "promoter" or "principal underwriter" for, an "investment company," as such terms are defined in the Investment Company Act of 1940, as amended. Neither the making of any Disbursement, nor the application of the proceeds or repayment thereof by the Borrower or any other Borrower Party, nor the consummation of the other transactions contemplated hereby will violate any provisions of such act or any rule, regulation or order of the U.S. Securities and Exchange Commission promulgated thereunder or pursuant thereto.

5.12 Regulation.

(a) The Borrower Parties, their respective Affiliates, and any Affiliate that is a holding company as such term is defined in the Public Utility Holding Company Act of 2005 and the rules and regulations promulgated thereunder (as amended, "PUHCA"), are exempt in accordance with 18 CFR § 366.3 from the accounting, record-retention and reporting requirements of PUHCA or, to the extent an Affiliate of the Borrower Party is not exempt, the requirements of PUHCA could not reasonably be expected to result in a Material Adverse Effect.

(b) Other than the Project Owner, no Borrower Party is or will be subject to, or is or will not be exempt from, regulation as a "public utility" under the Federal Power Act (the "Federal Power Act") as such term is defined therein.

(c) None of the Borrowing Parties or Affiliates thereof, is subject to any state laws or state regulations respecting rates or the financial or organizational regulation of utilities, other than (i) with respect to those that are QFs, such state regulations contemplated by 18 C.F.R. Section 292.602(c)(2), (ii) "lightened regulation" by the New York State Public Service Commission (the "NYPSC") of the type described in the NYPSC's order issued on September 23, 2004 in Case 04-E-0884, and (iii) with respect to Affiliates of the Borrower Parties that are Texas retail electric providers, regulations issued by the Public Utility Commission of Texas ("PUCT") and (iv) such state laws and state regulations which, if not satisfied, would not be expected to result in a Material Adverse Effect. No approval is required to be obtained in connection with this transaction from the FERC, or any other state or federal Governmental Authority.

(d) Prior to placing test power onto the grid, the Project Owner will obtain an order from FERC accepting for filing pursuant to Section 205 of the Federal Power Act and the rules and regulations promulgated thereunder a market based rate schedule for sale at wholesale of electric energy, capacity and ancillary services to be offered by the Project Owner and that are regulated under the Federal Power Act and authorizing the Project Owner to sell at wholesale electric energy, capacity and ancillary services at market based rates, and granting to the Project Owner all of the waivers and blanket authorizations customarily granted to wholesale power sellers with market based rate authority (the "Market Rate Authorization"). The information to be submitted in connection with the application for the Market Rate Authorization will be accurate and complete. The Project Owner will comply with all requirements imposed by FERC as a holder of a Market Rate Authorization, including filing of electric quarterly reports and tariff amendments.

(e) Prior to placing test power onto the grid, the Project Owner will be an exempt wholesale generator ("EWG") pursuant to PUHCA. The Project Owner will file with FERC a notice of self-certification as an EWG. Any information submitted in connection with the notice of self-certification will be accurate and complete. The Project Owner shall comply with any and all requirements necessary to maintain EWG status.

(f) The Project Owner will obtain authorization from FERC to issue securities and assume liabilities under Section 204 of the Federal Power Act and Part 34 of FERC's regulations prior to placing test power onto the grid.

(g) The (i) Project Owner, as owner of the Project, (ii) O&M Operator, as operator of the Project and (iii) Energy Marketer, as seller of power, shall register with the North American Electric Reliability Corporation ("NERC"), to the extent required by law, in connection with such ownership of the Project, operation of the Project and/or sale of power generated by the Project, and neither the Project Owner nor to its knowledge the O&M Operator or the Energy Marketer is in receipt of any notice of violation of, and the Project is not the subject of any pending proceeding relating to a violation of, any reliability requirement promulgated by NERC, except as could not reasonably be expected to result in a Material Adverse Effect.

(h) There is no action, suit, proceeding, pending notice of investigation or alleged violation or investigation at law or in equity or by or before any court, arbitrator or governmental agency or authority pursuant to any applicable Law which may result in: (i) denial of (A) the Market Rate Authorization or (B) the status of the Project Owner as an EWG (except, in each case, applications associated with acquiring such regulatory approvals as contemplated in this Credit Agreement which the Borrower expects to receive in the ordinary course); or (ii) the assessment of any criminal or civil penalties against any Borrower Party; and to the Borrower's knowledge, no such action, suit, proceeding or investigation is threatened.

(i) The Project is not subject to, or is exempt from, the Power Plant & Industrial Fuel Use Act, 42 USC Section 8301, *et seq.*

5.13 Title; Security Documents.

(a) The applicable Borrower Party will, upon payment of the amounts payable by it under the BOP Contract, the Equipment Purchase Agreement and the Equipment Services Agreement, own and have good and marketable title to the Project and, upon payment of the amounts payable by it under the Site Agreements and due registration of the relevant public deed in respect of the Site, own and have a good and marketable leasehold interest in the Site, in each case free and clear of all Liens other than (A) Permitted Priority Liens and (B) other Permitted Liens to the extent junior to the Liens granted for the benefit of the Collateral Agent (on behalf of the Secured Parties) pursuant to the Security Documents.

(b) Each Borrower Party has good and marketable title to all of the Property purported to be owned by it, free and clear of all Liens, other than (A) Permitted Priority Liens and (B) other Permitted Liens to the extent junior to the Liens granted for the benefit of the Collateral Agent (on behalf of the Secured Parties) pursuant to the Security Documents and holds such title and all of such Property in its own name and not in the name of any nominee or other Person. The Project Owner is lawfully possessed of a valid and subsisting leasehold estate in and to all Property which it purports to lease, free and clear of all Liens, other than (A) Permitted Priority Liens and (B) other Permitted Liens to the extent junior to the Liens granted for the benefit of the Collateral Agent (on behalf of the Secured Parties) pursuant to the Security Documents. The Project Owner holds such leasehold estates in its own name and not in the name of any nominee or other Person. No Borrower Party has created nor is contractually bound to create any Lien on or with respect to any of its assets, Properties, rights or revenues, except for (A) Permitted Priority Liens and (B) other Permitted Liens to the extent junior to the Liens granted for the benefit of the Collateral Agent (on behalf of the Secured Parties) pursuant to the Security Documents, and, except (x) for this Credit Agreement, in the case of the Borrower, and (y) for the relevant Guaranty, in the case of the Project Owner and the Procurement Sub and (z) the Collateral Documents, no Borrower Party is restricted by contract, law or otherwise from creating Liens on any of its Properties.

(c) Except as set forth on Schedule 5.12(a), all Property owned, leased or otherwise used by any Borrower Party is located in the State of California.

(d) The provisions of the Security Documents are effective to create, in favor of the Collateral Agent, for the benefit of the Secured Parties, legal, valid and enforceable Liens on or in all of the Collateral intended to be covered thereby, and all necessary recordings and filings have been made in all necessary public offices and all other necessary and appropriate action has been taken so that the Liens created by each Security Document constitute perfected Liens on or in the Collateral intended to be covered thereby, prior and superior to all other Liens other than Permitted Priority Liens, and all necessary consents to the creation, effectiveness, priority and perfection of each such Lien have been obtained. No mortgage or financing statement or other instrument or recordation covering all or any part of the Collateral is on file in any recording office, except such as may have been filed in favor of the Secured Parties or in respect of (A) Permitted Priority Liens and (B) other Permitted Liens to the extent junior to the Liens granted for the benefit of the Collateral Agent (on behalf of the Secured Parties) pursuant to the Security Documents.

5.14 Environmental Matters.

(a) Except as set forth in the materials listed on Schedule 5.14, copies of which have been made available to the Administrative Agent, each Borrower Party has complied and is now complying in all respects with (i) all Environmental Laws applicable to the Project or such Borrower Party and (ii) the requirements of any Permits issued under such Environmental Laws with respect to the Project, including Federal and State Clean Air Act and South Coast Air Quality Management District air quality permitting requirements applicable to the Project, including but not limited to, as and if necessary, the United States Environmental Protection Agency's Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule, except in each case for non-compliance that would not reasonably be expected either individually or in the aggregate to have a Material Adverse Effect.

(b) Except as set forth in the materials listed on Schedule 5.14, copies of which have been made available to the Administrative Agent, there are no facts, circumstances, conditions or occurrences regarding the Project that, to the knowledge of the Borrower, (i) form or could reasonably be anticipated to form the basis of an Environmental Claim against the Project, any Borrower Party, any Site Owner, any EPC Contractor or any Operator or any other Person occupying or conducting operations on or about the Site, (ii) could reasonably be anticipated to cause the Site to be subject to any restrictions on its ownership, occupancy, use or transferability under any Environmental Law or (iii) could reasonably be anticipated to require the filing or recording of any notice, registration, permit or disclosure document under any Environmental Law (other than filings or recordings described in Schedule 5.6 hereto), in each case which if adversely determined could reasonably be expected either individually or in the aggregate to have either a Material Adverse Effect or a material adverse effect on the ability of any Material Project Participant to timely perform any of its material obligations under any of the Material Project Documents to which it is a party.

(c) Except as set forth in the materials listed on Schedule 5.14, copies of which have been made available to the Administrative Agent, there are no pending, or, to the knowledge of the Borrower, any past or threatened, Environmental Claims against (i) any Borrower Party or the Project or (ii) any Site Owner, any EPC Contractor or any Operator or any other Person occupying, using, or conducting operations on or about the Site, which could reasonably be expected

either individually or in the aggregate to have a Material Adverse Effect or a material adverse effect on the ability of any Material Project Participant to timely perform any of its material obligations under any of the Material Project Documents to which it is a party.

(d) Except as set forth in the materials listed on Schedule 5.14, copies of which have been made available to the Administrative Agent, Hazardous Materials have not at any time been generated, used, treated, recycled, stored on, or transported to or from, or Released, deposited or disposed of on all or any portion of the Site by the Borrower Parties, the Affiliate Project Participants or, to the knowledge of the Borrower, any other Project Participant, other than in compliance at all times with all applicable Environmental Laws, except as would not reasonably be expected either individually or in the aggregate to have either a Material Adverse Effect or a material adverse effect on the ability of any Material Project Participant to timely perform any of its material obligations under any of the Material Project Documents to which it is a party.

(e) Except as set forth in the materials listed on Schedule 5.14, copies of which have been made available to the Administrative Agent, to the knowledge of the Borrower, there are not now and never have been any underground storage tanks located on the Site, there is no asbestos contained in, forming part of, or contaminating any part of the Project, and no polychlorinated biphenyls (PCBs) are used, stored, located at or contaminate any part of the Project.

(f) Except as set forth in the materials listed on Schedule 5.14, copies of which have been made available to the Administrative Agent, the Borrower does not have knowledge of any groundwater contamination or pollution at, on, under, or migrating from the Site.

(g) The Borrower has delivered or otherwise made available to the Administrative Agent copies of each "Phase 1 Environmental Site Assessment" delivered pursuant to Section 4.1(a)(p) and the RCRA Facility Investigation Work Plan. As of the Closing Date, the Borrower has no knowledge of any other environmental studies that contain any environmental information material to the Project and/or the Site that are not addressed in substance in the documents referenced in the immediately preceding sentence.

(h) The Borrower is in material compliance with all normative requirements of the Equator Principles applicable to it and the Project as and to the extent specifically required in writing by any Lender.

5.15 Subsidiaries. Except to the extent constituting Permitted Investments, (a) the Borrower does not beneficially own any Equity Interests or other ownership interest of any other Person other than the Pledged Equity Interests of the Project Owner and (prior to the Merger) of the Procurement Sub; (b) the Borrower has no Subsidiaries other than the Project Owner and (prior to the Merger) the Procurement Sub; and (c) the Project Owner does not beneficially own any Equity Interests of any Person nor does it have any Subsidiaries.

5.16 Intellectual Property. The Borrower Parties (prior to the Merger) together have, and the Project Owner (on and after the Merger) alone has, the right to use all patents, trademarks, permits, service marks, trade names, copyrights, franchises, formulas, licenses and other intellectual property rights of whatsoever nature and has obtained assignment of all licenses

and other intellectual property rights of whatsoever nature, in each case as necessary for the ownership and operation of the Project as contemplated by the Transaction Documents, without any conflict with the rights of others. The Borrower Parties do not own any patents, trademarks, service marks, trade names, copyrights, franchises, formulas, licenses or other intellectual property rights of whatsoever nature. No product, process, method, substance, part or other material sold or employed or presently contemplated to be sold or employed by any Borrower Party or the Affiliated Project Parties in connection with the ownership and operation of the Project as contemplated by the Transaction Documents infringes or will infringe any patent, trademark, permit, service mark, trade name, copyright, franchise, formula, license or other intellectual property right, except for any such infringement that could not reasonably be expected to have either a Material Adverse Effect or a material adverse effect on the ability of any Material Project Participant to timely perform any of its material obligations under any of the Material Project Documents to which it is a party.

5.17 No Default. No Default or Event of Default has occurred and is continuing.

5.18 Compliance with Laws. None of the Borrower Parties or the Affiliated Project Parties is in violation of any Law, Permit, order, writ, injunction or decree or its Charter Documents, except for any violation of any Law, Permit, order, writ, injunction or decree that could not reasonably be expected to have a Material Adverse Effect.

5.19 Disclosure.

(a) All documents, reports or other written information pertaining to any Borrower Party, the Affiliated Project Parties or the Project that have been furnished to any Financing Party by or on behalf of any such party (including (i) any application to any Lender for the extensions of credit provided for in the Financing Documents, (ii) in connection with the preparation, negotiation and/or execution of the Financing Documents, including the appendices, exhibits and schedules attached thereto, (iii) all other information relating to any Borrower Party or the Project provided by any such party to any Financing Party and (iv) any such documents, reports or other written information provided by the Pledgor, any Sponsor or any Affiliate thereof, but excluding the Base Case Projections, the Construction Budget and other forecasts and projections), taken as a whole, are true and correct in all material respects and do not contain any material misstatement of fact or omit to state a material fact or any fact necessary to make the statements contained herein or therein not materially misleading. There is no fact, event or circumstance known to the Borrower that has not been disclosed to the Administrative Agent in writing, the existence of which could reasonably be expected to have either a Material Adverse Effect or a material adverse effect on the ability of any Material Project Participant to timely perform any of its material obligations under any of the Material Project Documents to which it is a party.

(b) The Construction Budget specifies in all material respects all costs and expenses incurred as of the date thereof, and the Borrower's best estimate of all costs and expenses anticipated by the Borrower to be incurred after the date thereof and prior to the Date Certain, in each case in connection with the acquisition, importation, installation, construction, financing and implementation of the Project in the manner contemplated by the Transaction Documents. The Construction Budget and the Base Case Projections (i) are, as of the Closing Date, based on

reasonable assumptions as to all legal and factual matters material to the estimates set forth therein, (ii) are, as of the Closing Date, consistent with the provisions of the Transaction Documents in all material respects, (iii) have been prepared in good faith and with due care and (iv) fairly represent the Borrower's reasonable expectations as to the matters covered thereby as of the date thereof. All projections and budgets to be furnished to the Lenders by or on behalf of the Borrower after the Closing Date (A) will be based on reasonable assumptions as to all legal and factual matters material to the estimates set forth therein, (B) will be consistent with the provisions of the Transaction Documents in all material respects, (C) will be prepared in good faith and with due care and (D) will fairly represent the Borrower's reasonable expectations as to the matters covered thereby as of the respective dates thereof.

5.20 Utilities, etc. All utility services, means of transportation, facilities and other materials necessary for the acquisition, importation, installation, construction, operation and maintenance of the Project (including gas, electrical, potable and raw water supply, storm, telephone and sewage services and facilities, as necessary) are or will be available to the Project (in the case of utility services, at the boundaries of the Site) when necessary for construction, operations testing and start-up of the Project and arrangements have been or will, when necessary, be made on commercially reasonable terms for such services, means of transportation, facilities and other materials, in each case on terms consistent with those reflected in the Construction Budget and the Base Case Projections.

5.21 Transactions with Affiliates. As of the date hereof, other than the Affiliated Project Documents set forth on Schedule 5.7, none of the Borrower Parties has engaged or agreed to engage in any transactions (including any transactions relating to the buying or selling of any Properties or any products of the Project or involving the receipt of money as payment for goods or services) with any Affiliate of such Borrower Party.

5.22 Project Completion Date; Project Costs.

(a) As of the date hereof, the Borrower estimates, in good faith, that the Project Completion Date will occur no later than the Date Certain and that the aggregate proceeds of the Construction Loans will be sufficient to achieve the Project Completion Date.

(b) As of the date hereof, except as set forth on Schedule 5.22, no Change Order has been proposed and no Change Order is being contemplated for proposal in the future by the Borrower Parties, or, to the knowledge of the Borrower, by any EPC Contractor.

5.23 Single-Purpose Entity. None of the Borrower Parties has engaged in any business other than acquisition, importation, installation, construction, operation or maintenance of the Project and other activities incidental thereto. The Pledgor has not engaged in any business other than directly owning the Pledged Ownership Interests in the Borrower which constitute 100.00% of the Equity Interests of the Borrower. Each Borrower Party has established offices in the State of California, and does not have a principal place of business or chief executive office at any other location.

5.24 Ranking. The Secured Obligations of the Borrower constitute unconditional and unsubordinated Indebtedness of the Borrower Parties and rank at least *pari passu* in priority of payment with all other present and future unsubordinated Indebtedness of the Borrower Parties (other than obligations preferred by statute or by operation of Law).

5.25 Anti-Terrorism and Money Laundering Laws. Neither Borrower Party nor to the Borrower's knowledge, any Affiliate of any such Borrower Party is in violation of any Anti-Terrorism and Money Laundering Laws. The use of the proceeds of the Loans by the Borrower will not violate any Anti-Terrorism and Money Laundering Laws.

5.26 Collateral Not in Flood Zone. None of the Collateral located on the Site is located in an area that has been identified by the Director of the Federal Emergency Management Agency as an area having special flood hazards or in which flood insurance is required and has been made available under the National Flood Insurance Act of 1968, unless the Borrower has provided the Administrative Agent with proof of appropriate flood insurance with respect thereto.

5.27 Accounts. None of the Borrower Parties has opened or holds any bank account other than the Accounts.

5.28 Taking; Event of Loss. No Taking or Event of Loss has occurred.

5.29 Merger. The Merger occurred on July 8, 2013.

ARTICLE VI

COMPLIANCE COVENANTS

The Borrower covenants and agrees with each of the Lenders that, so long as any Commitment remains in effect, any Specified Letter of Credit remains outstanding, any Loan or other amount is owing to any Lender or the Administrative Agent hereunder, and until payment in full of all amounts payable by any Borrower Party under the Financing Documents to which they are a party:

6.1 Annual and Quarterly Information Covenants; Financial Statements. The Borrower shall, and shall cause each other Borrower Party to, deliver or cause to be delivered to the Administrative Agent at the times and covering the periods set forth below:

(a) Annual Financial Statements. As soon as available and in any event within 120 days after the end of each fiscal year of the Borrower Parties, a copy of the complete audited, and consolidated statements of income, retained earnings and cash flow of the Borrower Parties, and the related audited, and consolidated balance sheet of the Borrower Parties as at the end of such year and any related audit letter, in each case with footnotes, if any, and setting forth in each case in comparative form the corresponding figures for the preceding fiscal year, and accompanied by an unqualified opinion thereon (but subject to any explanatory provisions) of KPMG, or such other firm of independent certified public

accountants of recognized national standing as may be acceptable to the Requisite Financing Parties, which opinion shall state that said financial statements fairly present the financial condition and results of operations of the relevant Person as at the end of, and for, such fiscal year in accordance with U.S. GAAP, and a certificate of such accountants stating that, in making the examination necessary for their opinion, they obtained no knowledge, except as specifically stated, of any Default or Event of Default.

(b) Quarterly Financial Statements. As soon as available and in any event within ninety days after the end of each quarterly fiscal period of the Borrower Parties, a copy of the complete unaudited, and consolidated statements of income, retained earnings and cash flow of the Borrower Parties, and the related unaudited, and consolidated balance sheet of the Borrower Parties as at the end of such period, setting forth in each case in comparative form the corresponding figures for the corresponding period in the preceding fiscal year, if any, accompanied by a certificate of an Authorized Officer of the relevant Person, which certificate shall state that said financial statements fairly present the financial condition and results of operations of the relevant Person, in accordance with U.S. GAAP, consistently applied, as at the end of, and for, such periods (subject to normal year-end audit adjustments).

(c) Officer's Certificate. At the time it furnishes each set of financial statements pursuant to Section 6.1(a)(a) or 6.1(a)(b) above, an Officer's Certificate from each Borrower Party to the effect that no Default or Event of Default has occurred and is continuing (or, if any Default or Event of Default has occurred and is continuing, describing the same in reasonable detail and describing what action the Borrower has taken and proposes to take with respect thereto).

(d) DSCR Certificates. Within fifteen Business Days after each Semi-Annual Date, an Officer's Certificate from the Borrower setting forth the calculation of the Historical DSCR for the DSCR Calculation Period ending on such Semi-Annual Date. Each such Officer's Certificate shall set forth, in reasonable detail, the inputs or assumptions, as applicable, upon which the relevant calculations were based and in the form set forth on Exhibit 16 hereto (each, a "DSCR Certificate"). The Historical DSCR set forth in each DSCR Certificate shall become effective for purposes of the Financing Documents on the fifth Business Day following delivery of the relevant Officer's Certificate to the Administrative Agent unless the Administrative Agent notifies the Borrower that the methodology or any input or assumption employed by the Borrower in making such calculation is not satisfactory to the Administrative Agent in any respect.

(e) Operating Reports. As soon as available and in any event within thirty days after the end of each fiscal quarter following the First Unit Operation Date, an operating report in the form set forth on Exhibit 17 hereto with respect to the Project for such quarterly period and for the portion of the Operating Year then ended, which report shall (i) correspond to the items and classifications and periods set forth in the applicable Operating Budget, (ii) show all Project Revenues, all O&M Expenses, the Operating Performance of the Project and a reasonably detailed accounting of the use of any amounts transferred from the Operating Account, (iii) be certified as complete and correct by an Authorized Officer of

the Borrower, which certification shall also state that the O&M Expenses reflected therein complied with the requirements contained in Section 7.25 hereof, or, if any such certifications cannot be given, shall state in detail any necessary qualifications to such certifications and (iv) be in substantially the form of the *pro forma* Operating Report delivered in accordance with Section 4.1(a)(s).

(f) Environmental Report. Within 45 days after the end of each year, a report summarizing the environmental performance of the Project during such year, which report shall include narrative summaries in reasonable detail of (i) the results of any environmental monitoring or sampling activity, (ii) accidents having an impact on the environment or resulting in the loss of life, (iii) environmental deficiencies identified by any Governmental Authority, and (iv) any non-compliance with any Environmental Law and any remedial actions taken with respect thereto.

(g) Insurance Report and Certificates. Within 45 days after the end of each year, a report of an independent broker, signed by an Authorized Officer of such independent broker, stating that in the opinion of such broker, the insurance then carried or to be renewed complies with the terms of the Collateral Agreement. The Borrower shall deliver to the Administrative Agent, within ten Business Days after each annual policy renewal date for each policy, (1) certificates of insurance or binders, in form and substance reasonably satisfactory to the Administrative Agent in consultation with the Insurance Consultant, evidencing all of the insurance required by the Collateral Agreement. Such certificates of insurance/binders shall be executed by an Authorized Officer of each insurer where it is not practical for such insurer to execute the certificate itself. Such certificates of insurance/ binders shall identify underwriters, the type of insurance, the insurance limits and the policy term and shall specifically list the special provisions enumerated for such insurance required by the Collateral Agreement. Upon request, the Borrower will promptly furnish the Administrative Agent with copies of all insurance policies (except in the case of corporate insurance programs where detailed insurance summaries shall be acceptable), binders and cover notes or other evidence of such insurance relating to the insurance required to be maintained by the Borrower Parties. The schedule of insurance shall include the name of the insurance company, policy number, type of insurance, major limits of liability and expiration date of the insurance policies.

6.2 Monthly Construction Reporting. The Borrower shall deliver or cause to be delivered to the Administrative Agent, promptly upon receipt, but in any event not later than five Business Days after receipt thereof, each IE Construction Report, Monthly Progress Report (as defined in the BOP Contract), each Monthly Report (as defined in the Construction Management Agreement), each Monthly Progress Report (as defined in the Equipment Services Agreement) and each Monthly Progress Report (as defined in the Equipment Purchase Agreement).

6.3 Further Distribution of Operational Notices. The Borrower shall promptly, but in any event not later than five Business Days after delivery or receipt of any of the following communications, deliver or cause to be delivered to the Administrative Agent:

(a) Governmental Authorities. A copy of each material notice, demand or other communication given to a Governmental Authority by or on behalf of any Borrower Party or received by any Borrower Party from a Governmental Authority or from any Person on behalf of a Governmental Authority.

(b) Material Project Participants. A copy of each material notice, demand or other communication given or received by or on behalf of any Borrower Party to or from a Material Project Participant pursuant to or relating to any of the Material Project Documents (including all requests for assignments, amendments or waivers thereto).

(c) Change Orders; Amendments to Construction Budget. A copy of any Change Order entered into in accordance Section 7.15 or any revision to the Construction Budget as provided in Section 7.28.

(d) Management Letters; Accountant Communications. A copy of any "management letter" or other similar communication received by any Borrower Party from the such Borrower Party's accountants relating to such Borrower Party's financial, accounting and other systems, management or accounts.

(e) Environmental Studies. A copy of each environmental study regarding the Project or the Site that (i) is or has been prepared by or under the direction of Affiliates of the Sponsor (including the Remediation Work Plan and all updates thereto) or (ii) is or has been prepared by or under the direction of Persons other than Affiliates of the Sponsor and is in the possession of the Borrower (it being understood that the Borrower shall use commercially reasonable efforts to obtain possession of such environmental studies prepared by or under the direction of Persons other than Affiliates of the Sponsor upon attaining knowledge thereof).

6.4 Notice of Certain Events and Circumstances. The Borrower shall promptly, but in any event not later than five Business Days after obtaining knowledge of any of the following events or circumstances, deliver or cause to be delivered to the Administrative Agent:

(a) Material Permits. Copies of any Material Permits issued after the date hereof that are held in the name of any Borrower Party or Affiliate Project Participant and any Material Permits held in the name of any other Material Project Participant received by any Borrower Party or Affiliated Project Participant (it being understood that the Borrower shall use commercially reasonable efforts to obtain possession of such Material Permits upon attaining knowledge thereof) and notice of any pending or threatened application or proceeding by or before any Governmental Authority for the purpose of reversing, revoking, rescinding, terminating, withdrawing, suspending, modifying or withholding any Material Permit.

(b) Dispositions. Notice of any Disposition in excess of $500,000 for any one Disposition or $1,500,000 in the aggregate in any calendar year.

(c) Takings, Loss Events, Etc. Notice of any (i) Taking or (ii) Event of Loss or other casualty, damage or loss to any Property of any Borrower Party, whether or not the relevant Property is insured, through fire, theft, other hazard or casualty, that could reasonably be expected to result in Loss Proceeds (or if uninsured would have reasonably been expected to result in Loss Proceeds if insured) in excess of $500,000 for any one casualty or loss or $1,500,000 in the aggregate in any calendar year.

(d) Disputes. Notice of any litigation, investigation, arbitration or other contentious proceeding or dispute that is pending or threatened against any Borrower Party, the Pledgor or the Project in which the amount involved could reasonably be expected to exceed $500,000 or in which injunctive, declaratory or similar relief is requested or any litigation, investigation, arbitration or other contentious proceeding affecting any Material Project Participant which if adversely determined could reasonably be expected to have either a Material Adverse Effect or a material adverse effect on the ability of any Material Project Participant to timely perform any of its material obligations under any of the Material Project Documents to which it is a party.

(e) Environmental Matters.

i. Notice of (A) any fact, circumstance, condition, occurrence or Release at, on, under or from the Project or the Site that results or could reasonably be expected to result in noncompliance with any Environmental Law applicable to the Project or the Site, (B) any Release at, on, under or from the Project or the Site that has resulted or could reasonably be expected to result in personal injury or material property damage or an Environmental Claim or that otherwise has or could reasonably be expected to have either a Material Adverse Effect or a material adverse effect on the ability of any Material Project Participant to timely perform any of its material obligations under any of the Material Project Documents to which it is a party or (C) any pending Environmental Claim or any Environmental Claim threatened in writing against or affecting any Borrower Party or any other Persons occupying or conducting operations at the Project or the Site that could, if adversely determined, be reasonably expected to have either a Material Adverse Effect or a material adverse effect on the ability of any Material Project Participant to timely perform any of its material obligations under any of the Material Project Documents to which it is a party;

ii. copies of all material communications with any Governmental Authority relating to any Environmental Law or any Environmental Claim promptly after the giving or receiving of any such communications (including any such communications in respect of each EPA Letter); and

iii. such other information concerning any Environmental Claim relating to the Project or the Site as may be reasonably requested by the Administrative Agent.

(f) Force Majeure. Notice of any event constituting *force majeure* under any of the Project Documents or any claim by any Project Participant alleging that a *force majeure* event thereunder has occurred.

(g) Delay. Notice of any delay for any reason in the construction of the Project beyond the Major Milestone Dates.

(h) Cessation; Suspension. Any actual, proposed or threatened (in writing) cessation or suspension of the Work for any reason by any EPC Contractor for a period in excess of three consecutive Business Days or any unscheduled shutdown or reduction in operation of the Project, or any substantial labor dispute which could lead to such a shutdown or reduction.

(i) Material Adverse Effect. Any event, circumstance, development or condition which could reasonably be expected to have either a Material Adverse Effect or a material adverse effect on the ability of any Material Project Participant to timely perform any of its material obligations under any of the Material Project Documents to which it is a party.

(j) Bankruptcy Events. The occurrence of any Bankruptcy Event suffered by the Pledgor, the Borrower, the Project Owner or any other Material Project Participant.

(k) Defaults. Without limiting the foregoing, the occurrence of any Default or Event of Default.

(l) ERISA. To the extent that any of the following events, individually or in the aggregate, would reasonably be expected to result in a liability to a Borrower Party of greater than $1,500,000: (i) the occurrence of any ERISA Event and the filing of any notice with the PBGC or the IRS pertaining to such ERISA Event or the receipt of any notice by any member of the ERISA Group from the PBGC or any other governmental agency with respect thereto, but only to the extent that such ERISA Event, individually or in the aggregate, would reasonably be expected to result in a liability to a Borrower Party of greater than $1,500,000; (ii) a material increase in Unfunded Pension Liabilities (taking into account only Pension Plans with positive Unfunded Pension Liabilities) since the date the representations hereunder are given, or from any prior notice, as applicable; (iii) the existence of potential withdrawal liability under Section 4201 of ERISA, if any member of the ERISA Group were to withdraw completely from any and all Multiemployer Plans; (iv) the adoption of, or the commencement of contributions to, any Pension Plan subject to Title IV of ERISA or Section 412 of the Code or Section 302 of ERISA by any member of the ERISA Group; or (v) the adoption of any amendment to a Pension Plan subject to Title IV of ERISA or Section 412 of the Code or Section 302 of ERISA.

Each notice delivered pursuant to this Section 6.4 shall be accompanied by a statement signed by an Authorized Officer of the Borrower setting forth a description in reasonable detail of the occurrence referred to therein and stating what action the Borrower proposes to take with respect thereto.

6.5 Further Information. From time-to-time, the Borrower shall provide the Administrative Agent with such other information regarding the financial condition, operations, business or prospects of any Borrower Party or the Project or, to the extent obtainable by the Borrower upon the exercise of its commercially reasonable efforts, any Project Participant, as may be reasonably requested by the Administrative Agent.

6.6 Operating Budget.

(a) On or prior to the thirtieth day prior to the First Unit Operation Date, the Borrower shall deliver to the Administrative Agent a proposed Operating Budget in substantially the form of the *pro forma* Operating Budget delivered in accordance with Section 4.1(a)(s) for the period commencing on such First Unit Operation Date and ending on the next succeeding December 31 (or, if such First Unit Operation Date is projected to occur on or after September 30, on the second succeeding December 31).

(b) On or prior to the thirtieth day prior to the beginning of each Operating Year, the Borrower shall deliver to the Administrative Agent a proposed Operating Budget in substantially the form of the Operating Budget delivered in accordance with Section 6.6(a) for the period commencing on January 1 of such Operating Year and ending on the next succeeding December 31.

(c) Each proposed Operating Budget shall set forth the Borrower's reasonable projection of the anticipated amount of O&M Expenses for each month covered thereby. Such O&M Expenses shall be itemized in the Operating Budget in accordance with U.S. GAAP using substantively the same line items as set forth in the *pro forma* Operating Budget delivered in accordance with Section 6.6(a). Any O&M Expenses that cannot be (or should not be in accordance with U.S. GAAP) itemized in accordance with the immediately preceding sentence shall be set forth as separate line items, shall be clearly described and shall be denoted as extraordinary O&M Expenses ("Extraordinary O&M Expenses"). The aggregate annual, aggregate monthly, and monthly line-item amounts of O&M Expenses set forth in the proposed Operating Budget shall be compared against each of the following (expressed as a percentage thereof): (i) the amount of such O&M Expenses set forth in the Base Case Model; (ii) the amount of such O&M Expenses set forth in the then-current Operating Budget (unless the proposed Operating Budget is delivered in accordance with Section 6.6(a)); and (iii) the amount of such O&M Expenses actually incurred by the Borrower in the then-current Operating Year, as set forth in the latest Operating Report delivered in accordance with Section 6.1(a)(e) (unless the proposed Operating Budget is delivered in accordance with Section 6.6(a)). In addition, each Operating Budget shall attach, in narrative form, a description in reasonable detail of: (A) the maintenance and overhaul schedule (including any major maintenance or overhauls which are projected for the relevant Operating Year); (B) anticipated staffing plans; (C) mobilization schedules; (D) capital expenditure requirements; (E) equipment acquisitions; (F) spare parts and consumable inventories; (G) administrative activities and (H) any other material underlying assumptions in connection with the proposed Operating Budget.

(d) If no OB Approval Threshold is exceeded or triggered in respect of a proposed Operating Budget, then no consent of the Administrative Agent or any other Person shall be required

and such Operating Budget shall be deemed adopted as of the first day of the relevant Operating Year (or, in the case of the proposed Operating Budget referred to in Section 6.6(a), as of the First Unit Operation Date), unless the Administrative Agent notifies the Borrower in writing prior to such day that any OB Approval Threshold has been exceeded or triggered.

(e) If any OB Approval Threshold is exceeded or triggered in respect of a proposed Operating Budget, then such proposed Operating Budget shall be subject to the prior written approval of the Administrative Agent (acting, if applicable, at the direction of the Requisite Financing Parties). If such prior written approval is not obtained prior to the first day of the Operating Year to which such proposed Operating Budget relates (or, in the case of the proposed Operating Budget referred to in Section 6.6(a), prior to the First Unit Operation Date), then the Borrower shall cause the Project Owner to operate the Project in accordance with an interim Operating Budget that does not exceed or trigger any OB Approval Threshold and is delivered to the Administrative Agent prior to the first day of such Operating Year, the First Unit Operation Date, until such time as a final Operating Budget is adopted in accordance with Section 6.6(c) or this Section 6.6(e).

(f) The Borrower may at any time (or, in the case of Section 7.25, shall) propose to amend the Operating Budget for the remainder of the then current Operating Year by not less than thirty days prior written notice to the Administrative Agent. Sections 6.6(c), 6.6(d) and 6.6(e) shall apply *mutatis mutandis* to the form, scope, substance and approval of any proposed amended Operating Budget.

6.7 Inspection.

(a) The Borrower shall permit, shall cause each Borrower Party and the Affiliated Project Parties to permit, and shall use commercially reasonable efforts to cause the EPC Contractors to permit, in accordance with the terms of the applicable Transaction Documents, at the expense of the Borrower, representatives of the Administrative Agent, the Independent Engineer and during the continuance of an Event of Default, the Lenders, with reasonable advance notice, during normal business hours and at such intervals as such Person shall reasonably request, to visit and inspect the Project and to witness and verify the Completion Tests, to examine, copy and make extracts from its (and their) books and records relating to the Project, to inspect its Properties, and to discuss its (and their) business and affairs related to the Project with its (and their) officers and engineers, all to the extent reasonably requested by the Administrative Agent, the Independent Engineer or, during the continuance of an Event of Default, the Lenders (as the case may be). The Borrower will, and will cause each other Borrower Party to, authorize its auditors (whose fees and expenses shall be for the account of the Borrower) to communicate directly with the officers and designated representatives of the Administrative Agent and, if reasonably necessary, the Independent Engineer, in each case with reasonable cause at any reasonable time and upon prior written notice to the Borrower, regarding its accounts and operations; provided, that any written correspondence shall be made with a concurrent copy delivered to the Borrower Parties; and provided, further, that only two communications shall be made outside the presence of the Borrower in a given fiscal year (other than such communications made during the continuance of a Default or Event of Default).

(b) The Borrower shall permit, and shall cause each other Borrower Party to permit, the Administrative Agent, the Independent Engineer and, to the extent reasonably necessary, any other Independent Consultant to review (i) all Plans and Specifications, (ii) any quality control data and performance test data, and (iii) any other data relating to the Project or to the progress of construction as may be reasonably requested by the Administrative Agent, the Independent Engineer or such other Independent Consultant. Further, the Borrower shall permit, and shall cause each other Borrower Party to permit, the Administrative Agent, the Independent Engineer and, to the extent reasonably necessary, any other Independent Consultant to monitor, witness and review the Work.

(c) The Borrower shall give timely notice of and permit, and shall cause each other Borrower Party, and use commercially reasonable efforts to cause the EPC Contractors, to give timely notice of and permit, the Administrative Agent, the Independent Engineer, and, to the extent reasonably necessary, any other Independent Consultant to attend, (i) all Project construction progress review meetings held by any such Person or its agents or representatives and (ii) any and all Completion Tests or other performance tests of the Project or any component thereof (whether any such test is to be conducted on or off the Site).

6.8 Encroachments; Title Policy. The Borrower shall promptly, but in any event not later than 90 days after the Term Conversion Date:

(a) Pursuant to Section 7.14(g) and notwithstanding anything else to the contrary in this Credit Agreement or any other Financing Document but subject to the provisions of this Section 6.8, amend the Site Agreements (the "Revised Site Agreements") solely to revise the applicable legal descriptions of the real property covered thereunder and make such other modifications to the Site Agreements as the Administrative Agent may reasonably require in order to eliminate the encroachments (the "Encroachments") described in subsections G, N, S, T, V, HH, II, JJ and RR of item 14 of Schedule B - Part I of that certain [Pro Forma Loan Policy of Title Insurance issued by Fidelity National Title Insurance Company under Policy No. Pro Forma-23036266-AL], attached hereto as Schedule 6.8 (the "Fidelity Pro Forma"). The Revised Site Agreements and any other documentation related thereto shall be in a form to allow or cause the Title Company to issue the Second Reissued Title Policy to meet the requirements of Section 6.8(b) below and otherwise shall be in form and substance reasonably satisfactory to the Administrative Agent. Borrower shall also obtain any consents necessary from third parties, including Site Owners and subordinated lenders, in connection with said amendments.

(b) Deliver to the Administrative Agent a Title Policy which has been reissued by the Title Insurance Company (the "Second Reissued Title Policy") and such Second Reissued Title Policy shall (i) insure the continuing first priority of the Mortgage (subject only to (A) Permitted Priority Liens and (B) other Permitted Liens to the extent junior to the Liens granted for the benefit of the Secured Parties pursuant thereto) and otherwise be in form and substance reasonably satisfactory to Administrative Agent, (ii) contain only the coverage exceptions set forth in the Fidelity Pro Forma or that are otherwise approved by the Administrative Agent, provided that the Encroachments shall be deleted, (iii) reflect the revised legal descriptions of the real property covered under the Site Agreements as required by Section 6.8(a) above, (iv) be in an amount equal to the

Title Policy Amount, (v) insure the amendments and confirmatory documents described in Section 6.8(d) below and (vi) include a commitment to include in any owner's title insurance policy issued to any purchaser of any portion of the Collateral from any Lenders or through foreclosure (a "Subsequent Purchaser") all endorsements issued in the Fidelity Pro Forma in connection with the survey items described in item 14 of the Fidelity Pro Forma or, for any such survey items for which all such endorsements cannot be issued, a commitment to exclude such survey items as exceptions to such owner's title insurance policy to be issued to a Subsequent Purchaser.

(c) Deliver to the Administrative Agent a final "as-built" survey of the Site, addressed to the Collateral Agent for the benefit of the Secured Parties, the Title Insurance Company and the Borrower showing the completed Project, which survey shall (i) be in form and substance reasonably satisfactory to the Collateral Agent and the Title Insurance Company, (ii) disclose no easements, rights-of-way or encumbrances, other than (A) Permitted Priority Liens and (B) other Permitted Liens to the extent junior to the Liens granted for the benefit of the Secured Parties pursuant to the Mortgage, (iii) contain only the coverage exceptions set forth in the Fidelity Pro Forma or that are otherwise approved by the Administrative Agent, provided that the Encroachments shall be deleted, and (iv) reflect the revised legal descriptions of the real property covered under the Site Agreements as required by Section 6.8(a) above.

(d) Prepare and cause to be executed and recorded such amendments to the Mortgage or other confirmatory documents as may be reasonably requested by the Collateral Agent in order to protect, confirm or maintain the first-priority Lien of the Mortgage on the Mortgaged Property, as reflected in the final survey delivered pursuant to Section 8.6(c) above. Any and all amendments described in the foregoing sentence must be insured under the Second Reissued Title Policy.

6.9 Lien Searches. On or within 10 days after the Repricing Date, the Borrower shall deliver to the Administrative Agent the results of a recent search of all effective UCC financing statements and fixture filings and all judgment and tax lien filings which have been made with respect to any personal or mixed property of the Borrower, the Project Owner and the Pledgor, together with copies of all such filings disclosed by such search, and UCC termination statements for filing in all applicable jurisdictions as may be necessary to terminate any effective UCC financing statements or fixture filings disclosed in such search, other than (i) Permitted Priority Liens, (ii) Liens granted to the Collateral Agent under the Security Documents, and (iii) other Permitted Liens to the extent junior to the Liens granted to the Collateral Agent under the Security Documents.

ARTICLE VII

RESTRICTIVE COVENANTS

The Borrower covenants and agrees that, so long as any Commitment or any Loan or any other Secured Obligation is outstanding and until payment in full of all amounts payable by the Borrower under the Financing Documents, the Borrower shall (or shall cause the relevant Borrower Party to) comply with the following covenants:

7.1 Maintenance of Existence; Conduct of Business. Each Borrower Party shall (a) preserve and maintain its legal existence as a limited liability company under the laws of Delaware, and all of its material licenses, rights, privileges and franchises necessary for the maintenance of its limited liability company existence, and comply, in all material respects, with its Charter Documents, (b) engage solely in the business of constructing, owning, operating and maintaining the Project and performing its obligations pursuant to the Transaction Documents to which it is a party or (c) not cancel, terminate, permit the cancellation or termination of, amend, modify or change any material terms or conditions of, or grant any material consent, waiver or approval under, or take or fail to take any other material action the result of which would impair the value of the interest or impair the rights of any Borrower Party under, any of its Charter Documents.

7.2 Compliance with Laws. Each Borrower Party shall conduct its business in compliance with all applicable requirements of Law, including all relevant Permits and Environmental Laws, except where any failure to comply could not individually or in the aggregate have a Material Adverse Effect, and except that the relevant Borrower Party may, at its expense, contest by appropriate proceedings conducted in good faith the validity or application of any such requirement of Law, so long as (a) none of the Secured Parties or the relevant Borrower Party would be subject to any criminal liability for failure to comply therewith, (b) all proceedings to enforce such requirement of Law against the Secured Parties, the relevant Borrower Party, the Project or any part thereof shall have been duly stayed and (c) such contest does not involve any risk of the sale, forfeiture or loss of any of the Collateral. Each Borrower Party will materially comply and cause each of its Affiliates to materially comply with Anti-Terrorism and Money Laundering Laws, Anti-Corruption Laws, and Sanctions. If the Borrower obtains knowledge or receives any written notice that the Borrower, the Project Owner, or any Person holding any legal or beneficial interest in the Borrower or the Project Owner (directly or indirectly) is named on any Sanctions List or is otherwise subject to Sanctions (such occurrence, a "Sanctions Violation"), the Borrower shall immediately give written notice to the Administrative Agent of such Sanctions Violation.

7.3 Accounting and Financial Management. Each Borrower Party shall (a) maintain adequate management information and cost control systems and (b) maintain a system of accounting in which full and correct entries shall be made of all financial transactions and the assets and business of the relevant Borrower Party in accordance with U.S. GAAP. In the event that any Borrower Party replaces its existing auditors for any reason, the relevant Borrower Party shall appoint and maintain as auditors another firm of independent public accountants, which firm shall be internationally recognized and approved by the Requisite Financing Parties.

7.4 Tax Elections, Payment of Taxes, etc.

(a) The Borrower shall not, and shall ensure that the Borrower Parties shall not, take any action or fail to take any action (including electing to be treated as a corporation for Federal income tax purposes) that would cause any Borrower Party to be subject to (i) any material taxes other than as set forth in the Base Case Model or (ii) any material obligations under any agreements or arrangements with respect to any taxes.

(b) Each Borrower Party shall duly pay and discharge before they become overdue (i) all material taxes, assessments and other governmental charges or levies imposed upon it or any of its Property, income or profits, (b) all material utility and other governmental charges incurred in connection with the ownership, operation, maintenance, use, occupancy and upkeep of its business and (c) all lawful claims and obligations that, if unpaid, could result in the imposition of a Lien upon any of its Property; provided, that the relevant Borrower Party may contest in good faith any such tax, assessment, charge, levy, claim or obligation and, in such event, may permit the tax, assessment, charge, levy, claim or obligation to remain unpaid during any period, including any period during which an appeal is pending, when the relevant Borrower Party is in good faith contesting the same by proper proceedings, so long as (i) adequate reserves shall have been established with respect to any such tax, assessment, charge, levy, claim or obligation, accrued interest thereon and potential penalties or other costs relating thereto, or other adequate provision for payment thereof shall have been made, (ii) such contest does not involve any risk of the sale, forfeiture or loss of any of the Collateral and (iii) enforcement of the contested item shall be effectively stayed.

7.5 Borrower's Equity Interests. None of the Borrower Parties shall (a) permit or consent to the transfer (by assignment, sale or otherwise) of the Pledged Equity Interests (other than by way of the Merger in accordance with Section 7.33) or (b) issue any new Equity Interests.

7.6 Merger; Etc. The Borrower shall not merge into or consolidate with any other Person, or liquidate or dissolve itself (or suffer any liquidation or dissolution), or sell, lease, transfer, or otherwise dispose of all or substantially all of its assets. Neither the Project Owner nor the Procurement Sub shall merge or consolidate with any other Person, or liquidate or dissolve itself (or suffer any liquidation or dissolution), or sell, lease, transfer, or otherwise dispose of all or substantially all of its assets, except for the Merger in accordance with Section 7.33.

7.7 Investments; Subsidiaries. None of the Borrower Parties shall make or permit to remain outstanding any Investments except Permitted Investments. None of the Borrower Parties shall establish, create or acquire any Subsidiary (other than, with respect to the Borrower, the Procurement Sub (prior to the Merger) and the Project Owner).

7.8 Transactions with Affiliates. Except as provided in the Affiliate Project Documents or the Intercompany Notes and in the Accounts Agreement, none of the Borrower Parties shall directly or indirectly (a) make any payment to an Affiliate of any Borrower Party, (b) transfer, sell, lease, assign or otherwise dispose of any Property to an Affiliate of any Borrower Party, (c) purchase or acquire Property from an Affiliate of any Borrower Party or (d) enter into any other

transaction or arrangement directly or indirectly with or for the benefit of an Affiliate of any Borrower Party.

7.9 Distributions; Restricted Payments.

(a) Except as set forth in Sections 7.9(b), 7.9(c) and 7.9(d), none of the Borrower Parties shall (i) make any distributions to Pledgor or to any other Person (other than, with respect to the Procurement Sub (prior to the Merger) and the Project Owner, to the Borrower) in respect of its Equity Interests or any other ownership interest in such Borrower Party, whether in cash or other Property, or redeem, purchase or otherwise acquire any interest of Pledgor in such Borrower Party, or permit Pledgor to withdraw any capital from such Borrower Party (all of the foregoing being referred to as "Distributions") or (ii) make any payment of any Affiliate O&M Fees to any Affiliate of such Borrower Party (each such Distribution or payment of Affiliate O&M Fees, a "Restricted Payment").

(b) Unless a Default or Event of Default shall have occurred and be continuing, the Borrower may pay Affiliate O&M Fees when due and payable under the Affiliated Project Documents pursuant to and in accordance therewith and with the Accounts Agreement.

(c) Amounts constituting True-Up Drawings may be Distributed by the Borrower as directed by it in its sole discretion (the "True-Up Distributions"), notwithstanding any other provision of the Financing Documents to the contrary; provided, that (x) no Default or Event of Default shall have occurred and be continuing as of such Distribution, (y) the Debt-To-Equity Ratio (after giving *pro forma* effect to the relevant True-Up Distribution) will be no greater than 80:20 and (z) the Projected DSCR on the date of such True-Up Distribution is equal to or greater than 1.40x (calculated using the Base Case Model delivered in accordance with Section 4.2(a)(m), updated in respect of any True-Up Distribution to occur more than thirty days after the date of the initial Borrowing to take account of any Operating Budget delivered in accordance with Section 6.6(a) and the projected Operating Performance of the Project in light of the results of any Completion Tests, and using an initial DSCR Calculation Period ending on the first Semi-Annual Date following the one-year anniversary of (x) the Projected Completion Date, in respect of any True Up Distribution to occur prior to the Term Conversion Date or (y) the Term Conversion Date, in respect of any True Up Distribution to occur on the Term Conversion Date).

(d) Amounts on deposit in the Distribution Reserve Account as of any Semi-Annual Date may be transferred to the Distribution Account by the Borrower in accordance with the Collateral Agreement and the Accounts Agreement, so long as each of the Distribution Conditions is satisfied on such Semi-Annual Date.

(e) Amounts on deposit in the Distribution Account may be distributed to Pledgor as Distributions and/or Restricted Payments or to any other Person for any other purpose at any time and from time-to-time.

7.10 Separateness. The Borrower Parties shall:

(a) maintain separate bank accounts and separate books of account from the Pledgor and any Affiliate (other than the Borrower Parties) of the Pledgor;

(b) cause the liabilities of the Borrower Parties to be readily distinguishable from the liabilities of the Pledgor and any Affiliate (other than the Borrower Parties) of the Pledgor;

(c) conduct their business solely in their own names in a manner not misleading to other Persons as to its identity, including by ensuring that oral and written communications (including letters, invoices, purchase orders, contracts, statements, and applications) shall be made in the name of such Borrower Party;

(d) comply with the provisions set forth on Appendix H;

(e) in the case of the Borrower, comply with the separateness covenants set forth in the Borrower Pledge Agreement; and

(f) cause the Pledgor and each permitted successor or assignee of the Pledgor to comply with the separateness covenants set forth in the Pledgor Pledge Agreement;

it being understood and agreed by the parties that *de minimis* breaches of this Section 7.10 that (i) are not, in the aggregate, misleading as to the identity of the relevant Borrower Party or the Pledgor (as applicable), (ii) do not call into question the corporate separateness of the Borrower Party or the Pledgor (as applicable) from their respective Affiliates and (iii) otherwise do not materially adversely undermine the purpose intended to be served by the provisions of this Section 7.10 shall not be deemed a breach of this Section 7.10.

7.11 Chief Place of Business; etc. The place of business or, if it has more than one place of business, the chief executive office of each Borrower Party and the place where the records of the Borrower Parties concerning the Collateral are kept is at 5790 Fleet Street, Suite 200, Carlsbad, CA 92008. The originals of all documents evidencing the Collateral and the only original books of account and records of the Borrower Parties relating thereto are, and will continue to be, kept at such place of business or chief executive office, or at such new location as the Borrower may establish in accordance with this Credit Agreement. Each Borrower Party's jurisdiction of organization and "location" for the purposes of Section 9-307 of the Uniform Commercial Code is Delaware. The exact legal name of the Borrower is as set forth on the signature pages hereto. The Borrower shall not (a) establish a new "location" for the purposes of Section 9-307 of the Uniform Commercial Code, (b) change its chief executive office or its jurisdiction of organization, (c) change its name or (d) do business under any name other than the name set forth on the signature pages hereto until (i) it shall have given to the Administrative Agent not less than thirty days' prior written notice of its intention so to do, clearly describing such new location, jurisdiction and/or name and providing such other information in connection therewith as the Administrative Agent may reasonably request and (ii) with respect to such new location, jurisdiction and/or name, it shall have taken all action, satisfactory to the Administrative Agent, to maintain the Liens in the Collateral

granted for the benefit of one or more of the Secured Parties pursuant to the Security Documents at all times fully perfected and in full force and effect.

7.12 Permits. Each Borrower Party shall (i) from time-to-time obtain and maintain, and comply with, or cause the applicable Material Project Participant to maintain and comply with, all Material Permits to which such Borrower Party or Material Project Participant (as applicable) is a party as shall now or hereafter be required under applicable Laws, (ii) cause the Project to be duly constructed, completed, operated and maintained in all material respects in accordance with all applicable Laws, and (iii) intervene in and contest or cause the applicable Material Project Participant to intervene in and contest any proceeding which seeks or may reasonably be expected, to rescind, terminate, modify or suspend any Material Permit and, if reasonably requested by the Administrative Agent on the recommendation of the Independent Engineer, appeal or cause the applicable Material Project Participant to appeal any such rescission, termination, modification or suspension in the manner and to the fullest extent permitted by applicable Law; provided, that the obligations of the Borrower Parties under this Section 7.12 shall not in any way limit or impair the rights or remedies of the Secured Parties under any Financing Document directly or indirectly arising as a result of any such rescission, termination, modification or suspension.

7.13 Security Documents.

(a) Each Borrower Party shall take all actions necessary or requested by the Administrative Agent or the Collateral Agent to maintain each Security Document in full force and effect and enforceable in accordance with its terms and to maintain and preserve the Liens created by the Security Documents and the priority thereof in accordance with the Collateral Agreement. In furtherance of the foregoing, (A) the Borrower shall ensure that all Property acquired by any Borrower Party shall become subject to the Lien of the Security Documents having the priority contemplated thereby promptly following the acquisition thereof and (B) none of the Borrower Parties shall open or maintain any bank account (other than the Accounts).

(b) Each Borrower Party shall take all action necessary to cause each Additional Project Document to be or become subject to the Liens of the Security Documents (whether by amendment to any Security Document, execution of a new Security Document or otherwise) in favor of the Collateral Agent, and shall deliver or cause to be delivered to the Administrative Agent such legal opinions of counsel to such Borrower Party, certificates of such Borrower Party or other documents with respect to each such Additional Material Project Document as the Administrative Agent may reasonably request. The Borrower shall cause each Material Project Participant that is a party to an Additional Material Project Document to execute and deliver a Consent Agreement in the form attached to the relevant Security Agreement or otherwise reasonably satisfactory to the Administrative Agent and the related opinion with respect to such Additional Material Project Document specified therein.

7.14 Material Project Documents.

(a) Each Borrower Party shall perform and observe all of its covenants and agreements contained in any of the Material Project Documents to which it is or becomes a party.

(b) Each Borrower Party shall take any and all action as may be reasonably necessary to promptly enforce its rights and to promptly collect any and all sums due to it under the Material Project Documents to which it is or becomes a party and shall not waive any default under or breach of any Material Project Document to which it is or becomes a party or waive, fail to enforce, forgive or release any right, interest or entitlement, howsoever arising, under or in respect of any such Material Project Document (except to the extent the Administrative Agent, in consultation with the Independent Engineer, has determined in writing that the failure to comply with this Section 7.14(b) is in the best interest of the Project).

(c) Each Borrower Party shall take all necessary action to prevent the cancelation, suspension or termination of any Material Project Document to which it is or becomes a party in accordance with the terms thereof or otherwise and shall not permit a Material Project Participant to cancel, suspend or terminate any Material Project Document to which it is or becomes a party or petition, request or take any other legal or administrative action that seeks, or may be expected, to cancel, suspend or terminate any Material Project Document to which it is or becomes a party or amend or modify all or any part thereof. Prior to, concurrently with, or promptly after the expiration of each SoCalGas Transportation Contract, the Borrower will cause the Project Owner to enter into a new SoCalGas Transportation Contract and will use commercially reasonable efforts to cause such SoCalGas Transportation Contract to provide for Firm Priority Service.

(d) Each Borrower Party shall not sell, assign (other than pursuant to the Security Documents) or otherwise dispose of (by operation of law or otherwise) any part of its interest in any Material Project Document to which it is or becomes a party.

(e) Each Borrower Party shall not agree to or permit the assignment of any rights or the delegation of any obligations of any Material Project Participant under any Material Project Document to which it is or becomes a party except (i) as permitted without the consent of the Borrower by the terms of such Material Project Document or (ii) with the prior written consent of the Administrative Agent (acting, in respect of the Tolling Agreement, upon the instructions of the Requisite Financing Parties).

(f) Except as provided in Section 7.15, no Borrower Party shall amend, supplement, modify or give any consent under any Material Project Document or exercise any material option thereunder (except to the extent the Administrative Agent, in consultation with the Independent Engineer, has determined in writing that such amendment, supplement, modification, consent or exercise is in the best interest of the Project).

(g) No Borrower Party shall enter into any Additional Material Project Document other than (i) upon the prior written consent of the Administrative Agent (acting upon the instructions of the Requisite Financing Parties) or (ii) in accordance with Section 8.8(e).

(h) The Borrower Parties shall instruct all Project Participants to make all payments payable to any of the Borrower Parties to the Account Bank for deposit in the appropriate Account in accordance with the Accounts Agreement.

(i) Each of the Borrower Parties shall, on the date hereof and on the date it enters into any Material Project Document after the date hereof, (i) enter into a Consent Agreement in accordance with the Collateral Agreement and (ii) deliver to the Collateral Agent a fully-executed version of each such Consent Agreement and (unless otherwise agreed by the Administrative Agent) the related opinion required to be delivered to the Collateral Agent in accordance therewith, provided, that, no Borrower Party shall be required to enter into or obtain such Consent Agreement and related opinion pursuant to this Section 7.14(i) in respect of any EPC Contract or series of related EPC Contracts with the same contractor, vendor or supplier where the aggregate cost or value of goods and services to be acquired by any Borrower Party pursuant thereto could not reasonably be expected to exceed $5,000,000 or the equivalent in any other currency.

(j) Prior to the Term Conversion Date, no Borrower Party shall enter into any Material Project Document or execute any Change Order in accordance with Section 7.15 unless (A) 100% of all Project Costs to be incurred thereunder are set forth in the Construction Budget and (B) after giving *pro forma* effect to the execution of such Material Project Document or Change Order, the Borrower Parties have Available Construction Funds at their disposal that are equal to or greater than the aggregate amount of unpaid Project Costs set forth in the Construction Budget. The Borrower shall provide the Administrative Agent with prompt notice of its consent to any subcontractor granted under any EPC Contractor.

7.15 Change Orders. Notwithstanding the provisions of Section 7.14(f) (but without limiting Section 7.14(j)), the Borrower may permit the Project Owner, upon five Business Days' prior notice to the Independent Engineer and the Administrative Agent, to enter into any Change Order if (a) such Change Order does not change the Plans and Specifications, (b) the CO Cost of such Change Order does not exceed $5,000,000 or cause the aggregate CO Cost of all Change Orders theretofore made, together with the CO Cost of such Change Order, to exceed $15,000,000, (c) such Change Order does not result in an extension of any Major Milestone Date beyond the applicable date set forth on Appendix J, (d) such Change Order does not result in any change to, or amendment of, the Completion Tests, the Delay Liquidated Damages, the Buy-down Proceeds, the Performance Guarantees or the conditions pursuant to which payment of any such damages is required to be made, either directly or indirectly and (e) such Change Order could not otherwise reasonably be expected to have either a Material Adverse Effect or a material adverse effect on the ability of any Material Project Participant to timely perform any of its material obligations under any of the Material Project Documents to which it is a party.

7.16 Certain Agreements. No Borrower Party shall enter into any agreement or undertaking (except for the Financing Documents and except pursuant to any agreement approved by the Requisite Financing Parties for the refinancing of any of the Loans) restricting, or purporting to restrict, the ability of any Borrower Party to (a) amend this Credit Agreement or any other Financing Document, (b) sell any of its assets, (c) create Liens, (d) create or incur Indebtedness or (e) make any Restricted Payment.

7.17 Insurance Requirements. Each Borrower Party shall maintain or cause to be maintained in full force and effect all insurance coverages for the Project set forth in the Collateral Agreement.

7.18 Events of Loss. If an Event of Loss shall occur with respect to any Collateral, then the relevant Borrower Party shall (a) diligently pursue all its rights to compensation against any Person with respect to such Event of Loss, (b) cause all Loss Proceeds to be deposited in the Proceeds Account pursuant to the Accounts Agreement, (c) cause all Business Interruption Proceeds to be deposited in the Business Interruption Proceeds Account pursuant to the Accounts Agreement and (d) cause all Loss Proceeds and any Business Interruption Proceeds to be applied in accordance with the Collateral Agreement, the Accounts Agreement and Section 3.17 hereof.

7.19 Asset Acquisitions. No Borrower Party shall purchase or acquire any assets or Property other than (a) assets reasonably required for the completion of the Project in accordance with the Construction Budget, (b) assets in consideration of O&M Expenses expended in accordance with Section 7.25, (c) assets acquired in connection with any Restoration of the Project in accordance with the Collateral Agreement and the Accounts Agreement and (iv) Permitted Investments.

7.20 Asset Dispositions. No Borrower Party shall make any Disposition other than: (a) sales of electrical energy, capacity, ancillary services and other products pursuant to the Revenue Contracts; (b) subject to the requirements of Sections 3.17(a)(a)(ii) and 6.4(a)(b), Dispositions having a value of equal to or less than $3,000,000 per asset or $5,000,000 in the aggregate in any year by all Borrower Parties since the date hereof, and otherwise determined by the relevant Borrower Party (in its reasonable opinion) to be obsolete, redundant, no longer best in class, or otherwise no longer used by or useful to the relevant Borrower Party for the operation or maintenance of the Project; (c) sales of Permitted Investments prior to the maturity thereof; and (d) Distributions, Restricted Payments or other payments in accordance with Section 7.9.

7.21 Indebtedness. No Borrower Party shall create, incur, suffer to exist or otherwise become liable for any Indebtedness except for the following ("Permitted Indebtedness"):

(a) Indebtedness arising under the Financing Documents;

(b) Indebtedness arising under the Rate Swap Transactions entered into and maintained in accordance with Section 7.26;

(c) Capital Lease Obligations incurred in the ordinary course of business that do not at any time exceed $500,000;

(d) trade accounts payable (other than Indebtedness for borrowed money) arising, and accrued expenses incurred, in the ordinary course of the relevant Borrower Party's business so long as such trade accounts payable are payable within 60 days of the date the respective goods are delivered or the respective services are rendered and are not more than 60 days past due;

(e) unsecured Indebtedness owed by any Borrower Party to the Borrower or owed by the Borrower to the Pledgor, provided, that such Indebtedness is subordinated to the Secured Obligations, is collaterally assigned by the Pledgor or the Borrower (as applicable) to the Collateral Agent in accordance with the terms specified in the relevant Pledge Agreement and is issued pursuant to the subordination and other terms required by such Pledge Agreement;

(f) purchase money obligations to the extent incurred in the ordinary course of business to finance equipment (and Indebtedness incurred to finance any such obligations); provided, that (A) if such obligations are secured, they are secured only by Liens upon the equipment being financed and (B) the aggregate principal amount and the capitalized portion of such obligations by all Borrower Parties do not at any time exceed $2,000,000; and

(g) additional unsecured Indebtedness owed by any Borrower Party in an aggregate principal amount (for all Borrower Parties and including all capitalized interest) not to exceed $5,000,000 at any time.

7.22 Leases. No Borrower Party shall enter into any agreement, or be or become liable as lessee under any agreement, for the lease, hire or use of any real or personal Property, except for (i) the Site Agreements, (ii) the Real Property Agreements and (iii) operating leases of personal Property to the extent that (a) no such operating lease constitutes a Capital Lease Obligation, (b) each such operating lease is provided for in the then current Operating Budget, (c) the relevant personal Property is not affixed to the Project, (d) the relevant personal Property does not constitute "fixtures" under applicable Law, (e) the relevant personal Property is composed of standard, non-customized items; and (f) the aggregate payment obligations of all Borrower Parties under all such leases of personal Property does not exceed $1,000,000 in any year.

7.23 Limitation on Liens. No Borrower Party shall create, incur, assume or suffer to exist any Lien upon any of its Property, whether now owned or hereafter acquired, except for Permitted Liens.

7.24 Operation and Maintenance.

(a) Each Borrower Party shall maintain and preserve the Project, the Facility, the Site and all of its other Properties necessary or useful in or to the proper conduct of its business in good working order and in such condition that the Project will have the capacity and functional ability to perform, on a continuing basis (ordinary wear and tear excepted), in normal commercial operation, the functions for which it was specifically designed in accordance with the EPC Contracts at substantially the levels contemplated thereby. The Borrower shall, and shall cause the other Borrower Parties to, cause the Project, the Facility and the Site to be operated, serviced, maintained and repaired so that the condition and Operating Performance thereof will be maintained and preserved (ordinary wear and tear excepted) in all material respects in accordance and compliance with (i) Good Utility Practices, (ii) such operating standards as shall be required to enforce any material warranty claims against dealers, manufacturers, vendors, contractors, and sub-contractors, (iii) the terms and conditions of all insurance policies maintained with respect to the Project at any

time, (iv) all requirements of Law and all Material Permits applicable to the Project, and (v) the terms of the Project Documents.

(b) No Borrower Party shall alter, remodel, add to, reconstruct, improve or demolish any part of the Project, the Facility, the Site or any other Collateral after the Project Completion Date, except in accordance with any Restoration of the Project in accordance with the Collateral Agreement and the Accounts Agreement.

(c) No Borrower Party shall appoint or allow the appointment of any replacement Operator without the prior written consent of the Administrative Agent (acting at the direction of the Requisite Financing Parties).

7.25 O&M Expenses. No Borrower Party shall expend any amount for O&M Expenses during any month if such expenditure would exceed any OB Approval Threshold without the prior written consent of the Administrative Agent (acting, if applicable, at the direction of the Requisite Financing Parties), unless such O&M Expense could not reasonably be anticipated and failure to make such expenditure would create an abnormal risk of personal injury to employees or significant physical damage to the Project and, in any such event, the Borrower shall immediately advise the Administrative Agent of such excess expenditure and, within fifteen days of the making of any such excess expenditure, prepare and file with the Administrative Agent an amended Operating Budget that reflects such expenditure in accordance with Section 6.6(f).

7.26 Rate Swap Transactions. The Borrower shall execute, on the same Business Day as the initial Borrowing of the Construction Loans, and thereafter maintain in full force and effect one or more Rate Swap Transactions with Rate Swap Counterparties which effectively protect the Borrower against the risk of LIBO Rate fluctuations above the weighted average of the fixed rates set forth in the Base Case Model delivered in accordance with Section 4.2(a)(m) and have an aggregate notional amount with respect to each Semi-Annual Date to occur after the Rate Swap Commencement Date equal to not less than 75.00% and not more than 105.00% of the Notional Loan Amount in respect of such Semi-Annual Date. For purposes of this Section, the "Notional Loan Amount" in respect of each Semi-Annual Date shall be (x) if determined prior to the Term Conversion Date (1) with respect to each Semi-Annual Date to occur prior to the last projected Disbursement on the Notional Disbursement Schedule, the aggregate principal amount of the Construction Loans that are projected to be outstanding on the immediately preceding Semi-Annual Date based on the Notional Disbursement Schedule and (2) with respect to each Semi-Annual Date to occur on or after the last projected Disbursement on the Notional Disbursement Schedule, the aggregate principal amount of the Construction Loans then-outstanding *plus* the aggregate undrawn Construction Loan Commitments *minus* the aggregate amount of Notional Amortization projected prior to such Semi-Annual Date, as set forth on the Projected Amortization Schedule and (y) if determined on and after the Conversion Date, the aggregate principal amount of the Term Loans outstanding as of the date of such determination *minus* the aggregate amount of scheduled principal payments projected to be made on the Term Loans prior to such Semi-Annual Date in accordance with the Amortization Schedules (in each case, after giving full effect to the application of prepayments of the Construction Loans or the Term Loans, as applicable, in accordance with Section 3.16 or 3.17(c)). Notwithstanding the foregoing: (I) on and after the Repricing Date, the Rate Swap

Transactions shall protect the Borrower against the risk of LIBO Rate fluctuations above the weighted average of the fixed rates set forth in the Base Case Model delivered in accordance with Section 4.7(i), and (II) on and after the Repricing Date until February 28, 2018, the aggregate notional amount with respect to each Semi-Annual Date shall be equal to not less than 73.00% and not more than 105.00% of the Notional Loan Amount in respect of such Semi-Annual Date.

7.27 Use of Proceeds. The Borrower will use the proceeds of the Loans solely for the purposes set forth in ARTICLE II.

7.28 Construction Budget. The Borrower shall not amend, revise or modify the Construction Budget to increase or decrease or otherwise change the number or type of Construction Budget categories, allocate or reallocate the Contingency to any Construction Budget category, or request any Construction Loans for the purpose of funding any Project Costs in excess of the amount contained in the Construction Budget for such category of Project Costs; except, (x) to the extent no CB Approval Threshold is triggered or exceeded or (y) if a CB Approval Threshold is triggered or exceeded upon obtaining the prior written approval specified on Appendix E. The Borrower shall promptly deliver to the Administrative Agent a copy of any revisions to the Construction Budget effected without the consent of the Administrative Agent pursuant to this Section 7.28.

7.29 Engineering, Procurement and Construction. Each Borrower Party shall cause the Project to be duly engineered and constructed and all equipment procured in accordance with the Construction Budget, the EPC Contracts and Good Utility Practices and shall cause the Project Completion Date and the Term Conversion Date to occur on or before the Date Certain. The Borrower shall not, and shall not permit the other Borrower Parties to, directly or indirectly, make or commit to make any expenditure in respect of the purchase or other acquisition of fixed or capital assets prior to the Project Completion Date, other than expenditures contemplated by the Construction Budget.

7.30 Completion; Completion Tests.

(a) No Borrower Party shall, without the prior written consent of the Administrative Agent (after consultation with the Independent Engineer), (i) take any action or fail to take any action (other than the execution of a Change Order in accordance with Section 7.15(c)) which could extend, or which could permit an extension of, any guaranteed completion or acceptance date (including the Mechanical Completion Guaranteed Dates (as such term is defined in the BOP Contract), Substantial Completion Guaranteed Date and the Final Completion Guaranteed Date (as each such term is defined in the Equipment Services Agreement) under the EPC Contracts, (ii) accept or confirm that the Project or any Generating Unit, as the case may be, has achieved Mechanical Completion (as such term is defined in the BOP Contract), Substantial Completion (as such term is defined in the Equipment Services Agreement), Final Completion (as such term is defined in the Equipment Services Agreement) or fail to advise the Construction Manager, the BOP Contractor, the Equipment Supplier and the Equipment Servicer of any defects, deficiencies or discrepancies in the Work of which such Borrower Party has knowledge, (iii) notify the Equipment Servicer that it accepts the Final Punchlist (as such term is defined in the Equipment Services Agreement), (iv) notify the BOP Contractor and that it accepts the Final Completion Punch List (as

such term is defined in the BOP Contract), (iv) issue, approve or execute any acceptance or completion certificate or otherwise confirm acceptance or completion of the Project or any portion or phase thereof, (v) waive, defer or reduce any of the requirements of any of the Completion Tests or Performance Guarantees, (vi) accept or confirm that the Project has satisfied any of the Completion Tests or met any of the Performance Guarantees, (vii) reject the Project or (viii) deliver any written direction to pay all or any portion of the Retainage Balance (as defined in the Retainage Escrow Agreement).

(b) No Borrower Party shall schedule or agree or permit to the scheduling of any Completion Tests without at providing at least five Business Days' prior written notice to the Administrative Agent and the Independent Engineer; provided, that if any such Completion Test is canceled or fails and a new Completion Test is scheduled within 72 hours of the originally scheduled Completion Test, then the relevant Borrower Party shall be required to promptly notify the Administrative Agent and Independent Engineer of its intent to run or rerun such Completion Test within such 72-hour period and shall give the Administrative Agent and the Independent Engineer reasonable advance notice prior to the conduct of such Completion Test within such 72-hour period.

7.31 Payment of Project Costs; Project Revenues.

(a) Any Project Revenues (other than proceeds of any Delay Liquidated Damages) received prior to the Term Conversion Date shall be deposited into the Construction Account and applied, in accordance with the Accounts Agreement, to the payment of Project Costs.

(b) Any proceeds of any Delay Liquidated Damages received prior to the Term Conversion Date shall be deposited into the Proceeds Account and applied, in accordance with the Accounts Agreement, to the mandatory prepayment of Loans in accordance with Section 3.17(a)(a)(iii).

7.32 EWG Status, etc. The Project Owner shall, prior to placing test power onto the grid, and at all times thereafter, (i) maintain its status as an EWG, (ii) be exempt in accordance with 18 CFR § 366.3 from the accounting, record-retention and reporting requirements of PUHCA, (iii) be authorized by FERC pursuant to the Market Rate Authorization to sell electric energy, capacity and ancillary services at negotiated rates under a market-based rate tariff and be in compliance with all requirements and regulations imposed by FERC in connection with such authorization and all waivers of regulation and blanket authorizations granted by FERC in connection with such authorization and (iv) be exempt from or not subject to, the Power Plant & Industrial Fuel Use Act set forth in 42 USC § 8301, *et. seq*.

7.33 Merger. On or prior to the Term Conversion Date, the Borrower shall cause the Merger to occur on terms and conditions satisfactory to the Requisite Financing Parties. Prior to effecting the Merger, the Borrower shall deliver to the Administrative Agent a plan of merger setting out each of the actions necessary to accomplish the Merger and attaching all documents required to be executed, delivered or filed to effect the Merger, including all such documents under the Delaware Limited Liability Company Act. The Merger shall not be effected without the prior written consent of the Administrative Agent (in consultation with White & Case LLP), such approval

not to be unreasonably delayed. Promptly upon effecting the Merger, the Borrower shall deliver to the Administrative Agent evidence thereof, including duly executed, delivered and filed copies of each of the documents referred to in the immediately preceding sentence.

7.34 Equipment. On the Business Day immediately following the Closing Date, the Borrower shall contribute, transfer, convey and deliver to the Procurement Sub, and the Procurement Sub shall accept from the Borrower, all of the Borrower's right, title and interest in any Equipment (as defined in the Equipment Purchase Agreement), including the Generating Units, in which the Borrower has title as of the Closing Date, free and clear of all Liens, other than (i) Permitted Priority Liens and (ii) other Permitted Liens to the extent junior to the Liens granted to the Collateral Agent under the Security Documents.

7.35 Further Assurances. Each Borrower Party shall make commercially reasonable efforts to promptly and duly execute and deliver to the Administrative Agent such documents and assurances to take such further action as the Administrative Agent may from time-to-time reasonably request in order to carry out more effectively the intent and purpose of the Financing Documents and to establish, protect and perfect the rights and remedies created or intended to be created in favor of the Secured Parties pursuant to the Financing Documents.

ARTICLE VIII

EVENTS OF DEFAULT

The occurrence of any of the following events or circumstances shall constitute an "Event of Default" hereunder:

8.1 Failure to Make Payments. (a) The Borrower shall fail to pay, in accordance with the terms of this Credit Agreement, any principal on any Loan on the date that such sum is due; (b) the Borrower shall fail to pay, in accordance with the terms of this Credit Agreement, any interest or fees on any Loan or Specified Letter of Credit within three Business Days after the date that such sum is due; or (c) the Borrower shall fail to pay, in accordance with the terms of this Credit Agreement, any cost, charge or other amount payable under any Financing Document (other than principal of, or interest or fees on, the Loans or any Specified Letter of Credit) within ten Business Days after the due date thereof, including amounts in respect of any required Liquidation Costs.

8.2 Certain Other Fundamental Breaches. (a) The Borrower shall fail (or shall fail to cause any Borrower Party) to perform, comply with or observe any covenant or agreement set forth in Sections 3.28(a), 3.28(b), 7.1, 7.5, 7.6, 7.7, 7.9, 7.11, 7.14(d), 7.14(e), 7.14(f) or 7.14 (g), 7.17, 7.19, 7.20, 7.21, 7.23, 7.27, 7.30, 7.33 and 7.34; (b) Borrower shall fail (or shall fail to cause any Borrower Party) to perform, comply with or observe any covenant or agreement set forth in ARTICLE VI; or (c) any Borrower Party shall fail (or Borrower shall fail to cause any Borrower Party) to perform, comply with or observe any covenant or agreement set forth in any other Financing Document within the cure period therein specified (to the extent such cure period is therein specified).

8.3 Breach of Covenant. The Borrower shall fail to perform or observe (including by failing to cause any Borrower Party to fail to perform or observe) any covenant or agreement to be performed or observed by it hereunder or under any other Financing Document and not otherwise specifically provided for in Section 8.1 or 8.2 and such failure shall continue unremedied for a period of thirty days after any Borrower Party has knowledge of the circumstances giving rise to such failure; provided that, if (a) such failure cannot be cured within such thirty-day period, (b) such failure is susceptible to cure within an additional sixty days, (c) the Borrower and any other relevant Borrower Party are proceeding with diligence and in good faith to cure such failure, (d) the existence of such failure does not impair the Liens on the Collateral and cannot reasonably be expected within the next succeeding sixty days to impair the Liens on the Collateral, (e) the existence of such failure has not had and cannot be reasonably expected to have either a Material Adverse Effect or a material adverse effect on the ability of any Material Project Participant to timely perform any of its material obligations under any of the Material Project Documents to which it is a party within the next sixty days and (f) prior to the expiration of the initial thirty-day cure period specified above, the Administrative Agent shall have received an Officer's Certificate certifying to the matters set forth in clauses (a), (b), (c), (d) and (e) above and stating what actions the Borrower and any other relevant Borrower Party are taking to cure such failure, then no Event of Default shall occur under this Section 8.3 until the earlier of (i) the date that the Borrower or any other relevant Borrower Party are no longer diligently and in good faith attempting to cure such failure and (ii) the sixtieth day following the last day of the initial thirty-day cure period specified above.

8.4 Breach of Representation or Warranty. Any representation or warranty made by the Borrower herein or in any other Financing Document or in any certificate delivered by or on behalf of the Borrower in accordance with any Financing Document to the Administrative Agent or any Secured Party shall contain in any material respect an untrue or misleading statement of a material fact as of the date such representation or warranty is made (or, if expressly made as of an earlier date, as of such earlier date); provided, that if (a) the circumstances that rendered such representation, warranty or certification untrue or misleading are reasonably susceptible of being removed, reversed or remedied within sixty days, (b) the Borrower and any other relevant Borrower Party are proceeding with diligence and in good faith to remove, reverse or remedy such circumstances, (c) the existence of such circumstances does not impair the Liens on the Collateral and cannot reasonably be expected within the next succeeding sixty days to impair the Liens on the Collateral, (d) the existence of such circumstances has not had and cannot be reasonably expected to have either a Material Adverse Effect or a material adverse effect on the ability of any Material Project Participant to timely perform any of its material obligations under any of the Material Project Documents to which it is a party within the next sixty days and (e) the Administrative Agent shall have received an Officer's Certificate certifying to the matters set forth in clauses (a), (b), (c) and (d) above and stating what actions the Borrower and any other relevant Borrower Party are taking to remove, reverse or remedy such circumstances, then no Event of Default shall occur under this Section 8.4 until the earlier of (i) the date that the Borrower or any other relevant Borrower Party are no longer diligently and in good faith attempting to remove, reverse or remedy such circumstances and (ii) the ninetieth day following the date that any Borrower Party has knowledge of such circumstances.

8.5 Breach of Financing Documents by Borrower Affiliates. (a) The Pledgor, the Project Owner or any other Affiliate of the Borrower that is a party to a Financing Document (if any) shall fail to perform or observe any covenant or agreement to be performed or observed by it thereunder; (b) any representation or warranty made by the Pledgor, the Project Owner or any other Affiliate of the Borrower that is a party to a Financing Document (if any) in any Financing Document or in any certificate delivered by or on behalf of such Person in accordance with any Financing Document to the Administrative Agent or any Secured Party shall contain in any material respect an untrue or misleading statement of a material fact as of the date such representation or warranty is made (or, if expressly made as of an earlier date, as of such earlier date); or (c) any other "default" or "event of default" (or event of substantively the same import) shall occur under any Financing Document and the Pledgor, the Project Owner or any other Affiliate of the Borrower that is a party to such Financing Document is the defaulting party; and, in each such case, all applicable cure periods under such Financing Document have expired.

8.6 Loss of Financing Documents. Any of the Financing Documents shall fail (a) to be in full force and effect, (b) to be enforceable or (c) to provide the Lenders, the Administrative Agent, the Collateral Agent, the Account Bank or any other Financing Party or their respective trustees, agents or other representatives with the material rights, titles, interest, remedies, powers or privileges intended to be created thereby (if any).

8.7 Actual or Prospective Failure of Security.

(a) The Collateral Agent shall fail to have a first-priority perfected Lien in any portion of the Collateral (on behalf of the Financing Parties as Secured Parties), subject only to (i) Permitted Priority Liens and (ii) other Permitted Liens to the extent junior to the Liens granted for the benefit of the Collateral (on behalf of the Financing Parties as Secured Parties) under the Security Documents.

(b) The validity of any Security Document or the applicability thereof to the Loans, any Notes, any Specified Letter of Credit or any other obligations purported to be secured or guaranteed thereby or any part thereof shall be disaffirmed by or on behalf of the Borrower or any other party thereto.

8.8 Breach or Loss of Material Project Documents.

(a) Any MPD Termination Event shall have occurred and be continuing under any Material Project Document.

(b) Any Material Project Participant that is a party to a Revenue Contract or, prior to the Term Conversion Date, the Equipment Purchase Agreement or the Equipment Services Agreement shall breach or be in default under any material term, condition, provision or covenant contained in such Revenue Contract, Equipment Purchase Agreement or Equipment Services Agreement (other than to the extent constituting a Bankruptcy Event) and such breach or default shall remain unremedied for the relevant cure period specified therein *plus* thirty days.

(c) Any Material Project Participant (other than in respect of a Revenue Contract or, prior to the Term Conversion Date, the Equipment Purchase Agreement or the Equipment Services Agreement) shall breach or be in default under any material term, condition, provision or covenant contained in any Material Project Document (other than to the extent constituting a Bankruptcy Event) and such breach or default shall remain unremedied for the relevant cure period specified in such Material Project Document; unless, within ninety days after the last day of such cure period (x) the relevant Borrower Party terminates such Material Project Document in accordance with its terms and (y) the relevant Borrower Party has entered into a replacement Material Project Document with a new counterparty in accordance with Section 8.8(e).

(d) Any Revenue Contract or, prior to the Term Conversion Date, the Equipment Purchase Agreement or the Equipment Services Agreement shall cease for any reason to be in full force and effect.

(e) Any Material Project Document (other than a Revenue Contract or, prior to the Term Conversion Date, the Equipment Purchase Agreement or the Equipment Services Agreement) shall cease for any reason to be in full force and effect unless terminated in accordance with its terms and not as a result of a default of the relevant Borrower Party thereunder; unless such other Material Project Document has been replaced by a replacement Material Project Document on substantively the same terms, subject to substantively the same conditions, and with a counterparty that is reasonably acceptable to the Administrative Agent within ninety days after the earliest of (x) the last day of any cure period afforded to the relevant Material Project Participant if terminated as a result of the breach of or default affecting such Material Project Participant (including a Bankruptcy Event), (y) the occurrence of such termination and (z) the failure to be in full force and effect.

8.9 Voluntary Bankruptcy Events.

(a) The Borrower, the Project Owner, any Affiliated Project Party or any Material Project Participant that is a party to a Revenue Contract, or, prior to the Term Conversion Date, the Equipment Purchase Agreement or the Equipment Services Agreement shall suffer a Voluntary Bankruptcy Event.

(b) Any Material Project Participant that is not an Affiliated Project Party, a party to a Revenue Contract, or, prior to the Term Conversion Date, the Equipment Purchase Agreement or the Equipment Services Agreement shall suffer a Voluntary Bankruptcy Event; unless (i) such Material Project Participant has been replaced as the counterparty under the relevant Material Project Document within ninety days of such Voluntary Bankruptcy Event by another Person reasonably acceptable to the Administrative Agent, (ii) the Material Project Participant has assumed such Material Project Document in accordance with the Bankruptcy Code and the Borrower has confirmed to the reasonable satisfaction of the Administrative Agent that such Material Project Participant is performing its post-petition obligations under, and has not rejected, such Material Project Document or (iii) both (A) such Material Project Document is rejected in bankruptcy or the Borrower terminates such Material Project Document in accordance with its terms and (B) the Borrower enters into a

replacement Material Project Document with a new counterparty in accordance with Section 8.8 (e) within the time period therein specified.

8.10 Involuntary Bankruptcy Events. The Borrower, the Project Owner or any Material Project Participant shall suffer an Involuntary Bankruptcy Event; provided, that it shall not be an Event of Default under this Section 8.10 if:

(a) within sixty days after the occurrence of the relevant Involuntary Bankruptcy Event, such Involuntary Bankruptcy Event shall have been cured by: (i) the lifting by the relevant Governmental Authority of the relevant suspension of payments, moratorium or similar arrangement; or (ii) the dismissal by the relevant court of the relevant petition commencing an involuntary case under applicable Debtor Relief Law or the relevant complaint or other action commencing any similar proceeding under any other applicable federal, state or other Law;

(b) within ninety days after the occurrence of the relevant Involuntary Bankruptcy Event, with respect solely to an Involuntary Bankruptcy Event suffered by a Material Project Participant that is not an Affiliated Project Party, a party to a Revenue Contract, or, prior to the Term Conversion Date, the Equipment Purchase Agreement or the Equipment Services Agreement, such Material Project Participant has been replaced as the counterparty under the relevant Material Project Document by another Person reasonably acceptable to the Administrative Agent; or

(c) within ninety days after the occurrence of the relevant Involuntary Bankruptcy Event, with respect solely to an Involuntary Bankruptcy Event suffered by a Material Project Participant that is not an Affiliated Project Party, a party to a Revenue Contract, or, prior to the Term Conversion Date, the Equipment Purchase Agreement or the Equipment Services Agreement either (i) the Material Project Participant has affirmed such Material Project Document in accordance with the Bankruptcy Code and the Borrower has confirmed to the reasonable satisfaction of the Administrative Agent that such Material Project Participant is performing its obligations under such Material Project Document or (ii) both (A) such Material Project Document is rejected in bankruptcy or the relevant Borrower Party terminates such Material Project Document in accordance with its terms and (B) the relevant Borrower Party enters into a replacement Material Project Document with a new counterparty in accordance with Section 8.8(e).

8.11 Judgments. A final judgment or final judgments that is or are not covered by available insurance, as acknowledged in writing by the provider of such insurance or as certified to the Administrative Agent by the Insurance Consultant, or that is or are not otherwise covered by an indemnity in favor of the relevant Borrower Party, shall be entered against any Borrower Party in the aggregate amount of $7,000,000 or more and remains or remain unstayed or unsatisfied, or no bond is posted in respect of such judgment or judgments, for more than 45 consecutive days after entry of the relevant judgment or judgments.

8.12 Loss of Material Permits. Any Material Permit shall be modified in a materially adverse manner, reversed, rescinded, revoked, terminated, withdrawn, suspended or cancelled or the Borrower shall fail (or fail to cause the relevant other Borrower Party or Material Project Participant) to obtain or renew any Material Permit when required by applicable Law, unless, in each such case, such Material Permit is reinstated, renewed or obtained (as applicable) within fifteen days after the expiration of any grace period in such Material Permit or under applicable Law in respect of such modification, reversal, rescission, revocation, termination, withdrawal, suspension, cancellation, lapse, or non-renewal or failure to obtain when required.

8.13 Loss of Collateral. Any material portion of any of the Borrower Parties' respective Property is Taken without fair value being paid therefor such as to allow replacement of such Property and/or prepayment in full of all Secured Obligations (other than indemnities) in each case, unless such Taking allows the relevant Borrower Party, in the Administrative Agent's reasonable judgment, to continue satisfying its obligations hereunder and under the other Transaction Documents notwithstanding the same.

8.14 Abandonment of Project. Any Borrower Party, any EPC Contractor or the O&M Operator shall have abandoned the construction or operation of the Project for fifteen consecutive days.

8.15 Environmental Claim.

(a) Any Environmental Claim shall have been asserted against any Borrower Party or any Project Participant; unless, any of the following apply (i) such Environmental Claim is adjudicated or otherwise resolved and the amount payable by the Borrower Parties thereunder is equal to or less than $7,000,000, (ii) the Independent Engineer confirms in writing at such times and from time-to-time as requested by the Administrative Agent that, if adversely determined, such Environmental Claim could not reasonably be expected to exceed $7,000,000 or otherwise have a Material Adverse Effect or (iii) such Environmental Claim has remained unadjudicated or unresolved for less than 365 days and the relevant Borrower Party or Project Participant confirms in writing at such times and from time-to-time as requested by the Administrative Agent that, in its reasonable determination, based on consultation with reputable counsel, such Environmental Claim has no reasonable likelihood of success.

(b) Any Release, emission, discharge or disposal of any Hazardous Materials shall have occurred in violation of any Environmental Law; unless, such event could not reasonably be expected to have a Material Adverse Effect.

8.16 Change in Control. A Change in Control shall have occurred.

8.17 Term Conversion. The Term Conversion Date shall not have occurred by the Date Certain.

8.18 Cross-Default. Any Secured Party that is not a Financing Party issues a Default Notice as defined in and in accordance with the Collateral Agreement in respect of an Event

of Default (as defined therein). The occurrence or existence of either (a) a default, event of default or other similar condition or event (however described) in respect of any Borrower Party under one or more agreements or instruments relating to Permitted Indebtedness (other than the Secured Obligations) of any of them (individually or collectively) where the aggregate principal amount of such agreements or instruments, either alone or together with the amount, if any, referred to in clause (b) below, is not less than $5,000,000 which has resulted in such Permitted Indebtedness becoming due and payable under such agreements or instruments before it would otherwise have been due and payable or (b) a default by any Borrower Party (individually or collectively) in making one or more payments under such agreements or instruments on the due date for payment (after giving effect to any applicable notice requirement or grace period) in an aggregate amount, either alone or together with the amount, if any, referred to in clause (a) above, of not less than $5,000,000.

8.19 ERISA. Both (a) any of the following shall occur: (i) one or more ERISA Events shall have occurred; (ii) there is or arises an Unfunded Pension Liability (taking into account only Pension Plans with positive Unfunded Pension Liability); or (iii) there is or arises any potential withdrawal liability under Section 4201 of ERISA, if any member of the ERISA Group were to withdraw completely from any and all Multiemployer Plans; and (b) there shall result from any such event or events described in clause (a) of this Section 8.19 the imposition of any Liens and such Liens, individually or in the aggregate, has had, or would reasonably be expected to have, a Material Adverse Effect.

ARTICLE IX

Remedies

9.1 Acceleration.

(a) If any Event of Default specified in Section 8.9 or Section 8.10 shall occur with respect to the Borrower, any other Borrower Party or the Pledgor, then automatically all Commitments shall immediately terminate and all Loans (with accrued and unpaid interest thereon) and all other amounts owing to the Secured Parties under the Financing Documents shall immediately become due and payable.

(b) If any Event of Default (other than an Event of Default referred to in Section 9.1(a)) shall occur, then the Administrative Agent (acting at the direction of the Requisite Financing Parties) may by notice to the Borrower (i) declare the Commitments to be terminated, whereupon all Commitments shall immediately terminate and/or (ii) declare the Loans, all accrued and unpaid interest thereon and all other amounts owing to the Secured Parties under the Financing Documents to be due and payable, whereupon the same shall become immediately due and payable.

(c) Except as expressly provided above in this Section 9.1, presentment, demand, protest and all other notices and other formalities of any kind are hereby expressly waived by the Borrower.

9.2 Letters of Credit.

(a) With respect to all Specified Letters of Credit for which presentment for honor shall not have occurred at the time of an acceleration of the Loans pursuant to Section 9.1,

the Borrower shall at such time deposit in a cash collateral account opened by the Administrative Agent an amount (without duplicating any amounts on deposit in accordance with Section 3.28) equal to the aggregate then undrawn and unexpired amount of such Specified Letters of Credit.

(b) Amounts held in such cash collateral account shall be applied by the Administrative Agent to the payment of drafts drawn under such Specified Letters of Credit, and the unused portion thereof after all such Specified Letters of Credit shall have expired or been fully drawn upon, all LC Loans shall have been paid in full and all other obligations of the Borrower hereunder and the Borrower Parties under the other Financing Documents shall have been paid in full, the balance, if any in such cash collateral account shall be returned to the Borrower (or such other Person as may be lawfully entitled thereto).

9.3 Other Remedies. Upon the occurrence and during the continuation of an Event of Default:

(a) The Administrative Agent may (and if instructed by the Requisite Financing Parties shall) direct the Collateral Agent, in accordance with the Collateral Agreement, to exercise any or all rights and remedies at law or in equity (in any combination or order that the Administrative Agent may elect to direct), including, without prejudice to the Collateral Agent's other rights and remedies, any and all rights and remedies available under any of the Collateral Documents.

(b) The Administrative Agent may (and if instructed by the Requisite Financing Parties shall) direct the EPC Contractors or any subcontractor to submit invoices to the account of the Borrower or any Borrower Party to the Administrative Agent, and the Lenders may, in their respective sole discretion, elect to make payments directly to the EPC Contractors, such subcontractor or any other Person.

(c) Any funds of any Lender or the Administrative Agent (including the proceeds of any Loans) used for any purpose referred to in this Section 9.3, whether or not in excess of the relevant Commitments (without obligating any Lender to fund any Loans in excess of such Commitments) shall (i) be governed hereby, (ii) constitute part of the Secured Obligations secured by the Security Documents, (iii) bear interest at the Default Rate and (iv) be payable upon demand by such Lender or the Administrative Agent, as applicable.

ARTICLE X

THE AGENTS; VOTING

10.1 Appointment and Authorization.

(a) Each Financing Party hereby irrevocably (subject to Section 10.9) appoints, designates and authorizes the Administrative Agent to take such action on its behalf under the provisions of this Credit Agreement and each other Financing Document to which it is a party and to exercise such powers and perform such duties as are expressly delegated to it by the terms of

this Credit Agreement or any such other Financing Document, together with such powers as are reasonably incidental thereto.

(b) Each Financing Party hereby irrevocably consents to (i) the appointment by the Administrative Agent of ING Capital LLC as Collateral Agent under the Collateral Agreement, and (ii) the appointment by the Collateral Agent of Mufg Union Bank, N.A. as Account Bank under the Accounts Agreement (each such person, together with the Administrative Agent, an "Agent").

(c) Each of the Financing Parties authorizes the Administrative Agent to execute, deliver and perform (and authorizes the Administrative Agent to direct each other Agent to execute, deliver and perform) each of the Financing Documents to which the Administrative Agent (or such other Agent) is or is intended to be a party and each Financing Party agrees to be bound by all of the agreements of the Administrative Agent (and each such other Agent) contained in the Financing Documents. Each of the Financing Parties agrees that upon execution of the Collateral Agreement such Financing Party will be bound by the provisions thereof in accordance therewith as a Secured Creditor (as defined therein) to the same extent as if such Financing Party were a party thereto.

(d) Notwithstanding any provision to the contrary contained elsewhere in this Credit Agreement or in any other Financing Document, none of the Agents shall have any duties or responsibilities except those expressly set forth herein and in the other Financing Documents, nor shall any of the Agents have or be deemed to have any fiduciary relationship with any Financing Party, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Credit Agreement or any other Financing Document or otherwise exist against any of the Agents. Without limiting the generality of the foregoing sentence, the use of the terms "Administrative Agent", "Collateral Agent" or "Account Bank" in this Credit Agreement with reference to the Administrative Agent, or the Collateral Agent or the Account Bank is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable Law. Instead, such terms are used merely as a matter of market custom, and are intended to create or reflect only a relationship between independent contracting parties.

10.2 Delegation of Duties. The Administrative Agent may execute any of its duties under this Credit Agreement or any other Financing Document by or through agents, employees or attorneys-in-fact and shall be entitled to advice of counsel concerning all matters pertaining to such duties. The Administrative Agent shall not be responsible to the Financing Parties or the Borrower for the negligence or misconduct of any agent or attorney-in-fact that it selects with reasonable care.

10.3 Liability of the Administrative Agent. The Administrative Agent shall not (a) be liable for any action taken or omitted to be taken by it under or in connection with this Credit Agreement or any other Transaction Document or the transactions contemplated hereby (except for its own gross negligence or willful misconduct as determined by a court of competent jurisdiction in a final and non-appealable decision) or (b) be responsible in any manner to any of the Financing Parties or any other Person for any recital, statement, representation or warranty made by the Borrower or any Affiliate of the Borrower, or any officer thereof, contained in this Credit Agreement or in any other Transaction Document, or in any certificate, report, statement or other document referred to or provided for in, or received by the Administrative Agent under or in connection with,

this Credit Agreement or any other Transaction Document, or for the value of or title to any Collateral, or the validity, effectiveness, genuineness, enforceability or sufficiency of this Credit Agreement or any other Transaction Document, or for any failure of the Borrower or any other party to any Transaction Document to perform its obligations hereunder or thereunder. The Administrative Agent shall not be under any obligation to any Secured Party to ascertain or to inquire as to the observance or performance of any of the agreements contained in, or conditions of, this Credit Agreement or any other Transaction Document, or to inspect the Properties, books or records of the Borrower or any Affiliate of the Borrower.

10.4 Reliance by the Administrative Agent. The Administrative Agent shall be entitled to rely, and shall be fully protected in relying, upon any writing, resolution, notice, consent, certificate, affidavit, letter, telegram, facsimile, telex or telephone message, statement or other document or conversation believed by it to be genuine and correct and to have been signed, sent or made by the proper Person or Persons, and upon advice and statements of legal counsel (including counsel to the Borrower), independent accountants and other experts selected by the Administrative Agent. The Administrative Agent shall be fully justified in failing or refusing to take any action under this Credit Agreement or any other Transaction Document (a) if such action would, in the opinion of the Administrative Agent (upon consultation with legal counsel), be contrary to applicable Law or the terms of any Financing Document, (b) if such action is not specifically provided for in the Financing Documents to which the Administrative Agent is a party, and it shall not have received advice as provided in the foregoing sentence approving or concurring in any such action or the approval of the Requisite Financing Parties, as it deems appropriate or (c) unless, if it so requests, the Administrative Agent shall first be indemnified to its satisfaction by the Financing Parties against any and all liabilities and expenses which may be incurred by it by reason of taking or continuing to take any such action. The Administrative Agent shall in all cases be fully protected in acting, or in refraining from acting, under this Credit Agreement or any other Transaction Document in accordance with a request or consent of the Requisite Financing Parties and such request or consent and any action taken or failure to act pursuant thereto shall be binding upon all of the Financing Parties.

10.5 Notice of Default. The Administrative Agent shall not be deemed to have knowledge or notice of the occurrence of any Default or Event of Default, except with respect to defaults in the payment of principal, interest and fees required to be paid to the Administrative Agent for the account of the Financing Parties, unless the Administrative Agent shall have received written notice from a Financing Party or the Borrower referring to this Credit Agreement, describing such Default or Event of Default and stating that such notice is a "Notice of Default." If the Administrative Agent receives any such notice of the occurrence of a Default or an Event of Default from the Borrower, it shall give notice thereof to the Financing Parties. The Administrative Agent shall take such action with respect to such Default or Event of Default as may be requested by the Requisite Financing Parties in accordance with this ARTICLE X; provided, that unless and until the Administrative Agent has received any such request, the Administrative Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Default or Event of Default as it shall deem advisable or in the best interest of the Financing Parties.

10.6 Credit Decision. Each Financing Party acknowledges that none of the Agents or the Agent-Related Persons, the Bookrunner or any Mandated Lead Arranger (collectively, the "Applicable Group") has made any representation or warranty to it, and that no act by any member of the Applicable Agent hereafter taken, including any review of the Project or of the affairs of any Borrower Party, shall be deemed to constitute any representation or warranty by any member of the Applicable Group to any Financing Party. Each Financing Party represents to each member of the Applicable Group that it has, independently and without reliance upon any member of the Applicable Group and based on such documents and information as it has deemed appropriate, made its own appraisal of and investigation into the business, prospects, operations, Property, financial and other condition and creditworthiness of each Borrower Party, the Pledgor, the Project, the value of and title to any Collateral, and all applicable bank regulatory Laws relating to the transactions contemplated hereby, and made its own decision to enter into this Credit Agreement and to extend credit to the Borrower hereunder. Each Financing Party also represents that it will, independently and without reliance upon any member of the Applicable Group and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit analysis, appraisals and decisions in taking or not taking action under this Credit Agreement and the other Transaction Documents, and to make such investigations as it deems necessary to inform itself as to the business, prospects, operations, Property, financial or other condition and creditworthiness of each Borrower Party, the Pledgor, the Project, the value of and title to any Collateral, and all applicable bank regulatory Laws relating to the transaction contemplated hereby. Except for notices, reports and other documents expressly required pursuant to any Financing Document to be furnished to the Financing Parties by the Agents, no member of the Applicable Group shall have any duty or responsibility to provide any Financing Party with any credit or other information concerning the business, prospects, operations, Property, financial and other condition or creditworthiness of the Project, the Borrower Parties or the Pledgor, the value of and title to any Collateral, and all applicable bank regulatory Laws relating to the transaction s contemplated hereby which may come into the possession of any Agent or any member of the Applicable Group.

10.7 Indemnification of Administrative Agent.

(a) Whether or not the transactions contemplated hereby are consummated, the Financing Parties shall indemnify upon demand the Administrative Agent (to the extent not reimbursed by or on behalf of the Borrower and without limiting the obligation of the Borrower to do so), *pro rata* in accordance with the aggregate principal amount of the Loans held or committed by such Financing Party, from and against any and all Indemnified Liabilities; provided, that (i) such Indemnified Liabilities were incurred by or asserted against the Administrative Agent (or the relevant Indemnified Person) in its capacity as such and (ii) no Financing Party shall be liable for the payment to the Administrative Agent of any portion of such Indemnified Liabilities resulting solely from the gross negligence or willful misconduct of the relevant Indemnified Person (as determined by a court of competent jurisdiction in a final and non-appealable decision).

(b) Without limiting the foregoing, each Financing Party shall reimburse the Administrative Agent upon demand for its ratable share as provided above of any costs and out-of-pocket expenses (including Attorney Costs) incurred by the Administrative Agent in connection with the preparation, execution, delivery, administration, modification, amendment or enforcement

(whether through negotiations, legal proceedings or otherwise) of, or legal advice in respect of rights or responsibilities under, this Credit Agreement, any other Transaction Document or any document contemplated by or referred to herein, to the extent that the Administrative Agent is not reimbursed for such expenses by or on behalf of the Borrower; provided, that such costs and out-of-pocket expenses (including Attorney Costs) incurred by the Administrative Agent were incurred by it in its capacity as such.

(c) The undertakings of the Financing Parties in this Section 10.7 shall survive the payment of all Secured Obligations hereunder and the resignation or replacement of the Administrative Agent.

10.8 Individual Capacity. The Administrative Agent and its Affiliates may make loans to, issue letters of credit for the account of, accept deposits from, acquire Equity Interests in and generally engage in any kind of banking, trust, financial advisory, underwriting or other business with the Borrower or its Affiliates as though it were not the Administrative Agent hereunder and without notice to or consent of the Financing Parties. The Financing Parties acknowledge that, pursuant to such activities, the Administrative Agent or any of its Affiliates may receive information regarding the Borrower or its Affiliates (including information that may be subject to confidentiality obligations in favor of the Borrower or such Affiliates) and acknowledge that the Administrative Agent shall be under no obligation to provide such information to them. The Administrative Agent, in its capacity as Financing Party, shall have the same rights and powers under this Credit Agreement as any other Financing Party and may exercise the same as though it were not an agent, and the terms "Financing Party" and "Financing Parties" shall include the Administrative Agent in its individual capacity.

10.9 Successor Agent.

(a) Subject to the appointment and acceptance of a successor as provided below, (i) the Administrative Agent may resign at any time by giving thirty days prior written notice thereof to the other Agents, the Financing Parties and the Borrower and (ii) the Administrative Agent may be removed at any time with or without cause by the Requisite Financing Parties (excluding, for purposes of the determination thereof, the Commitments and Loans held by the Administrative Agent). Upon any such resignation or removal, the Requisite Financing Parties (in consultation with the Borrower unless an Event of Default has occurred and is continuing) shall have the right to appoint a successor to the Administrative Agent. If no successor Administrative Agent shall have been appointed by the Requisite Financing Parties and shall have accepted such appointment within thirty days after the giving of notice by the Administrative Agent of its resignation or the giving of notice by the Requisite Financing Parties of their removal of the Administrative Agent, then the resigning or removed Administrative Agent may appoint a successor satisfactory to the Requisite Financing Parties. Upon the acceptance of its appointment as a successor Administrative Agent hereunder, such successor Administrative Agent shall thereupon succeed to and become vested with all the rights, powers, privileges and duties of such resigning or removed Administrative Agent, and such resigning or removed Administrative Agent shall be discharged from its duties and obligations hereunder.

(b) The Administrative Agent shall, on the instructions of the Requisite Financing Parties, vote to cause the removal and replacement of any other Agent in accordance with the relevant Financing Documents.

(c) After the Administrative Agent's resignation or removal, the provisions of this ARTICLE X and of Sections 11.1 and 11.2 shall inure to its benefit as to any actions taken or omitted to be taken by it while it was the Administrative Agent.

10.10 Registry. The Borrower hereby designates the Administrative Agent, and the Administrative Agent agrees, to serve as the Borrower's agent, solely for purposes of this Section 10.10, to maintain a register at one of its offices in New York, New York (the "Register") on which it will record the Commitments from time-to-time of each of the Financing Parties, the Loans made by each of the Financing Parties and each repayment in respect of the principal amount of the Loans of each Financing Party. Failure to make any such recordation, or any error in such recordation shall not affect the Borrower's obligations in respect of such Loans. With respect to any Financing Party, the transfer of the Commitments of such Financing Party and the rights to the principal of, and interest on, any Loan made pursuant to such Commitments shall not be effective until such transfer is recorded on the Register with respect to ownership of such Commitments and Loans, and prior to such recordation all amounts owing to the transferor with respect to such Commitments and Loans shall remain owing to the transferor. The registration of an assignment or transfer of all or part of any Commitments and Loans shall be recorded by the Administrative Agent on the Register only upon the acceptance by the Administrative Agent of a properly executed and delivered Assignment and Acceptance pursuant to Section 11.11.

10.11 Voting.

(a) Whenever the Administrative Agent, pursuant to any provision of this Credit Agreement or any other Financing Document, is requested or required to or may act at the direction or with the approval or consent of the Requisite Financing Parties, an affirmative vote of the Requisite Financing Parties shall be required to give such direction, approval or consent, which vote shall be taken in accordance herewith. The Administrative Agent may at any time solicit direction from the Requisite Financing Parties as to any action that it may be requested or required to take, or which it may propose to take, in the performance of its obligations under this Credit Agreement and the other Financing Documents, and shall be fully justified in failing or refusing to act whether under this Credit Agreement or any other Financing Document until it shall have received such direction.

(b) Notwithstanding the foregoing, no waiver, amendment, supplement or modification to this Credit Agreement or any other Financing Document shall (i) increase the Commitment of any Financing Party (it being understood that waivers or modifications of conditions precedent, covenants, Defaults or Events of Default or of a mandatory reduction in any Commitment, shall not constitute an increase of any Commitment of any Financing Party), without the prior written consent of such Financing Party, (ii) postpone or delay the scheduled Maturity Date of any Loan, without the prior written consent of each affected Financing Party, or postpone or delay any date fixed by this Credit Agreement or any other Financing Document for any payment of principal, interest or Fees due to any Financing Party hereunder or under any other Financing Document,

without the prior written consent of such Financing Party, (iii) reduce the principal of, or the rate of interest specified in any Financing Document on, any Loan of any Financing Party, without the prior written consent of such Financing Party, (iv) direct the Administrative Agent to direct or permit any other Agent to release all or substantially all of the Collateral except as shall be otherwise provided in any Security Document or other Financing Document or consent to the assignment or transfer by the Borrower of any of its respective obligations under this Credit Agreement or any other Financing Document, without the prior written consent of each Financing Party, (v) amend, modify or waive any provision of this Section 10.11 or Sections 11.1 or 11.2, without the prior written consent of each Financing Party, (vi) reduce the percentage specified in or otherwise amend the definition of Requisite Financing Parties, without the prior written consent of each Financing Party (it being understood that, with the consent of the Requisite Financing Parties (determined before giving effect to the additional extensions of credit), extensions of credit pursuant to this Credit Agreement in addition to those set forth in or contemplated by this Credit Agreement on the Closing Date may be included for the purposes of the definition of the term "Requisite Financing Parties" on substantially the same basis as the extensions of Loans and Commitments are included on the Closing Date) or (vii) amend, modify or waive any provision of Section 3.22 or direct the Administrative Agent to vote in favor of the amendment, modification or waiver of Sections 7.1, 7.7 or 7.8 of the Collateral Agreement or the definitions of Secured Debt or Secured Obligations set forth therein, without the prior written consent of each Financing Party.

(c) If any Affiliate of the Borrower Parties is a Financing Party, then the amount of Loans and Commitments held by such Affiliate of the Borrower Parties shall be disregarded for purposes of calculating the aggregate Loans and Commitments underlying the definitions of Majority Lenders, Requisite Financing Parties, Requisite Revolver Lenders, Requisite TALC Participating Banks, Requisite Tranche A Lenders, Requisite Tranche B Lenders, Requisite Term Lenders and for all other voting provisions hereunder.

(d) The Administrative Agent shall act under the Collateral Agreement (including, without limitation, in connection with any actions pursuant to Sections 5.4 and 6.1 of the Collateral Agreement) in accordance with the provisions of this Credit Agreement and such actions by the Administrative Agent shall be subject to the rights of the Financing Parties set forth in Section 10.11(b) hereof.

10.12 Acknowledgement of Collateral Agreement. Notwithstanding anything herein to the contrary, the Liens granted to the Collateral Agent for the benefit of the Secured Parties pursuant to this Credit Agreement and the exercise of any right or remedy by the Collateral Agent for the benefit of the Secured Parties hereunder are subject to the provisions of the Collateral Agreement. In the event of any conflict between the terms of the Collateral Agreement and this Credit Agreement, the terms of the Collateral Agreement shall govern and control.

ARTICLE XI

MISCELLANEOUS

11.1 Costs, Expenses and Attorneys' Fees. On the Closing Date, the Borrower shall pay to the Administrative Agent, the other Agents, the Joint Bookrunners, the Lead Arrangers, the Lenders and the Issuing Bank all reasonable costs and expenses of each such party and their respective Affiliates in connection with the preparation, issuance, delivery, filing, recording and administration of this Credit Agreement, the other Transaction Documents, and any other documents which may be delivered in connection herewith or therewith, including the reasonable and documented fees, expenses and disbursements of White & Case LLP, Sheppard Mullin Richter and Hampton LLP, and each Independent Consultant. In addition, from and after the Closing Date, the Borrower shall pay to the Administrative Agent all of its reasonable out-of-pocket costs and expenses in connection with the costs of administering this Credit Agreement, the Loans or Commitments or any Specified Letter of Credit, and any other documents contemplated hereby (including any amendments, waivers or consents thereof or thereto, whether or not granted), including, without duplication, (a) the reasonable and documented fees, expenses and disbursements of White & Case LLP, one other counsel in respect of each specialty or jurisdiction not within the competency of White & Case LLP, (b) the reasonable and documented fees, expenses and disbursements of the Independent Consultants incurred in connection with such administration of this Credit Agreement or the Loans or Commitments or any Specified Letter of Credit and any other documents contemplated hereby and (c) the reasonable out-of-pocket travel, telecommunication, filing and recording, due diligence, computer, duplication, messenger, appraisal, Intralinks, Debt Domain or similar services, audit costs, and other expenses incurred by the Administrative Agent in connection with the administration of this Credit Agreement; provided, that the Borrower shall be responsible only for the cost of two visits to the Site per calendar year by the Administrative Agent prior to the Term Conversion Date and one visit to the Site per calendar year by the Administrative Agent after the Term Conversion Date (in each case, unless an Event of Default has occurred and is continuing). The Borrower shall reimburse the Administrative Agent, the Lenders and the Issuing Banks for all costs and expenses, including attorneys' fees, expended or incurred by the Administrative Agent, any Lender and/or the Issuing Banks in enforcing this Credit Agreement or the other Financing Documents in connection with any Event of Default or Default (including any Bankruptcy Event suffered by the Borrower), or in connection with preservation of their rights hereunder or thereunder or in connection with any refinancing, any restructuring or similar work-out negotiations with the Borrower in respect of this Credit Agreement, in actions for declaratory relief in any way related to this Credit Agreement, in collecting any sum which becomes due to the Administrative Agent, any Lender and/or the Issuing Banks on the Notes or any Specified Letter of Credit or under any Financing Document. All undisputed amounts payable pursuant to this Section 11.1 after the Closing Date shall be payable within thirty days following the date of receipt by the Borrower of written notice thereof (together with reasonable supporting documentation in respect thereof); provided, that if a Default or Event of Default has occurred and is continuing, then such amounts shall be payable within five days following receipt by the Borrower of written notice thereof.

11.2 Indemnity. Whether or not the transactions contemplated hereby are consummated:

(a) The Borrower shall, and shall cause each other Borrower Party to, defend, protect, indemnify, save and hold the Administrative Agent and each Secured Party, Bookrunner and Mandated Lead Arranger and each of their respective officers, directors, employees, counsel, agents, attorneys-in-fact and Affiliates (each, an "Indemnified Person") harmless from and against any and all liabilities, obligations, losses, damages, penalties, claims, actions, judgments, suits, costs, charges, expenses or disbursements (including Attorney Costs and consultants' fees and disbursements) of any kind or nature whatsoever which may at any time (including at any time following repayment of the Loans, the termination, resignation or replacement of the Administrative Agent or the replacement of any Financing Party) be imposed on, incurred by or asserted against any such Person in any way relating to or arising out of this Credit Agreement or any other Transaction Document, including the Security Documents and any other document or instrument contemplated by or referred to herein or therein, or the transactions contemplated hereby and thereby, or any action taken or omitted by any such Person under or in connection with any of the foregoing, including with respect to the exercise by any Secured Party of any of its respective rights or remedies under any of the Financing Documents, and any investigation, litigation or proceeding (including any bankruptcy, insolvency, reorganization or other similar proceeding or appellate proceeding) related to this Credit Agreement or any other Transaction Document or the Loans, or the use of the proceeds thereof, whether or not any Indemnified Person is a party thereto (all the foregoing, collectively, the "Indemnified Liabilities"); provided, that no Borrower Party shall have an obligation hereunder to any Indemnified Person with respect to Indemnified Liabilities arising from the gross negligence or willful misconduct of such Indemnified Person (as determined by a court of competent jurisdiction in a final and non-appealable decision).

(b) Environmental Indemnity.

(i) Without in any way limiting the generality of the other provisions contained in this Section 11.2, the Borrower agrees, and shall cause each other Borrower Party, to defend, protect, indemnify, save and hold harmless each Indemnified Person, whether as beneficiary of any of the Security Documents, as a mortgagee in possession, as successor-in-interest to the Borrower or any other Borrower Party by foreclosure deed or deed in lieu of foreclosure or otherwise, from and against any and all liabilities, obligations, losses, damages (including foreseeable and unforeseeable consequential damages and punitive claims), penalties, claims, actions, judgments, suits, costs, fees, charges, expenses or disbursements (including Attorney Costs and consultants' fees and disbursements) and expenses (collectively, "Losses") of any kind or nature whatsoever that may at any time be incurred by, imposed on, asserted or awarded against any such Indemnified Person directly or indirectly based on, or arising out of or resulting from: (A) the actual or alleged presence of Hazardous Materials on, in, under or affecting all or any portion of the Site whether or not the same originates or emanates from the Site or any property adjoining or adjacent to the Site or from properties at which any Hazardous Materials generated, stored or handled by the Borrower were Released or disposed of; (B) any

Environmental Claim relating to the Site or the Project; or (C) the exercise of any Secured Party's rights under any of the provisions of the Security Documents (the "Indemnified Matters"), whether any of the Indemnified Matters arise before or after foreclosure of any of the Liens or other taking of title to all or any portion of the Collateral by any Secured Party, including: (x) the costs of removal of any and all Hazardous Materials from all or any portion of the Site or any Property adjoining or adjacent to the Site; (y) costs required to take reasonable precautions to protect against the Release of Hazardous Materials at or from the Site into the air, any body of water, any other public domain or any surrounding areas; and (z) costs incurred to comply, in connection with all or any portion of the Site or, to the extent actually or potentially affected by Hazardous Materials at or from the Site, any surrounding areas, with all applicable Environmental Laws with respect to Hazardous Materials, except to the extent that any such Indemnified Matter arises from the gross negligence or willful misconduct of such Indemnified Person (as determined by a court of competent jurisdiction in a final and non-appealable decision).

(ii) In no event shall any Site visit, observation or testing by any Indemnified Person (or any representative of any such Indemnified Person) be deemed to be a representation or warranty that Hazardous Materials are or are not present in, on, or under the Site, or that there has been or shall be compliance with any Environmental Law. Except to the extent provided in a reliance letter, neither the Borrower nor any other Person is entitled to rely on any Site visit, observation or testing by any Indemnified Person. No Indemnified Person owes any duty of care to protect the Borrower or any other Person against, or to inform the Borrower or any other Person of, any Hazardous Materials or any other adverse condition affecting the Site or the Project, except and only to the extent such Hazardous Materials were actually Released or such adverse condition was actually caused by the negligent actions of such Indemnified Person or its representatives in connection with a Site visit or invasive testing at the Site. No Indemnified Person shall be obligated to disclose to the Borrower or any other Person any report or findings made as a result of, or in connection with, any Site visit, observation or testing by any Indemnified Person.

(c) Survival; Defense. The obligations in this Section 11.2 shall survive repayment in full of the Loans and payment of all other Secured Obligations. At the election of any Indemnified Person, the Borrower's indemnification obligations under this Section 11.2 shall include the obligation to defend such Indemnified Person using legal counsel satisfactory to such Indemnified Person, at the sole cost and expense of the Borrower. All amounts owing under this Section 11.2 shall be paid within thirty days after written demand therefore.

(d) Contribution. To the extent that any undertaking in the preceding paragraphs of this Section 11.2 may be unenforceable because it is violative of any Law or public policy, the Borrower will contribute the maximum portion that it is permitted to pay and satisfy under applicable Law to the payment and satisfaction of such undertaking.

(e) Settlement. So long as the Borrower is in compliance with its obligations under this Section 11.2, the Borrower shall not be liable to any Indemnified Person under this Section 11.2 for any settlement made by such Indemnified Person without the Borrower's consent.

11.3 Notices.

(a) All notices, requests and other communications provided for hereunder shall be in writing and shall be faxed, sent or delivered to the physical or e-mail address or facsimile number specified on Appendix G or to such other physical or e-mail address or facsimile number as shall be designated by such party in a written notice to the other parties hereto.

(b) All such notices, requests and communications (i) sent by express courier will be effective upon delivery to or refusal to accept delivery by the addressee, (ii) transmitted by facsimile will be effective when sent and facsimile confirmation is received, (iii) on the date on which such notice or other communication has been made generally available on an Approved Electronic Platform, Internet website or similar telecommunication device to the class of Person(s) being notified (regardless of whether any such Person must accomplish, and whether or not any such Person shall have accomplished, any action prior to obtaining access to such items, including registration, disclosure of contact information, compliance with a standard user agreement or undertaking a duty of confidentiality) and such Person has been notified in respect of such posting that a communication has been posted to such Approved Electronic Platform, Internet website or similar telecommunication device if delivered by posting to such Approved Electronic Platform, Internet website or similar telecommunication device requiring that a user have prior access to such Approved Electronic Platform, Internet website or similar telecommunication device and (iv) sent by e-mail will be effective when sent and electronic confirmation of receipt is received, except that (x) all notices and other communications to the Administrative Agent shall not be effective until actually received during normal business hours and (y) any communications transmitted by the Borrower by facsimile or e-mail shall be immediately confirmed by a telephone call to the recipient at the number specified on Appendix G and shall be followed promptly by a hard copy original thereof by express courier.

(c) Notwithstanding Sections 11.3(a) and 11.3(b) (unless the Administrative Agent requests that the provisions of Sections 11.3(a) and 11.3(b) be followed) and any other provision in this Credit Agreement or any other Financing Document providing for the delivery of any Approved Electronic Communication by any other means, the Borrower, the other Borrower Parties and the Pledgor, as the case may be, shall deliver all Approved Electronic Communications to the Administrative Agent by properly transmitting such Approved Electronic Communications in an electronic/soft medium in a format acceptable to the Administrative Agent to Sven.Wellock@ing.com or such other electronic mail address (or similar means of electronic delivery) as the Administrative Agent may notify to the Borrower. Nothing in this Section 11.3(c) shall prejudice the right of the Administrative Agent or any Lender to deliver any Approved Electronic Communication to any Secured Party in any manner authorized in this Credit Agreement or to request that the relevant Borrower Parties or the Pledgor effect delivery in such manner.

(d) Posting of Approved Electronic Communications.

(i) The Borrower and each Lender agree that the Administrative Agent may, but shall not be obligated to, make the Approved Electronic Communications available to the Lenders by posting such Approved Electronic Communications on Debt Domain™ or a substantially similar electronic platform chosen by the Administrative Agent to be its electronic transmission system (the "Approved Electronic Platform").

(ii) Although the Approved Electronic Platform and its primary web portal are secured with generally-applicable security procedures and policies implemented or modified by the Administrative Agent from time to time (including, as of the date of this Credit Agreement, a dual firewall and a User ID/Password Authorization System) and the Approved Electronic Platform is secured through a single-user-per-deal authorization method whereby each user may access the Approved Electronic Platform only on a deal-by-deal basis, each Lender and each Secured Party acknowledges and agrees that the distribution of material through an electronic medium is not necessarily secure and that there are confidentiality and other risks associated with such distribution. In consideration for the convenience and other benefits afforded by such distribution and for the other consideration provided hereunder, the receipt and sufficiency of which is hereby acknowledged, each Lender and each Secured Party hereby approves distribution of the Approved Electronic Communications through the Approved Electronic Platform and understands and assumes the risks of such distribution.

(e) THE APPROVED ELECTRONIC PLATFORM AND THE APPROVED ELECTRONIC COMMUNICATIONS ARE PROVIDED "AS IS" AND "AS AVAILABLE". NONE OF THE ADMINISTRATIVE AGENT NOR ANY OF ITS AFFILIATES WARRANT THE ACCURACY, ADEQUACY OR COMPLETENESS OF THE APPROVED ELECTRONIC COMMUNICATIONS OR THE APPROVED ELECTRONIC PLATFORM AND EACH EXPRESSLY DISCLAIMS ANY LIABILITY FOR ERRORS OR OMISSIONS IN THE APPROVED ELECTRONIC COMMUNICATIONS OR THE APPROVED ELECTRONIC PLATFORM. NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS, IS MADE BY THE ADMINISTRATIVE AGENT OR ANY OF ITS AFFILIATES IN CONNECTION WITH THE APPROVED ELECTRONIC COMMUNICATIONS OR THE APPROVED ELECTRONIC PLATFORM.

(f) Each Lender agrees that the Administrative Agent may, but (except as may be required by applicable law) shall not be obligated to, store the Approved Electronic Communications on the Approved Electronic Platform in accordance with the Administrative Agent's generally-applicable document retention procedures and policies.

(g) The Borrower acknowledges and agrees, and shall cause each other Borrower Party to acknowledge and agree, that any agreement of the Lenders to receive certain notices by telephone, Approved Electronic Platform, e-mail or facsimile is solely for the convenience and at the request of the Borrower Parties and the Pledgor. The Lenders shall be entitled to rely on the authority of any Person purporting to be a Person authorized by the Borrower to give such notice and the Lenders shall not have any liability to the Borrower or other Person on account of any action taken or not taken by any of the Secured Parties in reliance upon such telephonic, e-mail or facsimile notice.

(h) Notwithstanding any other provision of this Section 11.3 to the contrary, any communication in respect of the Borrower Parties and their Affiliates which is transmitted through the Approved Electronic Platform shall be subject to any confidentiality agreements entered into between any Borrower Party and any Lender or Agent or Issuing Bank in respect of this Credit Agreement, the other Financing Documents and Transaction Documents and the transactions contemplated.

11.4 Benefit of Agreement. This Credit Agreement shall be binding upon and inure to the benefit of and be enforceable by the respective successors and permitted assigns of the parties hereto. The Borrower may not assign or otherwise transfer any of its rights or obligations under this Credit Agreement or any of the other Financing Documents.

11.5 No Waiver; Remedies Cumulative. No failure or delay on the part of any of the Secured Parties or the holder of any Note in exercising any right, power or privilege hereunder or under any other Financing Document and no course of dealing between the Borrower and any Secured Party or the holder of any Note shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege hereunder or under any other Financing Document preclude any other or further exercise thereof or the exercise of any other right, power or privilege hereunder or thereunder. No notice to or demand on the Borrower in any case shall entitle the Borrower to any other or further notice or demand in similar or other circumstances or constitute a waiver of the rights of any Secured Party or the holder of any Note to take any other or further action in any circumstances without notice or demand. All remedies, either under this Credit Agreement or any other Financing Document or pursuant to any applicable Law or otherwise afforded to any Secured Party or the holder of any Note shall be cumulative and not alternative or exclusive in nature.

11.6 Third Party Beneficiaries. (a) The agreement of each Lender to make extensions of credit to the Borrower and each Issuing Bank to issue any Specified Letter of Credit on the terms and conditions set forth in this Credit Agreement and the other Financing Documents is solely for the benefit of the Borrower and the other Borrower Parties, and no other Person (including any other Project Participant, or any contractor, sub-contractor, supplier, worker, carrier, warehouseman, materialman or vendor furnishing supplies, goods or services to or for the benefit of the Borrower, any other Borrower Party or the Project or receiving services from the Project) shall have any rights hereunder against any Secured Party with respect to the Loans, the Specified Letters of Credit, the proceeds thereof or otherwise.

(b) Each Indemnified Person is an intended third party beneficiary of Section 11.2 hereof.

11.7 Reinstatement. To the extent that any Secured Party receives any payment by or on behalf of the Borrower, which payment or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required to be repaid to the Borrower or to its estate, trustee, receiver, custodian or any other party under any Debtor Relief Law or otherwise, then to the extent of the amount so required to be repaid, the obligation or part thereof which has been paid, reduced or satisfied by the amount so repaid shall be reinstated by the amount so repaid and shall be included within the Secured Obligations as of the date such initial payment, reduction or satisfaction occurred.

11.8 No Immunity. To the extent that the Borrower may be entitled, in any jurisdiction in which judicial proceedings may at any time be commenced with respect to this Credit Agreement or any other Financing Document, to claim for itself or its revenues, assets or Properties any immunity from suit, the jurisdiction of any court, attachment prior to judgment, attachment in aid of execution of judgment, set-off, execution of a judgment or any other legal process, and to the extent that in any such jurisdiction there may be attributed to such Person such an immunity (whether or not claimed), the Borrower hereby irrevocably agrees not to claim and hereby irrevocably waives such immunity to the fullest extent permitted by the Law of the applicable jurisdiction.

11.9 Counterparts. This Credit Agreement may be executed in any number of counterparts and by the different parties hereto on separate counterparts, each of which when so executed and delivered shall be an original, but all of which shall together constitute one and the same instrument. Delivery of an executed counterpart to this Credit Agreement by facsimile or electronic transmission in ".pdf" format shall be as effective as delivery of a manually signed original.

11.10 Amendment or Waiver. No provision of this Credit Agreement may be amended, supplemented, modified or waived, except by a written instrument signed by the Administrative Agent (acting in accordance with Section 10.11) and the Borrower. Any waiver and any amendment, supplement or modification made or entered into in accordance with this Section 11.10 shall be binding upon each of the Lenders.

11.11 Assignments, Participations, etc.

(a) Subject to first obtaining any prior approvals set forth in Section 11.11(b) and otherwise complying with this Section 11.11, each Financing Party may assign to one or more Eligible Assignees all or any part of any Loan, Commitment, Specified Letter of Credit, TALC Percentage or TALC Participating Amount and the other rights and obligations of such Lender or Issuing Bank hereunder and under the other Financing Documents; provided, that (A) each such assignment by a Lender of Construction Loans, Construction Notes, and Construction Loan Commitments shall only be assigned contemporaneously with a corresponding portion of Term Loan Commitments; (B) in the case of an assignment of any part of a Loan or Commitment to any

Eligible Assignee, such assignment shall not be for an amount less than (x) $1,000,000 in respect of any Eligible Assignee that is a Financing Party prior to giving effect to such assignment or (y) $5,000,000 in respect of any Eligible Assignee that is not a Financing Party prior to giving effect to such assignment, (or a higher integral multiple of 1,000,000 in excess thereof) in each instance; and (C) the Borrower and the Administrative Agent may continue to deal solely and directly with the assigning Lender or Issuing Bank in connection with the interest so assigned until (1) written notice of such assignment, together with payment instructions, addresses and related information with respect to the Eligible Assignee, shall have been given to the Borrower and the Administrative Agent by such assigning Lender or Issuing Bank and the Eligible Assignee, (2) the assigning Lender, Issuing Bank or Eligible Assignee has paid to the Administrative Agent a processing fee in the amount of $3,500 and (3) the assigning Lender or Issuing Bank shall have delivered to the Borrower and the Administrative Agent an Assignment and Acceptance substantially in the form of Exhibit 13 hereto (an "Assignment and Acceptance") with respect to such assignment from the assigning Lender or Issuing Bank; provided, further, that, if the Eligible Assignee is an Affiliated Lender, then (A) such Affiliated Lender (whether as a direct purchaser of the Loans or as the ultimate purchaser of the Loans through a broker or other intermediary) shall ensure that its identity as an Affiliate of the Borrower is known to the assigning Lender and the Administrative Agent and (B) at the time of such assignment and after giving effect thereto, no Default or Event of Default shall have occurred and be continuing.

(b) Prior to making any assignment of Loan, Commitment, Specified Letter of Credit, TALC Percentage or TALC Participating Amount hereunder, the assigning Lender or Issuing Bank (or the Borrower if the Borrower is proceeding in accordance with Section 3.26) shall obtain the written consent of (i) the Administrative Agent (such consent not to be unreasonably withheld, conditioned or delayed), (ii) except upon the occurrence and continuance of a Default or Event of Default, the Borrower (such consent not to be unreasonably withheld, conditioned or delayed) and (iii) if constituting an assignment of a TALC Percentage or a TALC Participating Amount, the TALC Issuing Bank (which consent may be granted or withheld in the TALC Issuing Bank's sole discretion); provided, that no written consent of the Administrative Agent or Borrower shall be required in connection with any such assignment by a Lender to (i) an Eligible Assignee that is an Affiliate of such Lender or (ii) to another Lender that is an Eligible Assignee.

(c) Subject to Section 10.10, from and after the date that the Administrative Agent notifies the assigning Lender and the Borrower that it has received (and, where required in accordance with Section 11.11(a), provided its consent with respect to) an executed Assignment and Acceptance and payment of the above-referenced processing fee, (i) the Eligible Assignee under such Assignment and Acceptance shall be a party hereto and, to the extent that rights and obligations hereunder and under the other Financing Documents have been assigned to it pursuant to such Assignment and Acceptance, shall have the rights and obligations of a Lender hereunder and under the other Financing Documents, and this Credit Agreement shall be deemed to be amended to the extent, but only to the extent, necessary to effect the addition of the Eligible Assignee, and any reference to the assigning Lender hereunder or under the other Financing Documents shall thereafter refer to such Lender and to the Eligible Assignee to the extent of their respective interests and (ii) the assigning Lender shall, to the extent that rights and obligations hereunder and under the other Financing Documents have been assigned by it pursuant to such Assignment and Acceptance,

relinquish its rights and be released from its obligations hereunder and under the other Financing Documents; provided, that any Lender that assigns all of its Commitments and Loans hereunder in accordance with Section 11.11(a) shall continue to have the benefit of any indemnification provisions under this Credit Agreement (including Sections 3.10, 3.24, 11.1 and 11.2) and under the other Financing Documents (to the extent having arisen prior to such assignment), which shall survive such assignment as to such assigning Lender. At the time of each assignment pursuant to Section 11.11(a) to a Person which is not already a Lender hereunder, the relevant Eligible Assignee shall provide to the Borrower and the Administrative Agent the appropriate Internal Revenue Service Forms (and, if applicable, an Applicable Tax Certificate) described in Section 3.24(b) to the extent such forms would provide a complete exemption from or reduction in United States withholding tax. To the extent that an assignment of all or any portion of a Lender's Commitments and related outstanding Obligations pursuant to this Section 11.11 would, at the time of such assignment, result in increased costs under Section 3.24 from those being charged by the respective assigning Lender prior to such assignment, then the Borrower shall not be obligated to pay such increased costs (although the Borrower, in accordance with and pursuant to the other provisions of this Credit Agreement, shall be obligated to pay any other increased costs of the type described above resulting from changes after the date of the respective assignment).

(d) Promptly after the Borrower receives notice from the Administrative Agent that the Administrative Agent has received an executed Assignment and Acceptance and payment of the above-referenced processing fee, upon the request of the Eligible Assignee, the Borrower shall execute and deliver to the Administrative Agent new Notes evidencing the Eligible Assignee's assigned Commitments and Loans and, upon the request of the assigning Lender, if the assigning Lender has retained a portion of its Loans, the Borrower shall execute and deliver to the Administrative Agent replacement Notes reflecting the Commitments and Loans retained by the assigning Lender (such Notes to be in exchange for, but not in payment of, the Notes, if any, held by such Lender).

(e) Any Lender (the "Originating Lender") may at any time sell to one or more commercial banks or other Persons not Affiliates of the Borrower (a "Participating Bank") participating interests in any Loans; provided, that (i) the Originating Lender's obligations under this Credit Agreement shall remain unchanged, (ii) the Originating Lender shall remain solely responsible for the performance of such obligations, (iii) the Borrower and the Administrative Agent shall continue to deal solely and directly with the Originating Lender in connection with the Originating Lender's rights and obligations under this Credit Agreement and the other Financing Documents and (iv) no Lender shall transfer or grant any participating interest under which the Participating Bank shall have rights to approve any amendment or modification to, or give any consent or waiver with respect to, this Credit Agreement or any other Transaction Document, except to the extent such amendment, modification, consent or waiver would require unanimous consent of the Lenders as described in Section 11.10. In the case of any such participation, the Participating Bank shall not have any rights under this Credit Agreement or any of the other Financing Documents (the Participating Bank's rights against the Originating Lender in respect of such Participation to be those set forth in the agreement executed by the Originating Lender in favor of the Participating Bank relating thereto) and all amounts payable by the Borrower hereunder shall be determined as if such Lender had not sold such participation.

(f) Notwithstanding any other provision contained in this Credit Agreement or any other Transaction Document to the contrary, any Lender may assign all or any portion of the Loans or Notes held by it as collateral security, including pledges in favor of any U.S. Federal Reserve bank or central bank having jurisdiction over such Lender; provided, that any payment in respect of such assigned Loans or Notes made by the Borrower to or for the account of the assigning or pledging Lender in accordance with the terms of this Credit Agreement shall satisfy the Borrower's obligations hereunder in respect to such assigned Loans or Notes to the extent of such payment. No such assignment shall release the assigning Lender from its obligations hereunder.

(g) Notwithstanding any other provision contained in this Credit Agreement or any other Transaction Document to the contrary, no Affiliated Lender shall have any right to (i) attend (including by telephone or electronic means) any meeting or discussions (or portion thereof) among the Administrative Agent or any Financing Party to which representatives of the Borrower Parties are not invited or (ii) receive any information or material prepared by the Administrative Agent or any other Financing Party or any communication by or among the Administrative Agent and one or more other Financing Parties or have access to Debt Domain or such other Electronic Platform used to distribute information to the other Financing Parties, except to the extent such information or materials have been made available to any Borrower Party or its representatives.

(h) Each Affiliated Lender agrees that it (i) shall not disclose any information it receives in its capacity as a Lender to the Borrower Parties and (ii) shall not have any right to make or bring (or participate in, other than as a passive participant in or recipient of its *pro rata* benefits of) any claim, in its capacity as a Lender, against the Agents or any Financing Party with respect to any duties or obligations or alleged duties or obligations of such Agent or any other such Financing Party under the Financing Documents, except with respect to any claims that any such Agent or any other such Financing Party is treating such Affiliated Lender, in its capacity as a Lender, in a disproportionate manner relative to the other Financing Parties (other than as expressly provided herein or in any other Financing Document).

(i) Notwithstanding anything in this Section 11.11 or the definition of "Required Financing Parties" to the contrary, for purposes of determining whether the Required Financing Parties, all affected Financing Parties or all Financing Parties have (A) consented (or not consented) to any amendment, modification, waiver, consent or other action with respect to any of the terms of any Financing Document or any departure by any Financing Party therefrom, (B) otherwise acted on any matter related to any Financing Document, or (C) directed or required the Administrative Agent, the Collateral Agent or any Financing Party to undertake any action (or refrain from taking any action) with respect to or under any Financing Document, each Affiliated Lender shall be deemed to have voted its interest as a Financing Party without its discretion in the same proportion as the allocation of voting with respect to such matter by Financing Parties who are not Affiliated Lenders; provided, that no amendment, modification, waiver, consent or other action with respect to any Financing Document shall deprive any Affiliated Lender of its *pro rata* share of any payments to which such Affiliated Lender is entitled under the Financing Documents without such Affiliated Lender providing its consent; and in furtherance of the foregoing, (x) each Affiliated Lender agrees to execute and deliver to the Administrative Agent any instrument reasonably requested by the Administrative Agent to evidence the voting of its interest as a Lender in accordance with the

provisions of this Section 11.11 (provided, that if such Affiliated Lender fails to promptly execute such instrument such failure shall in no way prejudice any of the Administrative Agent's rights under this paragraph) and (y) the Administrative Agent is hereby appointed (such appointment being coupled with an interest) by such Affiliated Lender as such Affiliated Lender's attorney-in-fact, with full authority in the place and stead of such Affiliated Lender and in the name of such Affiliated Lender from time to time in the Administrative Agent's discretion to take any action and to execute any instrument that the Administrative Agent may deem reasonably necessary to carry out the provisions of this Section 11.11.

(j) Each Affiliated Lender, solely in its capacity as a Lender, hereby agrees, and each Assignment and Acceptance shall provide a confirmation that, if any Borrower Party or any of their assets shall be subject to any voluntary or involuntary proceeding commenced under the Bankruptcy Code ("Bankruptcy Proceedings"), (i) such Affiliated Lender shall not take any step or action in such Bankruptcy Proceeding to object to, materially impede, or materially delay the exercise of any right or the taking of any action by the Administrative Agent (or the taking of any action by a third party that is supported by the Administrative Agent) in relation to such Affiliated Lender 's claim with respect to its Loans (an "Affiliated Lender Claim") (including objecting to any debtor in possession financing, use of cash collateral, grant of adequate protection, sale or disposition, compromise, or plan of reorganization) so long as such Affiliated Lender is treated in connection with such exercise or action on the same or better terms as the other Lenders and (ii) with respect to any matter requiring the vote of Financing Parties during the pendency of a Bankruptcy Proceeding (including voting on any plan of reorganization), the Loans held by such Affiliated Lender (and any Affiliated Lender Claim with respect thereto) shall be deemed to be voted in accordance with this Section 11.11(j), so long as such Affiliated Lender is treated in connection with the exercise of such right or taking of such action on the same or better terms as the other Financing Parties. For the avoidance of doubt, each Affiliated Lender and the other Financing Parties agree and acknowledge that the provisions set forth in this Section 11.11(j), and the related provisions set forth in the Assignment and Acceptance, constitute a "subordination agreement" as such term is contemplated by, and utilized in, Section 510(a) of the Bankruptcy Code, and, as such, would be enforceable for all purposes in any case where a Borrower Party has filed for protection under the Bankruptcy Code.

11.12 Survival. All indemnification and expense reimbursement provisions set forth herein, including those set forth in Sections 11.1 and 11.2, shall survive the execution and delivery of this Credit Agreement and the Notes and the making and repayment of the Loans. In addition, each representation and warranty made or deemed to be made pursuant hereto shall survive the making of such representation and warranty, and no Lender shall be deemed to have waived, by reason of making any extension of credit, any Default or Event of Default which may arise by reason of such representation or warranty proving to have been false or misleading, notwithstanding that such Lender may have had notice or knowledge or reason to believe that such representation or warranty was false or misleading at the time such extension of credit was made.

11.13 WAIVER OF JURY TRIAL. EACH OF THE PARTIES HERETO HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ANY RIGHT ANY OF THEM MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED ON,

OR ARISING OUT OF, UNDER OR IN CONNECTION WITH, THIS CREDIT AGREEMENT, THE NOTES OR ANY OTHER FINANCING DOCUMENT, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PARTY RELATING HERETO OR THERETO. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE FINANCING PARTIES TO ENTER INTO THIS CREDIT AGREEMENT.

11.14 Right of Set-off. If an Event of Default shall have occurred and be continuing, each Lender, each Issuing Bank, and each of their respective Affiliates is hereby authorized at any time and from time to time, to the fullest extent permitted by applicable Law, to set off and apply any and all deposits (general or special, time or demand, provisional or final, in whatever currency) at any time held, and other obligations (in whatever currency) at any time owing, by such Lender, such Issuing Bank or any such Affiliate, to or for the credit or the account of the Borrower or any other Borrower Party against any and all of the obligations of the Borrower or such Borrower Party now or hereafter existing under this Credit Agreement or any other Financing Document to such Lender or such Issuing Bank or their respective Affiliates, irrespective of whether or not such Lender, Issuing Bank or Affiliate shall have made any demand under this Credit Agreement or any other Loan Document and although such obligations of the Borrower or such Borrower Party may be contingent or unmatured or are owed to a branch, office or Affiliate of such Lender or such Issuing Bank different from the branch, office or Affiliate holding such deposit or obligated on such indebtedness; provided, that in the event that any Defaulting Lender shall exercise any such right of setoff, (x) all amounts so set off shall be paid over immediately to the Administrative Agent for further application in accordance with the provisions of Section 3.27 and, pending such payment, shall be segregated by such Defaulting Lender from its other funds and deemed held in trust for the benefit of the Administrative Agent, the Issuing Banks, and the Lenders, and (y) the Defaulting Lender shall provide promptly to the Administrative Agent a statement describing in reasonable detail the Secured Obligations owing to such Defaulting Lender as to which it exercised such right of setoff. The rights of each Lender, each Issuing Bank and their respective Affiliates under this Section are in addition to other rights and remedies (including other rights of setoff) that such Lender, such Issuing Bank or their respective Affiliates may have. Each Lender and Issuing Bank agrees to notify the Borrower and the Administrative Agent promptly after any such setoff and application; provided, that the failure to give such notice shall not affect the validity of such setoff and application.

11.15 Severability. Any provision hereof which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof and without affecting the validity or enforceability of any provision in any other jurisdiction.

11.16 Domicile of Loans. Each Lender may transfer and carry its Loans at, to or for the account of any office, Subsidiary or Affiliate of such Lender.

11.17 Limitation of Recourse. There shall be full recourse to the Borrower and to all of its assets for the liabilities of the Borrower under this Credit Agreement and the other Financing Documents and its other Secured Obligations, but in no event shall any of the Financing Parties have any claims with respect to the Transactions contemplated under the Transaction Documents

against the Sponsor, the Pledgor or any of the Sponsor's or Pledgor's Affiliates (other than any Borrower Party), or in either case any of their respective shareholders, officers, directors, employees, representatives or agents (collectively, the "Non-Recourse Parties"), provided, that the foregoing shall not: (a) constitute a waiver, release or discharge (or otherwise impair the enforceability) of any of the Secured Obligations, or of any of the terms, covenants, conditions, or provisions of this Credit Agreement or any other Financing Document and the same shall continue (but without personal liability of the Non-Recourse Parties) until fully paid, discharged, observed, or performed; (b) constitute a waiver, release or discharge of any Lien purported to be created pursuant to any Security Document (or otherwise impair the ability of any Secured Party to realize or foreclose upon any Collateral); (c) limit or restrict the right of the Administrative Agent, the Collateral Agent or any other Secured Party (or any assignee, beneficiary or successor to any of them) to name any Borrower Party or any other person as a defendant in any action or suit for a judicial foreclosure or for the exercise of any other remedy under or with respect to this Credit Agreement or any other Financing Document, or for injunction or specific performance, so long as no judgment in the nature of a deficiency judgment shall be enforced against any Non-Recourse Party, except as set forth in other provisions of this Section 11.17; (d) in any way limit or restrict any right or remedy of the Administrative Agent, the Collateral Agent or any other Financing Party (or any assignee or beneficiary thereof or successor thereto) with respect to, and each Non-Recourse Party shall remain fully liable to the extent that it would otherwise be liable for its own actions with respect to, any fraud (which shall not include innocent or negligent misrepresentation), wilful misrepresentation, or misappropriation of revenues, profits of or proceeds from each of the Project or any Collateral, that should or would have been paid as provided herein or paid or delivered to the Administrative Agent, the Collateral Agent or any other Financing Party (or any assignee or beneficiary thereof or successor thereto) towards any payment required under this Credit Agreement or any other Financing Document; or (e) affect or diminish in any way or constitute a waiver, release or discharge of any specific written obligation, covenant, or agreement made by any of the Non-Recourse Parties (or any security granted by the Non-Recourse Parties in support of the obligations of any person) under any Financing Document (including the Pledge Agreements) or as security for the Secured Obligations. The limitations on recourse set forth in this Section 11.17 shall survive the termination of this Credit Agreement, the termination of all Commitments and the full payment and performance of the Secured Obligations under this Credit Agreement and the other Financing Documents.

11.18 Governing Law; Submission to Jurisdiction.

(a) THIS CREDIT AGREEMENT AND EACH OF THE OTHER FINANCING DOCUMENTS (UNLESS ANY SUCH DOCUMENT EXPRESSLY STATES OTHERWISE THEREIN) SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO THE CONFLICT OF LAW RULES THEREOF (OTHER THAN SECTION 5-1401 OF THE NEW YORK GENERAL OBLIGATIONS LAW).

(b) The Borrower hereby submits to the nonexclusive jurisdiction of the United States District Court for the Southern District of New York and of any New York State court sitting in New York City for the purposes of all legal actions and proceedings arising out of or relating to this Credit Agreement, any other Financing Document or the transactions contemplated hereby or

thereby. The Borrower hereby irrevocably waives, to the fullest extent permitted by applicable Law, any objection which it may now or hereafter have to the laying of the venue of any such action or proceeding brought in such a court and any claim that any such action or proceeding brought in such a court has been brought in an inconvenient forum. Nothing herein shall affect the right to serve process in any other manner permitted by applicable Law or any right to bring any legal action or proceeding in any other competent jurisdiction, including judicial or non-judicial foreclosure of real property interests which are part of the Collateral. The Borrower further agrees that the aforesaid courts of the State of New York and of the United States for the Southern District of New York shall have exclusive jurisdiction with respect to any claim or counterclaim of the Borrower based upon the assertion that the rate of interest charged by or under this Credit Agreement or under the other Financing Documents is usurious. To the extent permitted by applicable Law, the Borrower further irrevocably agrees to the service of process of any of the aforementioned courts in any such action or proceeding by the mailing of copies thereof by certified mail, postage prepaid, return receipt requested, to the Borrower at the address referenced in Section 11.3, such service to be effective upon the date indicated on the postal receipt returned from the Borrower.

11.19 Complete Agreement. THIS CREDIT AGREEMENT AND THE OTHER FINANCING DOCUMENTS REPRESENT THE FINAL AND COMPLETE AGREEMENT OF THE PARTIES HERETO, AND ALL PRIOR NEGOTIATIONS, REPRESENTATIONS, UNDERSTANDINGS, WRITINGS AND STATEMENTS OF ANY NATURE ARE HEREBY SUPERSEDED IN THEIR ENTIRETY BY THE TERMS OF THIS CREDIT AGREEMENT AND THE OTHER FINANCING DOCUMENTS.

11.20 No Fiduciary Duty. The Borrower acknowledges and agrees that (a) no fiduciary, advisory, or agency relationship between the Borrower and the Administrative Agent, any Financing Party or any of their Affiliates is intended to be or has been created in respect of any of the transactions contemplated by this Agreement or any Financing Document, irrespective of whether the Administrative Agent, any Financing Party or any of their Affiliates have advised or is advising the Borrower on other matters, (b) the Administrative Agent, each Financing Party and their Affiliates, on the one hand, and the Borrower, on the other hand, have an arm's-length business relationship that does not directly or indirectly give rise to, nor does the Borrower rely on, any fiduciary duty on the part of the Administrative Agent, any Financing Party or any of their Affiliates, and (c) the Borrower waives, to the fullest extent permitted by law, any claims that the Borrower may have against the Administrative Agent, each Financing Party and all of their Affiliates for breach of fiduciary duty or alleged breach of fiduciary duty and agree that the Administrative Agent, Financing Parties and each of their Affiliates shall have no liability (whether direct or indirect) to the Borrower in respect of such a fiduciary duty claim or to any person asserting a fiduciary duty claim on behalf of or in right of the Borrower, including the Borrower's equity holders, employees, or other creditors.

* * *

IN WITNESS WHEREOF, the parties hereto have caused their duly authorized officers to execute and deliver this Credit Agreement as of the date first above written.

[EXECUTABLE SIGNATURE PAGES TO BE DISTRIBUTED SEPARATELY]

Appendix A

DEFINED TERMS AND RULES OF INTERPRETATION

1. Defined Terms.

"AA Disbursement Account" means the account of the Administrative Agent so-designated on Appendix G to this Credit Agreement or such other account as so-designated by the Administrative Agent by notice to the Lenders.

"AA Payment Account" means the account of the Administrative Agent so-designated on Appendix G to this Credit Agreement or such other account as so-designated by the Administrative Agent by notice to the Lenders.

"Accounts" has the meaning set forth in the Accounts Agreement and shall include any other accounts or sub-accounts established pursuant to the Accounts Agreement.

"Accounts Agreement" means the Accounts Agreement, dated the Closing Date, among the Borrower, the Project Owner, the Procurement Sub, the Collateral Agent and the Account Bank.

"Account Bank" means the institution appointed as such in accordance with the Accounts Agreement or any successor institution so-appointed pursuant to the Accounts Agreement.

"Additional Material Project Document" means any Additional Project Document that is a Material Project Document.

"Additional Project Document" means any Project Document entered into by any Borrower Party with any other Person subsequent to the date of this Credit Agreement (including Project Documents entered into in substitution for any Project Document that has been terminated in accordance with its terms or otherwise).

"Adjusted LIBO Rate" means, for any LIBOR Loan for any Interest Period therefor, the rate *per annum* (rounded upwards, if necessary, to the nearest 1/100 of 1%) determined by the Administrative Agent to be equal to the quotient obtained by dividing (a) the LIBO Rate for such LIBOR Loan for such Interest Period by (b) 1 *minus* the Reserve Requirement for such LIBOR Loan for such Interest Period.

"Administrative Agent" prior to January 29, 2015 means Credit Agricole Corporate and Investment Bank, acting in its capacity as agent for the Lenders pursuant to this Credit Agreement, and on or after January 29, 2015 means ING Capital LLC, acting in its capacity as

agent for the Lenders pursuant to this Credit Agreement, or any successor Administrative Agent appointed in accordance with Section 10.9 of this Credit Agreement.

"Affiliate" means, as to any Person, any Subsidiary of such Person and any other Person which, directly or indirectly, controls or is controlled by or is under direct or indirect common control with such specified Person. For the purposes of this definition and any obligation to cause another Person to take or refrain from taking any action, "control", when used with respect to any Person, shall mean the possession of the power to direct or cause the direction of management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract, management agreement, common directors, officers or trustees or otherwise. The terms "controlling" and "controlled" shall have correlative meanings.

"Affiliate O&M Fee" means all amounts, whether fees or otherwise, payable by the Borrower or any other Borrower Party to any Affiliated Project Party pursuant to any Affiliated Project Document, other than Reimbursable Expenses (as such term is defined in the O&M Agreement, Project Administration Agreement or Construction Management Agreement).

"Affiliated Lender" means each Lender that is an Affiliate of the Borrower Parties (other than the Borrower Parties).

"Affiliated Project Documents" means any Project Document with any Affiliated Project Party.

"Affiliated Project Party" means each Affiliate of the Sponsor (other than the Borrower or any other Borrower Party) that is a party to a Project Document.

"Agent" has the meaning set forth in Section 10.1(b) of this Credit Agreement.

"Agent-Related Persons" means, with respect to the Administrative Agent, its officers, directors, employees, representatives, attorneys, agents and Affiliates.

"ALTA" means the American Land Title Association.

"Amendment No. 1" has the meaning set forth in the recitals of this Credit Agreement.

"Amendment No. 2" has the meaning set forth in the recitals of this Credit Agreement.

"Amendment No. 3" has the meaning set forth in the recitals of this Credit Agreement.

"Amendment No. 4" has the meaning set forth in the recitals of this Credit Agreement.

"Amendment No. 5" has the meaning set forth in the recitals of this Credit Agreement.

"Amortization Schedule" has the meaning set forth in Section 3.15.

"Anti-Terrorism and Money Laundering Laws" means any of the following (a) Section 1 of Executive Order 13224 of September 24, 2001, Blocking Property and Prohibiting

Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism (Title 12, Part 595 of the US Code of Federal Regulations), (b) the Terrorism Sanctions Regulations (Title 31 Part 595 of the US Code of Federal Regulations), (c) the Terrorism List Governments Sanctions Regulations (Title 31 Part 596 of the US Code of Federal Regulations), (d) the Foreign Terrorist Organizations Sanctions Regulations (Title 31 Part 597 of the US Code of Federal Regulations), (e) the USA Patriot Act of 2001 (Pub. L. No. 107-56), (f) the U.S. Money Laundering Control Act of 1986, as amended, (g) the Bank Secrecy Act, 31 U.S.C. sections 5301 et seq., (h) Laundering of Monetary Instruments, 18 U.S.C. section 1956, (i) Engaging in Monetary Transactions in Property Derived from Specified Unlawful Activity, 18 U.S.C. section 1957, (j) the Financial Recordkeeping and Reporting of Currency and Foreign Transactions Regulations (Title 31 Part 103 of the US Code of Federal Regulations), (k) any other similar federal Government Rule having the force of law and relating to money laundering, terrorist acts or acts of war, and (h) any regulations promulgated under any of the foregoing. "Applicable Group" has the meaning set forth Section 10.6 of this Credit Agreement.

"Anti-Corruption Law" means the U.S. Foreign Corrupt Practices Act, 1977, 15 U.S.C. §§ 78m, 78dd-1 through 78dd-3 and 78ff, et seq.as amended from time to time.

"Applicable Lending Office" means, for each Lender and for each Type of Loan, the "*Lending Office*" of such Lender (or of an Affiliate thereof) designated for such Type of Loan in Appendix G or such other office of such Lender (or its Affiliate) as such Lender may from time-to-time specify to the Administrative Agent and the Borrower by written notice in accordance with the terms hereof as the office by which its Loans of such Type are to be made and maintained.

"Applicable Margin" means, with respect to any Tranche and any period, the percentage set forth below such Tranche and opposite such period on Appendix B.

"Applicable Taxes" has the meaning set forth in Section 3.24 of this Credit Agreement.

"Applicable Tax Certificate" has the meaning set forth in Section 3.24 of this Credit Agreement.

"Approved Electronic Communications" means each Communication that the Borrower, any other Borrowing Party or the Pledgor is obligated to, or otherwise chooses to, provide to the Administrative Agent, the Collateral Agent or the Account Bank pursuant to any Financing Document or the transactions contemplated therein, including any financial statement, financial and other report, notice, request, certificate and other information material; provided, that, solely with respect to delivery of any such Communication by any of the Borrower, any other Borrowing Party or the Pledgor to any such Agent and without limiting or otherwise affecting either the Administrative Agent's right to effect delivery of such Communication by posting such Communication to the Approved Electronic Platform or the protections afforded hereby to the Administrative Agent in connection with any such posting, "Approved Electronic Communication" shall exclude (i) any Borrowing Request or Specified Letter of Credit, notice of conversion or continuation, and any other notice, demand, communication, information, document and other material relating to a request for a new, or a conversion of an existing, Borrowing, (ii) any notice

pursuant to Sections 3.16 and 3.17 and any other notice relating to the payment of any principal or other amount due under any Financing Document prior to the scheduled date therefor, (iii) all notices of any Default or Event of Default and (iv) any notice, demand, communication, information, document and other material required to be delivered to satisfy any of the conditions set forth in ARTICLE IV or any other condition to any Borrowing or other extension

"Approved Electronic Platform" has the meaning set forth in Section 11.3(a) to this Credit Agreement.

"Assignment and Acceptance" has the meaning set forth in Section 11.11 of this Credit Agreement.

"Assignment of Project Labor Agreement" means the Assignment of Project Labor Agreement, dated January 3, 2001, by El Segundo Power II LLC to the Project Owner.

"Assumed Interest Expense" means, with respect to any period, the aggregate of (x) the amount of interest projected to be payable during such period hereunder (based on the actual rate established hereunder during any current Interest Period or a reasonable published or third party proprietary forward rate in respect of any future Interest Period) *plus* or *minus* (y) the aggregate amount payable by or to the Borrower in accordance with each Rate Swap Transaction entered into in accordance with Section 7.26 of this Credit Agreement during such period.

"Attorney Costs" means all reasonable and invoiced fees and disbursements of any law firm or other external counsel, the reasonable allocated cost of internal legal services and all reasonable disbursements of internal counsel; provided, that the Administrative Agent shall not be required to establish the reasonability of fees or the allocated cost of internal legal services in respect of or relating to: any alleged, potential or actual Defaults or Events of Default; the prospective or actual exercise of remedies hereunder; the preservation of any rights or remedies hereunder or under any Collateral Document; or any claim for indemnification hereunder.

"Authorized Officer" means (i) with respect to any Person that is a corporation, the chairman, president, chief executive officer, any vice president or secretary of such Person, (ii) with respect to any Person that is a manager-managed limited liability company, any such manager, (iii) with respect to any Person that is a member-managed limited liability company, such member (or if such member is not a natural Person, the Authorized Officer of such member), (iv) with respect to any Person that is a partnership, the general partner or managing partner of such Person (or if such general partner or managing partner is not a natural Person, the Authorized Officer of such general partner or managing partner) and (v) any Person that has been duly and specifically authorized by all necessary and appropriate corporate, limited liability company or partnership action (as applicable) to take the relevant action, as evidenced by a duly executed and delivered certificate of a Person who is an Authorized Officer of the relevant Person in accordance with subparts (i), (ii), (iii) or (iv) of this definition that has theretofore been delivered to the Administrative Agent setting forth the name, title and specimen signature of such duly and specifically authorized Person.

"Available Construction Funds" means, as of any day, the sum of (x) the aggregate amount of proceeds from the Construction Loans on deposit in or credited to the Construction Account on such day, without giving effect to any withdrawals therefrom on such day, *plus* (y) the aggregate amount of the Construction Loan Commitments on such day (other than the Construction Loan Commitment of any Defaulting Lender), without giving effect to any Disbursement of Construction Loans on such day.

"Bankruptcy Code" means the United States Federal Bankruptcy Code of 1978, 11 U.S.C. § 101 et seq.

"Bankruptcy Event" means a Voluntary Bankruptcy Event or an Involuntary Bankruptcy Event.

"Base Case Model" means the Microsoft Excel file entitled "CLOSING MODEL ESEC 0818 Syndication" posted to www.intralinks.com on August 19, 2011, as modified in accordance with Sections 4.2(a)(m), 4.7(i) and 7.9(c).

"Base Case Projections" means a projection of operating results for the Project over a period ending no sooner than December 31, 2030, showing the Borrower's reasonable good faith estimates, as of the Closing Date, of projected Project Costs, projected Project Revenues, projected O&M Expenses, Assumed Interest Expense, all Fees payable hereunder, and scheduled principal payments in respect of the Loans over the forecast period.

"Base Rate" means, for any day, means the rate *per annum* equal to the highest of (a) the Federal Funds Rate for such day *plus* 0.50%, (b) the Prime Rate for such day and (c) unless Section 3.9 applies in respect of the one-month LIBO Rate, the LIBO Rate for one month commencing on such day. Any changes in the Base Rate due to a change in the Prime Rate or the Federal Funds Rate shall be effective on the effective date of such change in the Prime Rate or Federal Funds Rate.

"Base Rate Loans" means Loans which bear interest based upon the Base Rate.

"Bookrunner" prior to the date hereof, means Mizuho Bank, Ltd., RBS Securities Inc., and Credit Agricole Corporate and Investment Bank, and on and after the date hereof, means the financial institution designated as such in the Preamble of this Credit Agreement.

"BOP Contract" means the Amended and Restated Construction Agreement, dated June 6, 2011, between the BOP Contractor and the Project Owner.

"BOP Contractor" means ARB, Inc., a California corporation.

"BOP Guarantor" means Primoris Services Corporation, a Delaware corporation.

"BOP Guaranty" means the Parent Guaranty, dated as of May 31, 2011, by the BOP Guarantor in favor of the Project Owner.

"Borrower" has the meaning set forth in the Preamble of this Credit Agreement.

"Borrower Closing Certificate" means the certificate, substantially in the form of Exhibit 11 to this Credit Agreement, dated the Closing Date, duly completed and signed by an Authorized Officer of the Borrower.

"Borrower Completion Certificate" means a certificate, substantially in the form of Exhibit 14 to the Credit Agreement, dated the Term Conversion Date, duly completed and signed by an Authorized Officer of the Borrower.

"Borrower Parties" means: (i) prior to the Merger, each of the Borrower, the Project Owner and the Procurement Sub, and (ii) on and after the Merger, the Borrower and the Project Owner.

"Borrower Pledge Agreement" means the Pledge Agreement dated the Closing Date between the Borrower and the Collateral Agent in respect of, *inter alia*, the Equity Interests of the Project Owner and the Procurement Sub.

"Borrowing" means a borrowing of Loans of one Type from the Lenders on a given date (or the Conversion of a Loan or Loans of a Lender or Lenders on a given date) having, in the case of LIBOR Loans, the same Interest Period.

"Borrowing Minimum" means the amount set forth opposite the heading "*Borrowing Minimum*" on Appendix B.

"Borrowing Multiple" means the amount set forth opposite the heading "*Borrowing Multiple*" on Appendix B.

"Borrowing Request" means a request for Loans in substantially the form set forth as Exhibit 1, appropriately completed and duly executed by an Authorized Officer of the Borrower.

"Business Day" means (i) with respect to any payment to be made by the Borrower or any Borrower Party, a "Business Day" as defined in the Accounts Agreement, (ii) with respect to any other action to be taken by the Borrower or any other Person, any day except Saturday, Sunday and any day which shall be in the location where such action is to be taken, a legal holiday or a day on which banking institutions are authorized or required by law or other government action to close in any such location and (iii) without limiting the foregoing, with respect to all notices and determinations in connection with, and payments of principal and interest on, LIBOR Loans, any day which is a Business Day described in clause (i) above and which is also a day for trading by and between banks in the London interbank eurodollar market.

"Business Interruption Proceeds" has the meaning set forth in the Collateral Agreement.

"Buy-down Proceeds" has the meaning set forth in the Collateral Agreement.

"CAISO" means the California Independent System Operator Corporation.

"Capital Adequacy Regulation" means any rule, regulation, order, guideline, directive or request of any central bank or other Governmental Authority (whether or not having the force of Law), or any other Law, in each case regarding the capital adequacy or liquidity of any Lender or of any entity controlling, directly or indirectly, such Lender.

"Capital Lease Obligations" means, for any Person, the obligations of such Person to pay rent or other amounts under a lease of (or other agreement conveying the right to use) real or personal Property which obligations are required to be classified and accounted for as a capital lease on a balance sheet of such Person under U.S. GAAP (including Statement of Financial Accounting Standards No. 13 of the Financial Accounting Standards Board (for the purposes hereof, "Statement No. 13")) and, for purposes of this Credit Agreement, the amount of such obligations shall be the capitalized amount thereof, determined in accordance with U.S. GAAP (including such Statement No. 13).

"Cash Collateralize" means, to deposit in a Controlled Account or to pledge and deposit with or deliver to the Administrative Agent, for the benefit of the TALC Issuing Bank, as collateral for TALC Participations, cash or deposit account balances or, if the Administrative Agent and the TALC Issuing Bank shall agree in their sole discretion, other credit support, in each case pursuant to documentation in form and substance satisfactory to the Administrative Agent and the TALC Issuing Bank. "Cash Collateral" shall have a meaning correlative to the foregoing and shall include the proceeds of such cash collateral and other credit support.

"CB Approval Threshold" means each threshold set forth on Appendix E under the heading "*CB Approval Threshold*".

"CFADS" means, in respect of any DSCR Calculation Period, the sum of (i) the aggregate amount deposited (or, as applicable, projected to be deposited) in the Operating Account (other than transfers from any other Secured Account to the Operating Account or the proceeds of any Indebtedness or Equity Contributions deposited therein) during such DSCR Calculation Period *minus* (ii) the aggregate amount transferred (or, as applicable, projected to be transferred) from the Operating Account to the O&M Expense Account during such DSCR Calculation Period.

"Change in Control" means any event as a result of which (i) the Sponsor ceases to directly or indirectly own at least 35% of each class of Equity Interests of the Borrower, (ii) 50.1% of all Equity Interests of the Borrower cease to be owned directly or indirectly by the Sponsor, (iii) the Sponsor ceases to have the unilateral power to direct or cause the direction of the management and policy of the Borrower, whether through ownership of voting securities, by contract, management agreement, or common directors, officers or trustees or otherwise (other than with respect to customary significant and enumerated matters requiring the approval of minority equity holders) or (iv) the Pledgor ceases to directly own 100% of each class of Equity Interests of the Borrower.

"Change in Law" means the occurrence, after the date of the Credit Agreement, of any of the following: (a) the adoption or taking effect of any applicable Law, (b) any change in any applicable Law or in the administration, interpretation, implementation or application thereof by any Governmental Authority or (c) without limiting the foregoing, the making or issuance of any

request, rule, guideline or directive (whether or not having the force of law) by any Governmental Authority; provided, that notwithstanding anything herein to the contrary, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (y) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case be deemed to be a "Change in Law", regardless of the date enacted, adopted or issued.

"Change Order" means, as applicable, Change Orders (as defined in each of the BOP Contract, the Equipment Purchase Agreement or the Equipment Services Agreement) and change orders described in Section 4.5 of the Construction Management Agreement.

"Charter Documents" means, with respect to any Person and as applicable to such Person, (i) the articles of incorporation, limited liability company agreement, partnership agreement, or other similar organizational document of such Person, (ii) the by-laws or other similar document of such Person, (iii) any certificate of designation or instrument relating to the rights of preferred shareholders or other holders of Equity Interests of such Person, and (iv) any shareholder rights agreement or other similar agreement.

"Closing" has the meaning set forth in Section 4.1 of this Credit Agreement.

"Closing Certificate" means each of the Borrower Closing Certificate and the Pledgor Closing Certificate.

"Closing Date" means August 23, 2011 (the date upon which the conditions precedent set forth in Section 4.1 of this Credit Agreement was satisfied or waived by the Financing Parties).

"CO Cost" means, in respect of any Change Order, the aggregate sum of (i) all costs incurred or to be incurred by any Borrower Party in respect thereof *plus* (ii) any Assumed Interest Expense, fees or other costs attributable to a delay in any Major Milestone Date as a result of such Change Order *plus* (iii) any other cost incurred by any Borrower Party directly or indirectly as a result of such Change Order.

"Code" shall mean the U.S. Internal Revenue Code of 1986, as amended from time to time, and the regula-tions promulgated and rulings issued thereunder.

"Collateral" has the meaning set forth in the Collateral Agreement.

"Collateral Agent" means the institution appointed as such in accordance with the Collateral Agreement or any successor institution so-appointed pursuant to the Collateral Agreement.

"Collateral Agreement" means the Collateral Agreement dated as of the Closing Date among the Borrower, the Procurement Sub, the Project Owner, the Pledgor, the Administrative Agent (on behalf of the Financing Parties) and the Collateral Agent.

"Collateral Documents" has the meaning set forth in the Collateral Agreement.

"Collateral Proceeds" has the meaning set forth in the Collateral Agreement.

"Commercial Operation Date" means the first date on which both Generating Units have achieved the Initial Delivery Date.

"Commitment Fee" has the meaning set forth in Section 3.13(a) of this Credit Agreement.

"Commitments" means, as applicable, the Tranche A Construction Loan Commitments, the Tranche B Construction Loan Commitments, the Term Loan Commitments, the Revolving Commitments, the DSR Commitments and the TALC Commitments.

"Communications" means each notice, demand, communication, information, document and other material provided for hereunder or under any other Financing Document or otherwise transmitted between the parties hereto relating this Credit Agreement, the other Financing Documents, the Borrower, the other Borrower Parties or the Pledgor, or any of their respective Affiliates, or the transactions contemplated by this Credit Agreement or the other Financing Documents including all Approved Electronic Communications.

"Completion Tests" means, for each Generating Unit and for the Project, (i) each "Acceptance Test" (as such term is defined in the Equipment Services Agreement), (ii) each emissions, source or other acceptance or final test required to be performed by any Borrower Party in connection with the issuance to any such Borrower Party by the South Coast Air Quality Management District of a final permit to operate the Project and (iii) each test required by Article Seven of the Tolling Agreement.

"Consent Agreement" has the meaning set forth in the Collateral Agreement.

"Construction Account" has the meaning set forth in the Accounts Agreement.

"Construction Budget" means the construction budget dated the Closing Date, setting forth all Project Costs theretofore incurred and thereafter expected to be incurred by the Borrower Parties on or prior to the Term Conversion Date, as the same may be amended from time-to-time in accordance with Section 7.28 of this Credit Agreement.

"Construction Coordination Agreement" means the Construction Coordination Agreement, dated March 21, 2011, among the Project Owner, the Procurement Sub, the Equipment Servicer and the BOP Contractor.

"Construction Facilities" has the meaning set forth in Section 2.1(b) of this Credit Agreement.

"Construction Lender" means each Lender that has a Construction Loan Commitment or Construction Loans.

"Construction Loan Commitments" means the Tranche A Construction Loan Commitments and the Tranche B Construction Loan Commitments.

"Construction Loans" has the meaning set forth in Section 2.1(c) of this Credit Agreement.

"Construction Management Agreement" means the Construction Management Agreement, dated as of March 31, 2011 between the Project Owner and the Construction Manager.

"Construction Manager" means NRG Construction LLC, a Delaware limited liability company.

"Construction Notes" means each Note issued as evidence of one or more Construction Loans.

"Construction Requisition" has the meaning set forth in the Accounts Agreement.

"Contingency" means the amount so-specified in the Construction Budget.

"Contingent Obligation" means, as to any Person, any obligation of such Person guaranteeing or intending to guarantee any Indebtedness, leases, dividends or other obligations (for the purposes hereof, "primary obligations") of any other Person (for the purposes hereof, the "primary obligor") in any manner, whether directly or indirectly, including any obligation of such Person, whether or not contingent (i) to purchase any such primary obligation or any Property constituting direct or indirect security therefore, (ii) to advance or supply funds (a) for the purchase or payment of any such primary obligation or (b) to maintain working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency of the primary obligor, (iii) to purchase Property, securities or services primarily for the purpose of assuring the owner of any such primary obligation of the ability of the primary obligor to make payment of such primary obligation or (iv) otherwise to assure or hold harmless the owner of such primary obligation against loss in respect thereof. The amount of any Contingent Obligation shall be deemed to be an amount equal to the stated or determinable amount of the primary obligation in respect of which such Contingent Obligation is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof (assuming such Person is required to perform thereunder) as determined by such Person in good faith.

"Contracted Amortization Amount" has the meaning set forth in Section 3.14(a).

"Controlled Account" means each deposit account that is established for holding Cash Collateral and is subject to a deposit account control agreement in form and substance satisfactory to the Administrative Agent and the TALC Issuing Bank.

"Conversion" means the conversion of one Type of Loan into another Type of Loan in accordance with Section 3.5 of this Credit Agreement. The term "Convert" shall have a correlative meaning.

"Conversion Request" means a request for the Conversion of one or more Tranches of Loans in substantially the form set forth as Exhibit 2.

"Coordinating Lead Arranger" means the financial institution designated as such in the Preamble of this Credit Agreement.

"Credit Agreement" means the Amended and Restated Credit Agreement to which this Appendix A is attached.

"Credit Facility" means the Tranche A Construction Facility, the Tranche B Construction Facility, the Tranche A Term Facility, the Tranche B Term Facility, the Revolving Facility, the DSR LC Facility or the TALC Facility.

"Date Certain" has the meaning set forth in Section 3.15(a) of this Credit Agreement.

"Debt-to-Equity Ratio" means, as at any date, the ratio of (x) the aggregate outstanding principal amount of all Loans to (y) the aggregate amount of Equity Contributions made by the Pledgor to the Borrower *minus* the aggregate amount of Distributions made in accordance herewith.

"Debt Service Reserve Account" has the meaning set forth in the Accounts Agreement.

"Debtor Relief Law" means the Bankruptcy Code and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief Laws of the United States or other applicable jurisdictions from time to time in effect.

"Default" means any event or circumstance which with notice or lapse of time or both would become an Event of Default.

"Default Rate" means a *per annum* rate equal to the Base Rate *plus* the Applicable Margin *plus* (ii) 2%.

"Defaulting Lender" shall mean, subject to Section 3.27(a)(f), any Lender that (a) has failed to (i) fund all or any portion of its Loans within two Business Days of the date such Loans were required to be funded hereunder unless such Lender notifies the Administrative Agent and the Borrower in writing that such failure is the result of such Lender's determination that one or more conditions precedent to funding (each of which conditions precedent, together with any applicable default, shall be specifically identified in such writing) has not been satisfied or (ii) pay to the Administrative Agent, the TALC Issuing Bank or any other Lender any other amount required to be paid by it hereunder (including in respect of its TALC Participation, if any) within two Business Days of the date when due, (b) has notified the Borrower, the Administrative Agent or, if a TALC Participating Bank, the TALC Issuing Bank in writing that it does not intend to comply with its funding obligations hereunder, or has made a public statement to that effect (unless such writing or public statement relates to such Lender's obligation to fund a Loan hereunder and states that such

position is based on such Lender's determination that a condition precedent to funding (which condition precedent, together with any applicable default, shall be specifically identified in such writing or public statement) cannot be satisfied), (c) has failed, within three Business Days after written request by the Administrative Agent or the Borrower, to confirm in writing to the Administrative Agent and the Borrower that it will comply with its prospective funding obligations hereunder (provided that such Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon receipt of such written confirmation by the Administrative Agent and the Borrower), or (d) has, or has a direct or indirect parent company that has, other than via an Undisclosed Administration, (A) become the subject of a proceeding under any Debtor Relief Law, or (B) had appointed for it a receiver, custodian, conservator, trustee, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or assets, including the Federal Deposit Insurance Corporation or any other state or federal regulatory authority acting in such a capacity (provided that a Lender shall not be a Defaulting Lender pursuant to this clause (d) solely by virtue of the ownership or acquisition of any equity interest in that Lender or any direct or indirect parent company thereof by a Governmental Authority so long as such ownership interest does not result in or provide such Lender with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permit such Lender (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Lender). Any determination by the Administrative Agent that a Lender is a Defaulting Lender under clauses (a) through (d) above shall be conclusive and binding absent manifest error, and such Lender shall be deemed to be a Defaulting Lender (subject to Section 3.27(a)(f)) upon delivery of written notice of such determination to such Defaulting Lender, the Borrower, the TALC Issuing Bank and each other Lender.

"Deferred Principal Amount" has the meaning set forth in Section 3.15(c).

"Delay Liquidated Damages" means all liquidated damages payable under Section 13.1 of the BOP Contract and Section 15.2 and 15.3 of the Equipment Services Agreement.

"Disbursement" means any disbursement of a Loan pursuant hereto.

"Disbursement Date" means (i) prior to the Disbursement of any Loans, the date specified in a Borrowing Request as the date on which Disbursements of such Loans are requested by the Borrower and (ii) after the Disbursement of any Loans, the date such Loans are actually Disbursed.

"Disposition" has the meaning set forth in the Collateral Agreement.

"Disposition Proceeds" has the meaning set forth in the Collateral Agreement.

"Distribution" has the meaning set forth in Section 7.9 of this Credit Agreement.

"Distribution Account" has the meaning set forth in the Accounts Agreement.

"Distribution Conditions" means, as of any date, each of the following conditions: (i) the Term Conversion Date shall have occurred; (ii) no LC Loans (other than LC Loans that are

Revolving Loans as a result of a draw on the LGIA Letters of Credit) are then-outstanding; (iii) no Deferred Principal Amount is then-outstanding; (iv) no Default or Event of Default has occurred and is continuing or would result from the making of such Distribution or other payment; (v) no Event of Loss has occurred unless the Project has been Restored in accordance with this Credit Agreement and the other Financing Documents; (vi) the Historical DSCR for the most recently ending DSCR Calculation Period was at least 1.20x, as confirmed by the most recent DSCR Certificate delivered by the Borrower in accordance with Section 6.1(a)(d); and (vii) the Debt Service Reserve Account has been funded up to the DSR Required Balance.

"Distribution Reserve Account" has the meaning set forth in the Accounts Agreement.

"Distribution Sweep Proceeds" has the meaning set forth in the Collateral Agreement.

"Dollars" and the sign "$" shall each mean freely transferable, lawful money of the United States.

"DSCR Calculation Period" means in respect of each Semi-Annual Date, the four consecutive quarterly periods preceding such Semi-Annual Date.

"DSCR Certificate" has the meaning set forth in Section 6.1(a)(d) of this Credit Agreement.

"DSR Availability Period" means the period commencing on the Term Conversion Date and ending on the seventh anniversary of the Closing Date.

"DSR Commitments" means, as to any Issuing Bank, the applicable percentage set forth opposite such Issuing Bank's name in Appendix F to this Credit Agreement under the heading "*DSR Commitment*" *multiplied by* the DSR LC Facility Amount.

"DSR Issuing Banks" means each Financing Party with a DSR Commitment.

"DSR LC Facility" has the meaning set forth in Section 2.5(a) of this Credit Agreement.

"DSR LC Facility Amount" has the meaning set forth in Section 2.5(a) of this Credit Agreement.

"DSR Letters of Credit" has the meaning set forth in Section 2.5(b) of this Credit Agreement.

"DSR Maturity Date" has the meaning set forth in Section 2.5(d) of this Credit Agreement.

"DSR Required Balance" has the meaning set forth in the Collateral Agreement.

"Eligible Assignee" means (a) with respect to any assignment, (i) a commercial bank or other financial institution having a combined capital and surplus of at least $1,000,000,000, (ii) a Person that is primarily engaged in the business of commercial banking and that is a Lender or an Affiliate of a Lender and (iii) the United States Federal Reserve or central bank having jurisdiction over such Lender, (b) with respect to each assignment of an Issuing Bank of its obligation to issue a TA Letter of Credit under the TALC Facility, a Person that fulfills the requirements set forth in the definition of "Letter of Credit" in the Tolling Agreement, (c) with respect to each assignment of an Issuing Bank of its obligation to issue an LGIA Letter of Credit under the Revolving Facility, a Person that fulfills the requirements set forth in Section 11.5 of the LGIA, (d) with respect to each assignment of an Issuing Bank of its obligation to issue an DSR Letter of Credit under the DSR Facility, a Person that fulfills the requirements set forth in Section 3.6(b) of the Collateral Agreement and (e) with respect to only to an assignment of Construction Loans or Term Loans, any Affiliate of the Borrower Parties (other than the Borrower Parties).

"Encroachments" has the meaning set forth in Section 6.8(a) of this Credit Agreement.

"Energy Marketing Agreement" means the Energy Marketing Services Agreement, dated March 31, 2011, between the Energy Marketer and the Project Owner.

"Energy Marketer" means NRG Power Marketing LLC, a Delaware limited liability company.

"Environmental Claim" has the meaning set forth in the Collateral Agreement.

"Environmental Indemnity" means the Environmental Indemnity Agreement, dated the Closing Date, between NRG Energy, Inc. and the Project Owner.

"Environmental Laws" has the meaning set forth in the Collateral Agreement.

"Environmental Remediation Contractor" means AECOM or any other environmental remediation contractor reasonably acceptable to the Administraitve Agent (in consultation with the Independent Engineer) that is retained to develop the Remediation Work Plan.

"EPA Letters" means, collectively, (i) the conditional approval letter from the USEPA, dated April 1, 2011, approving El Segundo Power, LLC's letter of notification, dated March 2, 2011, (ii) the second conditional approval letter from the USEPA, dated June 6, 2011, modifying the April 1, 2011 letter referred to in subpart (i) above, (iii) the third conditional approval letter from the USEPA, dated July 15, 2011, further modifying the April 1, 2011 letter referred to in subpart (i) above, (iv) the fourth conditional approval letter from the USEPA, dated August 4, 2011, addressing the groundwater issue at the Site as it relates to polychlorinated biphenyls contamination, and (v) any other correspondence received from the USEPA or any other relevant Governmental Authority in respect of remediation of the contamination by polychlorinated biphenyls in concrete foundations below ground surface, soils, and groundwater at, on and under the Site.

"EPC Contracts" means any Project Document providing for construction services on, or delivery of any equipment or materials to, the Site.

"EPC Contractors" means the BOP Contractor, the Equipment Supplier, the Equipment Supplier Guarantor, the Equipment Servicer, the Equipment Servicer Guarantor, the Construction Manager and each other counterparty to an EPC Contract.

"Equator Principles" "Equator Principles" means those principles so entitled and described in "The 'Equator Principles' - A financial industry benchmark for determining, assessing and managing social and environmental risk in project financing" (July 2006) and available at: http://www.equator-principles.com/documents/Equator_Principles.pdf, as adopted in such form by certain financial institutions.

"Equipment Purchase Agreement" means the Equipment Purchase Agreement, dated as of July 15, 2010, between the Borrower and the Equipment Supplier.

"Equipment Services Agreement" means the Services Agreement, dated as of July 19, 2010, between the Equipment Servicer and the Procurement Sub.

"Equipment Servicer" means Siemens Energy, Inc., a Delaware corporation.

"Equipment Servicer Guaranty" means the Guaranty, dated November 2, 2010, by the Equipment Servicer Guarantor for the benefit of the Procurement Sub and the Borrower.

"Equipment Servicer Guarantor" means Siemens Corporation, a Delaware corporation.

"Equipment Supplier" means Siemens Energy, Inc., a Delaware corporation.

"Equipment Supplier Guaranty" means the Guaranty, dated November 2, 2010, by the Equipment Supplier Guarantor for the benefit of the Procurement Sub and the Borrower.

"Equipment Supplier Guarantor" means Siemens Corporation, a Delaware corporation.

"Equity Contributions" means equity contributions made in cash or in-kind by the Pledgor to the Borrower; provided, that for purposes of Sections 2.1(e), 4.1(a)(e) and 7.9(c) of the Agreement and the definition of "Debt-to-Equity Ratio", the amount of Equity Contributions deemed contributed in-kind by the Pledgor shall not exceed 105% of the amount of Project Costs that have been validated by the Independent Engineer as being properly incurred by Affiliates of the Borrower and contributed in-kind (directly or indirectly) to the Borrower.

"Equity Interests" means (i) as to any Person organized as a limited liability company or a partnership, any and all shares of the profits and losses of such Person, any and all rights to receive distributions of such Person's assets, and any and all rights, benefits or privileges pertaining to any of the foregoing, including voting rights and the right to participate in management, (ii) as to any Person organized as a corporation, any ordinary shares, preferential shares, convertible shares,

warrants or other securities representing or convertible into any of the foregoing and (iii) as to any other Person (other than a natural Person), any equity interests of any kind in such Person whether or not analogous to the foregoing.

"ERISA" means the U.S. Employee Retirement Income Security Act of 1974 and the regulations promulgated and rulings issued thereunder or pursuant thereto.

"ERISA Affiliate" means each person (as defined in Section 3(9) of ERISA) which, together with the Borrower or any Subsidiary of the Borrower, would be deemed to be a "single employer" (i) within the meaning of Section 414(b), (c), (m) or (o) of the Internal Revenue Code or (ii) as a result of the Borrower or any Subsidiary of the Borrower being or having been a general partner of such person.

"ERISA Event" means (a) any reportable event, as defined in Section 4043 of ERISA, with respect to a Pension Plan, as to which the PBGC has not waived the requirement of Section 4043(a) of ERISA that it be notified of such event, (b) the filing of a notice of intent to terminate any Pension Plan, if such termination would require material additional contributions in order to be considered a standard termination within the meaning of Section 4041(b) of ERISA, the filing under Section 4041(c) of ERISA of a notice of intent to terminate any Pension Plan, or the termination of any Pension Plan under Section 4041(c) of ERISA, (c) the institution of proceedings by the PBGC under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Pension Plan, (d) the failure to make a required contribution to any Pension Plan that would result in the imposition of a Lien or the provision of security under Section 430 of the Code or Section 303 or 4068 of ERISA, or the arising of such a Lien, (e) the failure to satisfy the minimum funding standard under Section 412 of the Code or Section 302 of ERISA, whether or not waived, or the filing of any request for or receipt of a minimum funding waiver under Section 412 of the Code with respect to any Pension Plan or Multiemployer Plan or a determination that any Pension Plan is considered an at-risk plan within the meaning of Section 430 of the Code or Section 303 of ERISA, (f) engaging in a non-exempt prohibited transaction within the meaning of Section 4975 of the Code or Section 406 of ERISA with respect to a Pension Plan, (g) the complete or partial withdrawal of any member of the ERISA Group from a Multiemployer Plan if there is any potential liability therefor, the reorganization or insolvency under Title IV of ERISA of any Multiemployer Plan or the receipt by any member of the ERISA Group of any notice, or the receipt by any Multiemployer Plan from any member of the ERISA Group of any notice that a Multiemployer Plan is in endangered or critical status under Section 432 of the Code or Section 305 of ERISA or (h) any Borrower Party incurring any liability under Title IV of ERISA with respect to any Pension Plan (other than premiums due and not delinquent under Section 4007 of ERISA).

"ERISA Group" means the Borrower Parties and their ERISA Affiliates.

"Event of Default" has the meaning set forth in ARTICLE VIII of this Credit Agreement.

"Event of Loss" has the meaning set forth in the Collateral Agreement.

"EWG" has the meaning set forth in Section 5.12 of this Credit Agreement.

"EWG Order" has the meaning set forth in Section 5.12 of this Credit Agreement.

"Excess Fuel Consumption Liquidated Damages" has the meaning set forth in the Equipment Services Agreement.

"Excluded Taxes" means, with respect to the Administrative Agent, any Lender, or any other recipient of any payment to be made by or on account of any obligation of any Borrower hereunder, (a) taxes imposed on or measured by its overall net income (however denominated), and franchise taxes imposed on it (in lieu of net income taxes), by the jurisdiction (or any political subdivision thereof) under the Laws of which such recipient is organized or in which its principal office is located or, in the case of any Lender, in which its applicable Lending Office is located, or by any jurisdiction as a result of a present or former connection between such recipient and the jurisdiction imposing such tax (or any political subdivision thereof), other than any such connection arising solely from such recipient having executed, delivered or performed its obligations or received a payment under, or enforced, this Credit Agreement or any other Financing Document, (b) any branch profits taxes imposed by the United States, (c) any backup withholding tax that is required by the Code to be withheld from amounts payable to a Lender, and (d) in the case of a Lender described in Section 3.24(b)(a)(i) (other than an assignee pursuant to a request by the Borrower under Section 11.11 and Section 3.26), any United States withholding tax that is required to be imposed on amounts payable to such Lender pursuant to the Laws in force at the time such Lender becomes a party hereto (or designates a new Lending Office) except to the extent that such Lender (or its assignor, if any) was entitled, at the time of the designation of a new lending office (or assignment) to receive additional amounts from any Borrower with respect to such withholding tax pursuant to Section 3.24 or (ii) is imposed with respect to the requirements of FATCA.

"Expected Initial Delivery Date" means 12:01 a.m. on August 1, 2013.

"Expropriation Event" means (i) any condemnation, nationalization, seizure or expropriation by a Governmental Authority of all or a substantial portion of the Project or the Property or the assets of any Borrower Party or of its Equity Interests, (ii) any assumption by a Governmental Authority of control of the Property, assets, business or operations of any Borrower Party or of its Equity Interests, (iii) any taking of any action by a Governmental Authority for the dissolution or disestablishment of any Borrower Party or (iv) any taking of any action by a Governmental Authority that would prevent any Borrower Party from carrying on its business or operations or a substantial part thereof.

"Extraordinary O&M Expenses" has the meaning set forth in Section 6.6(c).

"Facility" means, collectively, the two Generating Units to be located on the Site and all associated facilities (including all associated electrical, gas, steam and water interconnection, transmission, storage and treatment facilities, to the extent owned by any Borrower Party) designed to generate approximately 550MW of electrical energy.

"FATCA" means sections 1471 through 1474 of the Internal Revenue Code, as of the date of this Credit Agreement (or any amended or successor version of FATCA that is

substantively comparable and not materially more onerous to comply with), and any current or future regulations or official interpretations thereof.

"Federal Funds Rate" means, for any day, the rate per annum (rounded upwards, if necessary, to the nearest 1/100 of 1%) equal to the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers on such day, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day; provided, that (i) if the day for which such rate is to be determined is not a Business Day, the Federal Funds Rate for such day shall be such rate on such transactions on the next preceding Business Day as so published on the next succeeding Business Day and (ii) if such rate is not so published for any day, the Federal Funds Rate for such day shall be the average rate charged to the Administrative Agent (in its individual capacity) on such day on such transactions as determined by the Administrative Agent.

"Federal Power Act" has the meaning set forth in Section 5.12 of this Credit Agreement.

"Fees" means all amounts payable pursuant to or referred to in Section 3.13 of this Credit Agreement.

"FERC" means the Federal Energy Regulatory Commission of the United States or any successor agency thereto.

"Fidelity Pro Forma" has the meaning set forth in Section 6.8(a) of this Credit Agreement.

"Financing Documents" means, collectively, (i) this Credit Agreement, the Guaranties, the Collateral Agreement, the Title Indemnity and each Security Document, (ii) each other document that is specified to be a Financing Document either in such document or in any of the documents referred to in clause (i) and (iii) each amendment, consent or waiver granted in respect of or pursuant to any of the documents referred to in clauses (i) and (ii) (whether or not such amendment, consent or waiver specifies therein that such amendment, consent or waiver is a Financing Document).

"Financing Parties" means the Lenders, the TALC Issuing Bank, the LGIA Issuing Banks, the DSR Issuing Banks and the TALC Participating Banks.

"Firm Priority Service" has the meaning set forth in the Tolling Agreement.

"First Unit Operation Date" means the Substantial Completion Date (as defined in the Equipment Services Agreement) of the first Unit (as defined in the Equipment Services Agreement).

"Foreign Pension Plan" means shall mean any plan, fund (including any superannuation fund) or other similar program established or maintained outside the United States by the Borrower or any one or more of its Subsidiaries primarily for the benefit of employees of

the Borrower or such Subsidiaries residing outside the United States, which plan, fund or other similar program provides, or results in, retirement income, a deferral of income in contemplation of retirement or payments to be made upon termination of employment, and which plan is not subject to ERISA or the Code.

"Fronting Exposure" means, at any time there is a Defaulting Lender that is a TALC Participating Bank, such Defaulting Lender's TALC Participation *minus* the amount thereof that has been reallocated to other TALC Participating Banks or Cash Collateralized in accordance with the terms hereof.

"Generating Units" means the gas-fired combined cycle combustion turbines to be procured, installed and constructed in accordance with the EPC Contracts and located at the Site.

"Good Utility Practices" means the professional practices, methods, equipment, specifications and safety and output standards and industry codes of the electrical generation industry for projects of the same approximate type, location and capacity as the Project, with respect to the design, installation, operation, maintenance and use thereof, all of the above in compliance with applicable standards of safety, output, dependability, efficiency and economy, including recommended practice, of a good, safe, prudent and workman-like character and in compliance with all applicable Laws. Good Utility Practices are not intended to be limited to the optimum or minimum practice or method to the exclusion of all others, but rather to be a spectrum of reasonable and prudent practices and methods as practiced in the electrical generation industry.

"Governmental Authority" means any government, governmental department, commission, board, bureau, agency, regulatory authority (including central banks), instrumentality, judicial or administrative body, domestic or foreign, supranational, federal, state or local having jurisdiction over the matter or matters in question, including those of the State of California, the State of New York, and the United States.

"Guaranties" has the meaning set forth in the Collateral Agreement.

"Hazardous Material" has the meaning set forth in the Collateral Agreement.

"Hedging Agreement" means any agreement in respect of any interest rate swap transaction, basis swap, forward rate transaction, commodity swap, commodity option, equity or equity index swap, equity or equity index option, bond option, interest rate option, foreign exchange transaction, cap transaction, floor transaction, collar transaction, currency swap transaction, cross-currency rate swap transaction, currency option or any other similar transaction (including any option with respect to any of the foregoing transactions) or any combination of the foregoing transactions entered into by any Person.

"Historical DSCR" means, in respect of any DSCR Calculation Period, the ratio of (i) CFADS for such DSCR Calculation Period to (ii) the Scheduled Debt Service for such DSCR Calculation Period.

"HMT" means Her Majesty's Treasury, the economic and finance ministry of the United Kingdom.

"IE Construction Report" means, in respect of any month, a construction report of the Independent Engineer for such month in substantially the form set forth as Exhibit 19.

"Incremental Tranche A Borrowing Request" means a request for Loans in substantially the form set forth as Exhibit 21, appropriately completed and duly executed by an Authorized Officer of the Borrower.

"Incremental Tranche A Commitment" means, as to any Lender, the applicable percentage set forth opposite such Lender's name in Appendix F to this Credit Agreement under the heading "*Incremental Tranche A Commitment*" multiplied *by* the Incremental Tranche A Loan Amount.

"Incremental Tranche A Term Loans" has the meaning set forth in Section 2.2(c) of this Credit Agreement.

"Incremental Tranche A Loan Amount" means an amount up to $5,200,000 subject to Section 3.14 of this Credit Agreement.

"Indebtedness" of any Person means (i) all indebtedness of such Person for borrowed money, (ii) the deferred purchase price of assets or services which in accordance with U.S. GAAP would be shown on the liability side of the balance sheet of such Person, (iii) the face amount of all letters of credit issued for the account of such Person and, without duplication, all drafts drawn thereunder, (iv) all Indebtedness of a second Person secured by any Lien on any Property owned by such first Person, whether or not such Indebtedness has been assumed, (v) all Capital Lease Obligations of such Person, (vi) all obligations of such Person to pay a specified purchase price for goods or services whether or not delivered or accepted (*i.e.*, take-or-pay and similar obligations), (vii) all net obligations of such Person under Hedging Agreements and (viii) all Contingent Obligations of such Person; provided, that Indebtedness shall not include trade payables arising in the ordinary course of business so long as such trade payables are payable within ninety days of the date the respective goods are delivered or the respective services are rendered and are not overdue.

"Indemnified Liabilities" has the meaning set forth in Section 11.2(a) of this Credit Agreement.

"Indemnified Matters" has the meaning set forth in Section 11.2(b)(a)(i) of this Credit Agreement.

"Indemnified Person" has the meaning set forth in Section 11.2(a) of this Credit Agreement.

"Independent Consultant" means each of the Independent Engineer and the Insurance Consultant.

"Independent Engineer" means SAIC Energy, Environment & Infrastructure, LLC or any other Person from time-to-time appointed by the Requisite Financing Parties to act as Independent Engineer for the purposes of this Credit Agreement.

"Independent Engineer Completion Certificate" means the certificate of the Independent Engineer in the form attached hereto as Exhibit 15.

"Inflation Factor" means, in respect of any payment in any year, the sum of 1 *plus* the positive difference (if any) between (x) the Inflation Index for the immediately preceding year, expressed as a percentage of the base year thereof, *minus* (y) the Inflation Index for the year in which the Closing Date occurs, expressed as a percentage of the base year thereof.

"Inflation Index" means the non-seasonally adjusted U.S. City Average All Items Consumer Price Index for All Urban Consumers, reported monthly by the Bureau of Labor Statistics of the US Department of Labor (unrevised) (Series Id: CUUR0000SA0) (Base Period: 1982-1984 = 100), and as published on Bloomberg page CPURNSA; provided, that if the base year of such index changes, the Inflation Index shall be such index converted in accordance with the relevant conversion factor published by the US Department of Labor.

"Initial Delivery Date" has the meaning set forth in Section 2.04 of the Tolling Agreement.

"Initial Tranche A Term Loan" has meaning set forth in Section 2.2(c) of this Credit Agreement.

"Insurance Consultant" means Moore McNeil, LLC or any other Person from time-to-time appointed by the Required Creditors to act as Insurance Consultant for the purposes of this Credit Agreement.

"Intercompany Notes" means, collectively, the Intercompany Subordinated Note, dated as of the Closing Date, issued by the Project Owner for the benefit of the Borrower, the Intercompany Subordinated Note, dated as of the Closing Date, issued by the Procurement Sub for the benefit of the Borrower and the Intercompany Subordinated Note, dated as of the Closing Date, issued by the Borrower for the benefit of the Pledgor, in each case, evidencing Indebtedness extended in accordance with Section 7.21(a)(e).

"Interest Determination Date" means, with respect to any LIBOR Loan, the second Business Day prior to the commencement of any Interest Period relating to such LIBOR Loan.

"Interest Period" has the meaning set forth in Section 3.7 of this Credit Agreement.

"Internal Revenue Code" means the Internal Revenue Code of 1986, as amended from time-to-time, and the regulations promulgated and rulings issued thereunder.

"Investment" in any Person means, without duplication: (a) the acquisition (whether for cash, securities, other Property, services or otherwise) or holding of capital stock, bonds, notes, debentures, partnership or other ownership interests or other securities of such Person, or any

agreement to make any such acquisition or to make any capital contribution to such Person; or (b) the making of any deposit with, or advance, loan or other extension of credit to, such Person.

"Involuntary Bankruptcy Event" means, with respect to any Person, (i) the declaration by a Governmental Authority of a generally applicable suspension of payments, moratorium or any similar arrangement in respect of the Indebtedness of such Person or (ii) the commencement of an involuntary case against such Person seeking the liquidation or reorganization of such Person under Debtor Relief Law or any similar proceeding under any other applicable federal, state or other applicable Law.

"Issuance Date" means (i) prior to the issuance of any Specified Letter of Credit, the date specified in an LC Request as the date on which such Specified Letter of Credit is requested by the Borrower to be issued and (ii) after the issuance of any Specified Letter of Credit, the date such Specified Letter of Credit was actually issued.

"Issuing Banks" means, as the context may require, (i) each DSR Issuing Bank, (ii) the TALC Issuing Bank and (iii) each LGIA Issuing Bank.

"Large Generator Interconnection Agreement" means the Large Generator Interconnection Agreement among El Segundo Power II LLC, the Offtaker and CAISO, with an effective date of March 9, 2007, as amended by the first amendment with an effective date of December 1, 2007, the second amendment with an effective date of July 24, 2009 and the third amendment, dated March 14, 2011.

"Law" means, with respect to any Person (i) any statute, law, regulation, ordinance, rule, judgment, order, decree, permit, concession, grant, franchise, license, agreement, treaty, or other governmental restriction or any interpretation or administration of any of the foregoing by any Governmental Authority (including Permits) and (ii) any directive, guideline, policy, requirement or any similar form of decision of or determination by any Governmental Authority which is binding on such Person, in each case, whether now or hereafter in effect (including, in each case, any Environmental Law).

"LC Disbursement" means any payment to the beneficiary of any Specified Letter of Credit in accordance therewith.

"LC Facilities" means the Revolving Facility (in respect solely of the LGIA Letters of Credit), the TALC Facility and the DSR LC Facility.

"LC Loan" has the meaning set forth in Section 3.25(f).

"LC Request" means a request for a Specified Letter of Credit in substantially the form set out as Exhibit 10.

"LGIA Availability Period" means the period commencing on the Closing Date and ending on the Term Conversion Date.

"LGIA Issuing Banks" means each of the Revolver Lenders.

"LGIA Letter of Credit" has the meaning set forth in Section 2.3(b).

"Lender" prior to the date hereof, means Credit Agricole Corporate and Investment Bank, Mizuho Bank, Ltd., ING Capital LLC, MUFG Union Bank, N.A., Siemens Financial Services, Inc., CoBank, ACB, DnB NOR Bank ASA, Landesbank Hessen Thüringen Girozentrale, New York Branch, Societe Generale, Sumitomo Mitsui Banking Corporation, Santander Bank, The Bank of Nova Scotia, CIT Capital USA Inc. and CIT Bank, Associated Bank, N.A., Credit Industriel et Commercial, Landesbank Baden-Wuerttemberg, New York Branch, DekaBank Deutsche Girozentrale, The Royal Bank of Scotland plc and Lloyds TSB Bank plc and any Assignee thereof pursuant to Section 11.11 of this Credit Agreement, and on and after the date hereof, means each Lender named on Appendix G and any Assignee thereof pursuant to Section 11.11 of this Credit Agreement.

"Letters of Credit Fees" has the meaning set forth in Section 3.13(c).

"LIBOR Loan" means Loans which bear interest based on the Adjusted LIBOR Rate.

"LIBO Rate" means, with respect to any Interest Period for any LIBOR Loan, the rate *per annum* (rounded upwards, if necessary, to the nearest 1/100 of 1%) appearing on Reuters LIBOR01 Page (or any successor page, or any substitute for such page, providing rate quotations comparable to those currently provided on such page or such pages, as determined by the Administrative Agent from time-to-time for purpose of providing quotations or interest rates applicable to deposits in Dollars in the London interbank market) as the London interbank offered rate for overnight deposits in Dollars at approximately 11:00 a.m. (London time) on the second Business Day prior to the first day of such Interest Period. If for any reason the Reuters LIBOR01 Page (or any such agreed page or any successor or substitute page is not available), the term "LIBO Rate" means, with respect to any Interest Period for any LIBOR Loan, the rate determined by taking the average (rounded upward to the nearest whole multiple of 1/16 of 1% *per annum*, if such average is not a multiple) of the rates *per annum* at which overnight deposits in Dollars in an amount equal to $5,000,000 are offered by the principal office of each of the Reference Banks to prime banks in the London interbank market at approximately 11:00 a.m. (London time) on such day. In no event shall the LIBO Rate be less than 0.00%.

"Lien" means, with respect to any Property of any Person, any mortgage, lien, deed of trust, hypothecation, fiduciary transfer of title, assignment by way of security, pledge, charge, lease, sale and lease-back arrangement, easement, servitude, trust arrangement, security interest or encumbrance of any kind in respect of such Property, or any preferential arrangement having the practical effect of constituting a security interest with respect to the payment of any obligation with, or from the proceeds of, any Property of any kind (and a Person shall be deemed to own subject to a Lien any Property that it has acquired or holds subject to the interest of a vendor or lessor under any conditional sale agreement, any agreement in respect of Capital Lease Obligations or other title retention agreement relating to such Property).

"Lien Waiver Report" means, in respect of any proposed Borrowing, a lien waiver report of the Borrower in substantially the form set forth as Exhibit 20.

"Liquidation Costs" has the meaning set forth in Section 3.12 of this Credit Agreement.

"Loan" means any loan made by any Lender pursuant to this Credit Agreement, including any Construction Loan, Term Loan, Revolving Loan or LC Loan.

"Losses" has the meaning set forth in Section 11.2(b)(a)(i) of this Credit Agreement.

"Loss Proceeds" has the meaning set forth in the Collateral Agreement.

"M&M Contract" means any EPC Contract and any other Project Document under which the Title Insurance Companies require Lien waivers as conditions to the issuance of the 32-06 Endorsement or any 33-06 Endorsement.

"M&M Party" means (i) any EPC Contractor, (ii) any subcontractor, supplier or vendor of any EPC Contractor of any tier, or any other Project Participant party to any other M&M Contract, in each case, if and to the extent that any of the foregoing Persons has or may reasonably be expected to have mechanics' lien rights in respect of the Project and (iii) any other Person from whom the Title Insurance Companies require Lien waivers as conditions to the issuance of the 32-06 Endorsement or any 33-06 Endorsement.

"Major Milestone Dates" means each of the milestones so designated under the heading "Major Milestone Dates" on Appendix J.

"Majority Lenders" means Lenders whose aggregate remaining Commitments *plus* aggregate outstanding principal amount of funded Loans exceeds 50.0% of the total aggregate remaining Commitments *plus* the total aggregate principal amount of funded Loans of all Lenders.

"Mandated Lead Arrangers" prior to the date hereof, means MUFG Union Bank, N.A. (as successor to Union Bank, N.A.), Mizuho Bank, Ltd., RBS Securities Inc., Credit Agricole Corporate and Investment Bank, and ING Capital LLC, and on or after the date hereof, means each of the financial institutions designated as such in the Preamble of this Credit Agreement.

"Mandatory Prepayment Portion" has the meaning set forth in the Collateral Agreement.

"Margin Stock" means margin stock within the meaning of Regulation U and Regulation X.

"Market Rate Authorization" has the meaning set forth in Section 5.12 of this Credit Agreement.

"Material Adverse Effect" has the meaning set forth in the Collateral Agreement.

"Material EPC Contracts" means the (i) BOP Contract, the BOP Guaranty, the Construction Management Agreement, the Equipment Purchase Agreement, the Equipment Supplier Guaranty, the Equipment Services Agreement, the Equipment Servicer Guaranty, the

Construction Coordination Agreement, the Project Labor Agreement and the Assignment of Project Labor Agreement and (ii) each other EPC Contract or series of related EPC Contracts with the same contractor, vendor or supplier wherein the aggregate cost or value of goods and services to be acquired by any Borrower Party pursuant thereto either (x) could reasonably be expected to exceed $2,000,000 or the equivalent in any other currency or (y) are not reflected in the then-current Construction Budget (as confirmed by the Administrative Agent in consultation with the Independent Engineer).

"Material Permit" means (i) each Permit that is or will be required by any Governmental Authority to be held by any Borrower Party or an Affiliated Project Party to acquire, import, own, construct, install, operate, insure or maintain the Project or any material portion of the Project, (ii) each Permit in respect of the Project or any material portion of the Project that is or will be required by any Governmental Authority to be held by a Material Project Participant (whether or not required to be held on behalf of or for the benefit of any Borrower Party) in order for such Material Project Participant to (as applicable) acquire, import, construct, install, operate, insure or maintain the Project or any material portion of the Project in accordance with each Material Project Document to which it is a party, (iii) each Permit that is or will be required by any Governmental Authority to be held by any Borrower Party or any relevant Material Project Participant to duly execute, deliver or perform any Material Project Document, (iv) each Permit that is or will be required by any Governmental Authority to be held in the name of any Borrower Party or any Affiliated Project Party to cause any Material Project Document to be the legal, valid and binding obligation of such Person or of the Material Project Participant that is a party to any such Material Project Document and (v) each Permit that is or will be required by any Governmental Authority to be held in the name of any Borrower Party or an Affiliated Project Party in order to conduct its business generally or to maintain its existence.

"Material Project Document" means (i) each Project Document that is or will be necessary or advisable for the Borrower Parties to enter into in order to acquire, import, own, construct, install, operate, insure or maintain the Project or any material portion of the Project (other than services, materials or rights that can reasonably be expected to be readily available on commercially reasonable terms), (ii) each Project Document that is or will be necessary or advisable for the Borrower Parties to enter into in order for such Borrower Party to obtain, maintain in full force and effect or comply with any other Material Project Document, any Material Permit or any material applicable Law, (iii) each Project Document that is or will be necessary or advisable for the Borrower Parties to enter into in order to maintain their respective business generally or to maintain their respective existence, (iv) without limiting the foregoing (other than the parenthetical set forth in subclause (i) of this definition), each Project Document where (A) the aggregate cost or value of goods and services to be acquired by any Borrower Party pursuant thereto could reasonably be expected to exceed $2,000,000 or the equivalent in any other currency in any year, (B) the aggregate amount of termination fees or liquidated damages which could be incurred by any Borrower Party in respect of such Additional Project Document in any single year could reasonably be expected to exceed $2,000,000 or the equivalent in any other currency or (C) such Project Document provides for the sale of any goods, services, capacity, or other right, title or interest in any Property of any Borrower Party (other than Dispositions permitted in accordance with Section

7.20) and (v) without limiting the foregoing, any and all Material EPC Contracts and the Environmental Indemnity.

"Material Project Participant" means each party to a Material Project Document (other than the Borrower Parties).

"Maturity Date" means, as applicable, to the relevant Tranche of Loans, the Date Certain, the Term Maturity Date, the Revolver Maturity Date, the TALC Maturity Date or the DSR Maturity Date.

"Merger" has the meaning set forth in the Collateral Agreement.

"Minimum Collateral Amount" means, at any time, (i) with respect to Cash Collateral consisting of cash or deposit account balances, an amount equal to 100% of the Fronting Exposure of the TALC Issuing Bank with respect to TA Letters of Credit issued and outstanding at such time and (ii) otherwise, an amount determined by the TALC Issuing Bank in its sole discretion.

"Modified Business Day Convention" has the meaning set forth in the Swap Definitions.

"Monthly Period" means a period commencing on the day succeeding a Monthly Transfer Date and ending on the next succeeding Monthly Transfer Date.

"Monthly Transfer Date" means the last Business Day of each calendar month commencing on the first such day occurring on or after the Term Conversion Date.

"Moody's" shall mean Moody's Investors Service, Inc.

"Mortgage" has the meaning set forth in the Collateral Agreement.

"Mortgaged Property" has the meaning set forth in the Collateral Agreement.

"MPD Termination Event" means, with respect to any Material Project Document, any event or condition that would, either immediately or with the giving of notice, entitle the relevant Material Project Participant to terminate or suspend its obligations thereunder (and shall include, in any event, the occurrence of any "Termination Event" or other analogous event as defined in the Consent Agreement entered into in respect of such Material Project Document).

"Multiemployer Plan" means an employee pension benefit plan within the meaning of Section 4001(a)(3) of ERISA to which any member of the ERISA Group is then making or accruing an obligation to make contributions or has within the preceding five plan years made or accrued obligations to make contributions.

"NERC" has the meaning set forth in Section 5.12 of this Credit Agreement.

"Non-Consenting Creditor" means any Lender or Issuing Bank that does not approve any consent, waiver or amendment that (a) requires the approval of all affected Financing Parties

in accordance with Section 10.11 and has been approved by all other affected Financing Parties in accordance with Section 10.11 and (b) has been approved by the Requisite Financing Parties.

"Non-Recourse Parties" has the meaning set forth in Section 11.7 of this Credit Agreement.

"Note" means, with respect to any Tranche of Loans, each promissory note delivered in respect of such Tranche of Loans to a Lender hereunder, in substantially the form set out as Exhibit 4, Exhibit 5, Exhibit 6, Exhibit 7 or Exhibit 8 (as applicable).

"Notice of Merger Certificate" has the meaning set forth in Section 7.33 of this Credit Agreement.

"Notice Office" means the office of the Administrative Agent set forth on Appendix G or such other office as the Administrative Agent may hereafter designate in writing as such to the Borrower and each Lender.

"Notional Amortization" means, in respect of any Semi-Annual Date, the notional principal amount projected to be payable on such Semi-Annual Date, as set forth under the heading "Tranche A $" or "Tranche B $" on the Projected Amortization Schedule, as applicable.

"Notional Disbursement Schedule" has the meaning set forth in Section 3.14(a).

"Notional Loan Amount" has the meaning set forth in Section 7.26 of this Credit Agreement.

"NYPSC" has the meaning set forth in Section 5.12(c) of this Credit Agreement.

"O&M Agreement" means the Operation and Maintenance Management Agreement, dated as of March 31, 2011, between the Project Owner and the O&M Operator, as amended by the first amendment to the O&M Agreement, dated June 1, 2011.

"O&M Operator" means NRG El Segundo Operations Inc., a Delaware corporation.

"O&M Expenses" means, collectively, without duplication, all (i) expenses of administering and operating the Project and of maintaining it in accordance with Good Utility Practices incurred by the Borrower Parties (including any items properly chargeable by U.S. GAAP to fixed capital accounts or that are or should be classified as capital expenditures), (ii) fuel procurement and transportation costs payable by the Borrower Parties, (iii) direct operating and maintenance costs of the Project payable by the Borrower Parties, (iv) insurance premiums payable by the Borrower Parties (including construction insurance premiums paid for coverage obtained prior to the Project Completion Date), (v) property, sales, value-added and excise taxes payable by the Borrower Parties (other than taxes imposed on or measured by income or receipts), (vi) costs and fees incurred by the Borrower Parties in connection with obtaining and maintaining in effect the Permits required in connection with the Project, (vii) legal, engineering, accounting, construction, management and other professional fees incurred in the ordinary course of business in connection with the Project payable by the Borrower Parties (viii) "Reimbursable Expenses" as

defined in the O&M Agreement and the Project Administration Agreement, respectively; provided, that "O&M Expenses" shall not include payments into the Debt Service Reserve Account.

"OB Approval Threshold" means each threshold set forth on Appendix E under the heading "*OB Approval Threshold*".

"OFAC" means the Office of Foreign Assets Control of the U.S. Department of the Treasury.

"OFAC Laws" means any laws, regulations, and executive orders relating to the economic sanctions programs administered by OFAC, including the International Emergency Economic Powers Act, 50 U.S.C. sections 1701 et seq.; the Trading with the Enemy Act, 50 App. U.S.C. sections 1 et seq.; and the Office of Foreign Assets Control, Department of the Treasury Regulations, 31 C.F.R. Parts 500 et seq. (implementing the economic sanctions programs administered by OFAC).

"OFAC SDN List" means the list of "Specially Designated Nationals and Blocked Persons" maintained by OFAC.

"Officer's Certificate" means, with respect to each Borrower Party, an officer's certificate signed by an Authorized Officer of such Borrower Party in respect of such Borrower Party.

"Offtaker" means Southern California Edison Company, a California corporation.

"Operating Account" has the meaning set forth in the Accounts Agreement.

"Operating Agreements" means the O&M Agreement, the Energy Marketing Agreement, the Spare Parts Agreement and the Project Administration Agreement.

"Operating Budget" means, for, any Operating Year, the operating and O&M Expense budget forecasts for the Project showing the costs and expenses necessary to operate, service, maintain and repair the Project, which includes (i) a detailed line item breakdown of the total costs of the Project at a level of detail satisfactory to Administrative Agent, (ii) a detailed description of the methodology and all material assumptions used to produce such estimates and the Base Case Projections.

"Operating Performance" means the operating and performance parameters of the Project, including power production, fuel consumption and efficiency, heat rate information, availability, capacity, maintenance performed, outages, changes in operating status, inspections and any other significant events relating to the operation of the Project, including each Generating Unit.

"Operating Report" means an operations report prepared quarterly by the Borrower in accordance with Section 6.1(a)(e).

"Operating Year" means each calendar year (or portion thereof) occurring after the First Unit Operation Date and prior to the Term Maturity Date.

"Operators" means the O&M Operator, the Energy Marketer, the Spare Parts Supplier and the Project Administrator.

"Optional True-Up Date" has the meaning set forth in Section 2.1(e) of this Credit Agreement.

"Original Credit Agreement" has the meaning set forth in the recitals to this Credit Agreement.

"Originating Lender" has the meaning set forth in Section 11.11(d) of this Credit Agreement.

"Participating Bank" has the meaning set forth in Section 11.11(d) of this Credit Agreement.

"PBGC" means the Pension Benefit Guaranty Corporation referred to and defined in ERISA.

"Pension Plan" means an employee pension benefit plan (other than a Multiemployer Plan) which is covered by Title IV of ERISA or subject to the minimum funding standards under Section 412 of the Code and either is, or at any time within the preceding five years has been, maintained, or contributed to, by any member of the ERISA Group for employees of any member of the ERISA Group.

"Performance Guarantees" has the meaning set forth in the Equipment Services Agreement.

"Permit" means any authorization, consent, approval, license, ruling, permit, tariff, rate, certification, exemption, filing, variance, claim, order, judgment, decree, publication, notice to, declaration of or with, or registration by or with, any Governmental Authority.

"Permitted Indebtedness" has the meaning set forth in Section 7.21 of this Credit Agreement.

"Permitted Investments" has the meaning set forth in the Accounts Agreement.

"Permitted Lien" has the meaning set forth in the Collateral Agreement.

"Permitted Priority Liens" has the meaning set forth in the Collateral Agreement.

"Permitted Transfer" means any sale or other transfer of the indirect ownership in the Borrower to a Qualified Buyer, following not less than ten days prior written notice to the Administrative Agent (provided that no prior notice is required for any sale or other transfer which is the result of an equity issuance to the public of shares in NRG Yield, Inc. or NRG Yield LLC); provided, that: (1) no Default or Event of Default shall have occurred and be continuing or shall occur as a result of any such transfer; (2) all material Permits with respect to such transfer have been obtained and are in full force and effect, and such transfer complies with all the material terms,

conditions and requirements thereof; (3) such transfer complies with the material terms and conditions of each applicable Material Project Document; (4) such transfer complies with all material applicable Laws of any Governmental Authority having jurisdiction with respect thereto, including all federal and state securities laws; and (5) except in the case of any sale or other transfer which is the result of an equity issuance to the public of shares in NRG Yield, Inc. or NRG Yield LLC, the transferee has complied with the reasonable, and uniformly applied know-your-client requirements of the Lenders whose aggregate remaining Commitments *plus* aggregate outstanding principal amount of funded Loans exceed 85.0% of the total aggregate remaining Commitments *plus* the total aggregate principal amount of funded Loans of all Lenders.

"Person" means any individual, corporation, limited liability company, company, voluntary association, partnership, joint venture, trust, or other enterprise or unincorporated organization or government (or any agency, instrumentality or political subdivision thereof).

"Plans and Specifications" means the plans and specifications relating to the Project as set forth in or contemplated by the EPC Contracts.

"Pledge Agreements" means each of the Pledgor Pledge Agreement and the Borrower Pledge Agreement.

"Pledged Equity Interests" means the Equity Interests pledged pursuant to the relevant Pledge Agreement.

"Pledgor" means Natural Gas Repowering LLC, a limited liability company duly organized and existing under the laws of Delaware.

"Pledgor Closing Certificate" means a certificate, substantially in the form of Exhibit 12, dated the Closing Date, appropriately completed and duly executed by an Authorized Officer of the Pledgor.

"Pledgor Pledge Agreement" means the Pledge Agreement dated the Closing Date between the Pledgor and the Collateral Agent in respect of, *inter alia*, the Equity Interests of the Borrower.

"Prime Rate" means the *per annum* rate of interest established from time-to-time by the Administrative Agent as its prime rate, which rate may not be the lowest rate of interest charged by the Administrative Agent to its customers.

"Principal Payment Date" means each date on which principal of the Loans is due in accordance with the Amortization Schedule.

"Proceeds Account" has the meaning set forth in the Accounts Agreement.

"Procurement Sub" means NRG West Procurement Company LLC, Delaware limited liability company and a wholly-owned Subsidiary of the Borrower.

"Project" means the engineering, construction, procurement, installation, testing, commissioning, operation, maintenance and ownership of the Facility to be located at the Site, including all buildings, structures and improvements erected on the Site, all alterations thereto or replacements thereof, all fixtures, attachments, equipment, machinery, parts and other articles which may from time-to-time be incorporated or installed in or attached thereto, all associated facilities (including all associated electrical, gas, steam and water interconnection, transmission, storage and treatment facilities), and all easements, leasehold interests, licenses, permits, contract rights and other real and personal property interests, in each case, now owned or hereafter acquired by the Borrower Parties or in which the Borrower Parties have any rights.

"Project Administration Agreement" means the Project Administration Services Agreement, dated as of March 31, 2011, among the Borrower, the Project Owner and the Project Administrator.

"Project Administrator" means NRG West Coast LLC, a Delaware limited liability company.

"Project Completion Date" means the date upon which all of the following events shall have occurred:

(i) Unit Mechanical Completion (as defined in the BOP Contract) of each Unit (as defined in the BOP Contract) shall have occurred;

(ii) the Project shall have been started up and operated, and Final Completion (as such term is defined in the Equipment Services Agreement) of each Unit (as such term is defined in the Equipment Services Agreement) shall have occurred;

(iii) the Work (except for the Final Completion Punch List (as such term is defined in the BOP Contract) and the Final Punchlist (as such term is defined in the Equipment Services Contract)) items the total cost of which to complete shall not exceed $250,000) shall have been completed in accordance with the BOP Contract and the Equipment Services Contract, as the case may be, and in compliance with all applicable Laws and Permits, and all clearing, landscaping, lighting and paving of the Project site, and all ancillary construction, upgrades and improvements necessary for the operation of the Project as contemplated by the Transaction Documents, including the interconnection and transmission facilities contemplated by the Revenue Contracts, the Large Generator Interconnection Agreement and the SoCalGas Transportation Contract, shall have been completed;

(iv) issuance to the Project Owner of a final permit to operate the Project by the South Coast Air Quality Management District;

(v) the Borrower shall have delivered the Borrower Completion Certificate to the Administrative Agent;

(vi) the Administrative Agent shall have received an executed counterpart of the Independent Engineer Completion Certificate; and

(vii) the Commercial Operation Date.

"Project Costs" means (a) all costs and expenses incurred or to be incurred by the Borrower Parties to develop, finance, complete and start-up the Project and achieve the Project Completion Date (and complete all Punch List items) in the manner contemplated by the Transaction Documents, including all amounts payable to third parties under the Project Documents and other contracts for the supply of equipment or services relating to the construction of the Facility, all costs and expenses incurred in connection with the negotiation and preparation of the Transaction Documents, and all other expenses required for the financing, development, design, engineering, construction, equipment procurement, installation, start-up and initial operation of the Project that are properly capitalized or expensed in accordance with U.S. GAAP, (b) all Fees and interest payable on the Secured Obligations prior to the Term Conversion Date and (c) all O&M Expenses payable prior to the Term Conversion Date. "Project Costs" shall not include (a) payments of principal of any Indebtedness, (b) any indemnification payments to any Secured Party or (c) any payments of any kind to any Borrower Party or any Affiliate thereof other than (x) the letter of credit fees set forth in the First Amended Intercompany Note, dated as of July 1, 2010, issued by the Project Owner for the benefit of the Sponsor and the Third Amended and Restated Credit Agreement, dated as of June 30, 2010, among, *inter alia*, the Sponsor, as borrower, Citicorp North Amercia Inc., as administrative agent and collateral agent, and the lenders party thereto from time to time, and (y) other amounts payable pursuant to the Affiliated Project Documents.

"Project Documents" means all contracts, agreements, side letters, leases, powers of attorney or other instruments or documents entered into or to be entered into by any Borrower Party in connection with the Project that are not Financing Documents.

"Project Labor Agreement" means the Project Labor Agreement, dated as of 2001, among El Segundo Power II LLC, the State Building and Construction Trades Council of California and its affiliated local unions who have executed the Project Labor Agreement.

"Project Owner" means El Segundo Energy Center LLC, a Delaware limited liability company and a wholly-owned Subsidiary of the Borrower.

"Project Participants" means each party (other than the Borrower) to any Project Document.

"Project Revenues" means, for any period, without duplication, the aggregate of (i) payments to the Borrower Parties under the Revenue Contracts *plus* (ii) interest accrued on, and other income derived from, the balance outstanding during such period in the Secured Accounts *plus* (iii) Business Interruption Proceeds *plus* (iv) the proceeds of any Delay Liquidated Damages *plus* (v) the proceeds of any Excess Fuel Consumption Liquidated Damages. For the avoidance of doubt, Project Revenues shall exclude (a) net amounts payable to the Borrower under any Hedging Agreements, (b) proceeds payable in respect of any insurance (other than business interruption insurance), (c) the proceeds of any Buy-down Proceeds and any liquidated damages payable to the Borrower Parties under any Operating Agreement in respect of performance deficiencies and (d) warranty or indemnity payments or damages payable to the Borrower Parties under any Project Document.

"Project Schedules" means, collectively, each project schedule attached to each EPC Contract on the Closing Date.

"Projected Amortization Schedule" means the percentage and notional amortization schedule attached hereto as Appendix C, as updated in accordance with Section 3.15 and 3.18(a).

"Projected Completion Date" means August 1, 2013 *plus* the number of days (if any) that the Substantial Completion Guaranteed Date (as defined in the Equipment Services Agreement) has been extended pursuant to a Change Order entered into in accordance with Section 7.15.

"Projected DSCR" means, for any applicable period, the ratio of (i) the expected CFADS for such period, to (ii) the Scheduled Debt Service for such period (including scheduled principal payments in respect of the Loans required to be paid during such period but excluding mandatory prepayments in respect of the Loans payable during such period pursuant to the Financing Documents) and the Assumed Interest Expense in respect of the Loans required to be paid during such period.

"Property" means any property of any kind whatsoever, whether real, personal or mixed and whether tangible or intangible, and any right or interest therein.

"PUHCA" has the meaning set forth in Section 5.12 of this Credit Agreement.

"Punch List" has the meaning set forth in the BOP Contract.

"Punch List Amount" has the meaning set forth in the Accounts Agreement.

"Qualified Buyer" means an entity that is wholly-owned by a Qualified Holder.

"Qualified Holder" means:

(i) an entity that, as of the date of the relevant Permitted Transfer, (A) has either (x) a long-term unsecured and unguaranteed credit rating of at least "BBB-" from S&P or "Baa3" from Moody's or (y) a minimum net worth of $1 billion and (B) is a majority owner of one or more electric generating facilities that in the aggregate, have a nameplate capacity of 500 megawatts or more; or

(ii) an entity that is, as of the date of the relevant Permitted Transfer and at all times thereafter, an infrastructure fund, private equity fund, or other similar fund (including publicly traded entities commonly referred to as "yieldcos") that is controlled (whether through ownership of voting securities, by contract, management agreement, or common directors, officers or trustees or otherwise) by a Qualified Manager.

"Qualified Manager" means an entity that (x) owns and manages assets that in the aggregate are valued in excess of $3 billion and owns and manages electric generating facilities that in aggregate have a nameplate capacity of 500 megawatts or more.

"Rate Swap Agreement" has the meaning set forth in the Collateral Agreement.

"Rate Swap Commencement Date" means the first Semi-Annual Date to occur after January 1, 2012.

"Rate Swap Confirmation" has the meaning set forth in the Collateral Agreement.

"Rate Swap Counterparty" has the meaning set forth in the Collateral Agreement.

"Rate Swap Transaction" has the meaning set forth in the Collateral Agreement.

"RCRA Facility Investigation Work Plan" means the RCRA Facility Investigation Work Plan, dated August 2007 (as revised June 23, 2008 and October 19, 2010, and as further revised, amended, supplemented or otherwise modified from time to time) prepared by Shaw Environmental, Inc. for El Segundo Power II LLC.

"Real Property Agreements" has the meaning set forth in the Collateral Agreement.

"Reference Banks" means those reference banks selected from time-to-time by ICE Benchmark Administration Limited (IBA) as the panel of banks that contribute to the fixing of US Dollar ICE LIBOR as set forth as of the Repricing Date at https://www.theice.com/iba/libor#panel-composition.

"Register" has the meaning set forth in Section 10.10 of this Credit Agreement.

"Regulation D" means Regulation D of the Board of Governors of the Federal Reserve System (or any successor).

"Regulation U" means Regulation U of the Board of Governors of the Federal Reserve System (or any successor).

"Regulation X" means Regulation X of the Board of Governors of the Federal Reserve System (or any successor).

"Reissued Title Policy" has the meaning set forth in Section 4.6(a)(h)(i).

"Release" has the meaning set forth in the Collateral Agreement.

"Relevant Work Date" means, with respect to any amount to be paid to any M&M Party from proceeds of the Construction Loans, the date reasonably determined by Borrower in good faith and set forth on the Lien Waiver Report that the milestone or similar event entitling the M&M Party to such payment was achieved, the goods entitling such M&M Party to such payment were delivered to the site, the services entitling such M&M Party to such payment were performed at the site, or the work entitling such M&M Party to such payment was otherwise performed, as applicable.

"Remediation Work Plan" means the work plan agreed to among the Project Owner, El Segundo Power, LLC and the Environmental Remediation Contractor setting forth all corrective

actions necessary or appropriate to satisfy the conditions and other requirements set forth in the EPA Letters.

"Repricing Date" means the date upon which each of the conditions precedent set forth in Section 4.17 of this Credit Agreement were satisfied or waived in writing by Administrative Agent with the consent of each Financing Party.

"Repricing Fee Letters" means each fee letter agreement executed as of the Repricing Date by and between the Borrower and each Financing Party.

"Required Equity Contribution" means the greater of (x) the positive difference between the aggregate amount of historical and projected Project Costs (including the Contingency) set forth in the then-applicable Construction Budget minus the sum of the Tranche A Loan Amount and the Tranche B Loan Amount and (y) 20% of the aggregate amount of historical and projected Project Costs (including the Contingency) set forth in the then-applicable Construction Budget.

"Requisite Financing Parties" means, at any time, Lenders holding at least:

(i) 50.1% of the sum of (A) the Tranche A Construction Commitment (or after the termination thereof, outstanding Tranche A Construction Loans or the Tranche A Term Loans, as applicable), (B) the Revolving Commitments (or after the termination thereof, outstanding Revolving Loans), (C) the DSR Commitments (or after the termination thereof, outstanding LC Loans in respect of any draws on the DSR Letters of Credit) and (D) the TALC Commitments (or after the termination thereof, outstanding LC Loans in respect of any draw on the TA Letters of Credit);

(ii) 50.1% of the Tranche B Construction Commitment (or after termination thereof, outstanding Tranche B Construction Loans or Tranche B Term Loans, as applicable); and

(iii) 66.6% of the sum of (A) the Tranche A Construction Commitment (or after the termination thereof, outstanding Tranche A Construction Loans or the Tranche A Term Loans, as applicable), (B) Tranche B Construction Commitment (or after termination thereof, outstanding Tranche B Construction Loans or Tranche B Term Loans, as applicable); (C) Revolving Commitments (or after the termination thereof, outstanding Revolving Loans), (D) the DSR Commitments (or after the termination thereof, outstanding LC Loans in respect of any draws on the DSR Letters of Credit) and (E) the TALC Commitments (or after the termination thereof, outstanding LC Loans in respect of any draw on the TA Letters of Credit).

"Requisite Revolver Lenders" means Revolver Lenders holding at least 50.1% of the aggregate outstanding principal amount of the Revolving Loans or, if no Revolving Loans have been made, at least 50.1% of the aggregate Revolving Commitments of all Revolver Lenders.

"Requisite TALC Participating Banks" means TALC Participating Banks holding at least 50.1% of the aggregate outstanding principal amount of the LC Loans resulting from a drawing

on the TALC Letters of Credit or, if no LC Loans have been made, at least 50.1% of the aggregate LC Loan Commitments of all TALC Participating Banks.

"Requisite Tranche A Lenders" means Tranche A Lenders holding at least 50.1% of the aggregate outstanding principal amount of the Tranche A Construction Loans or the Tranche A Loans, as applicable, or, if no Tranche A Construction Loans have been made, at least 50.1% of the aggregate Tranche A Construction Loan Commitments of all Tranche A Lenders.

"Requisite Tranche B Lenders" means Tranche B Lenders holding at least 50.1% of the aggregate outstanding principal amount of the Tranche B Construction Loans or the Tranche B Term Loans, as applicable, or, if no Tranche B Construction Loans have been made, at least 50.1% of the aggregate Tranche B Construction Loan Commitments of all Tranche B Lenders.

"Requisite Term Lenders" means each of the Requisite Tranche A Lenders and the Requisite Tranche B Lenders.

"Requisition Date" has the meaning set forth in the Accounts Agreement.

"Reserve Requirement" means, at any time, the maximum rate at which reserves (including any marginal, special, supplemental, or emergency reserves) are required to be maintained under regulations issued from time-to-time by the Board of Governors of the Federal Reserve System (or any successor) by member banks of the Federal Reserve System against "Eurocurrency liabilities" (as such term is used in Regulation D). Without limiting the effect of the foregoing, the Reserve Requirement shall reflect any other reserves required to be maintained by such member banks with respect to (i) any category of liabilities which includes deposits by reference to which the Adjusted LIBO Rate is to be determined, and (ii) any category of extensions of credit or other assets which include LIBOR Loans. The Adjusted LIBO Rate shall be adjusted automatically on and as of the effective date of any change in the Reserve Requirement.

"Restore" has the meaning set forth in the Collateral Agreement.

"Restricted Party" means a Person that is: (i) listed on, or owned or (directly or indirectly) Controlled by a Person listed on, or acting on behalf of a Person listed on, any Sanctions List; (ii) located in, incorporated under the laws of, or owned or (directly or indirectly) Controlled by, or acting on behalf of, a Person located in or organized under the laws of a country or territory that is the target of country-wide or territory-wide Sanctions; or (iii) otherwise a target of Sanctions ("target of Sanctions" signifying a Person with whom a Person or other national of a Sanctions Authority would be prohibited or restricted by law from engaging in trade, business or other activities).

"Restricted Payment" has the meaning set forth in Section 7.9 of this Credit Agreement.

"Retainage Escrow Agreement" means the Escrow Agreement dated May 18, 2011 among the Project Owner, the BOP Contractor and California Bank & Trust.

"Revenue Contracts" means (i) the Tolling Agreement and (ii) at all times after the execution thereof, each Additional Material Project Document specified in subpart (iii) of the definition thereof.

"Revised Site Agreements" has the meaning set forth in Section 6.8(a) of this Credit Agreement.

"Revolver Availability Period" means the period commencing on the Closing Date and ending on the earlier to occur of (i) the termination of the Revolving Commitment pursuant to the provisions of this Credit Agreement, and (ii) the seventh anniversary of the Closing Date.

"Revolver Lender" means each Lender that has a Revolving Commitment or Revolving Loans.

"Revolver Maturity Date" has the meaning set forth in Section 2.3(f) of this Credit Agreement.

"Revolving Amount" has the meaning set forth in Section 2.3(a) of this Credit Agreement.

"Revolving Commitment" means, as to any Lender, the applicable percentage set forth opposite such Lender's name in Appendix F to this Credit Agreement under the heading "*Revolving Commitment*" *multiplied by* the Revolving Amount.

"Revolving Facility" has the meaning set forth in Section 2.3(a) of this Credit Agreement.

"Revolving Loans" has the meaning set forth in Section 2.3(b) of this Credit Agreement.

"Sanctions" means the economic sanctions laws, regulations, embargoes or restrictive measures administered, enacted or enforced by the Sanctions Authorities, including the OFAC Laws.

"Sanctions Authorities" means (i) the United States; (ii) the United Nations; (iii) the European Union (iv) the United Kingdom; or (v) the respective governmental institutions and agencies of any of the foregoing, including OFAC, the United States Department of State, and HMT.

"Sanctions List" means the OFAC SDN List, the Consolidated List of Financial Sanctions Targets and the Investment Ban List maintained by HMT, or any similar list maintained by, or public announcement of Sanctions designation made by, any of the Sanctions Authorities.

"Sanctions Violation" has the meaning assigned to such term in Section 7.2.

"Scheduled Debt Service" means, in respect of any DSCR Calculation Period, the sum of (i) the aggregate amount of interest paid during such DSCR Calculation Period (or, as applicable, the Assumed Interest Expense for such DSCR Calculation Period) *plus* (ii) the aggregate

amount of Fees paid (or, as applicable, projected to be paid) during such DSCR Calculation Period *plus* (iii) the aggregate amount of amortized principal of the Loans paid (or, as applicable, required to be paid) during such DSCR Calculation Period.

"Second Reissued Title Policy" has the meaning set forth in Section 6.8(b) of this Credit Agreement.

"Secured Accounts" has the meaning set forth in the Collateral Agreement.

"Secured Parties" has the meaning set forth in the Collateral Agreement.

"Secured Obligations" has the meaning set forth in the Collateral Agreement.

"Security Agreements" means (a) the Security Agreement dated the Closing Date between the Borrower and the Collateral Agent, (b) the Security Agreement dated the Closing Date between the Procurement Sub and the Collateral Agent and (c) the Security Agreement dated the Closing Date between the Project Owner and the Collateral Agent.

"Security Documents" has the meaning set forth in the Collateral Agreement.

"Semi-Annual Dates" means the last day of each of August and February; provided, that if a payment is required to be made on a Semi-Annual Date and such last day is not a Business Day, then such payment shall be made in accordance with the Modified Business Day Convention.

"Site" means the site upon which the Project will be installed, together with any fixtures and civil works constructed thereon and any other easements, licenses and other real property rights and interests required for the installation and operation of the Project, including the land referred to in the Site Agreements and the Real Property Agreements.

"Site Agreements" means , collectively, (i) the Amended and Restated Ground Lease and Easement Agreement, dated as of July 15, 2011, by and between El Segundo Power LLC and Project Owner, a memorandum of which was recorded on August 19, 2011, in the Los Angeles County Recorder's Office as document number 20111121480, (ii) the Amended and Restated Easement Agreement , dated as of July 15, 2011, by and between El Segundo Power II LLC and the Project Owner, which was recorded on August 19, 2011, in the Los Angeles County Recorder's Office as document number 20111121480, (iii) the Land Lease, dated as of July 1, 2010, as amended by the First Amendment to Land Lease, dated as of September 22, 2010, by and between First Industrial, L.P. and the Project Owner, (iv) the License Agreement, dated April 27, 2011, by and between Chevron Products Company and the Project Owner, and (v) the License Agreement, dated as of March 31, 2011, by and between Long Beach Generation LLC and the Project Owner.

"Site Owners" means, collectively, (i) El Segundo Power LLC and (ii) El Segundo Power II LLC.

"SoCalGas Transportation Contract" has the meaning set forth in the Tolling Agreement.

"Spare Parts Agreement" means the Program Parts, Miscellaneous Hardware, Program Management Services and Scheduled Outage Services Contract, dated February 11, 2011, between the Project Owner and the Spare Parts Supplier.

"Spare Parts Supplier" means Siemens Energy, Inc., a Delaware corporation.

"Specified Letter of Credit" means each LGIA Letter of Credit, DSR Letter of Credit and the TA Letter of Credit.

"Sponsor" means NRG Energy, Inc. or, upon any Permitted Transfer, one or more Qualified Holders.

"Stop Notice" has the meaning provided under California Civil Code Section 3103.

"Subsequent Purchaser" has the meaning set forth in Section 6.8(b) of this Credit Agreement.

"Subsidiary" means, for any Person, any corporation, partnership or other entity of which at least a majority of the securities or other ownership interests having by the terms thereof ordinary voting power to elect a majority of the board of directors or other persons performing similar functions of such corporation, partnership or other entity (irrespective of whether or not at the time securities or other ownership interests of any other class or classes of such corporation, partnership or other entity shall have or might have voting power by reason of the happening of any contingency) is at the time directly or indirectly owned or controlled by such Person or one or more Subsidiaries of such Person or by such Person and one or more Subsidiaries of such Person.

"Substantial Completion" has the meaning set forth in the Services Agreement.

"Swap Definitions" means the 2006 ISDA® Definitions, as published by the International Rate Swaps and Derivatives Association, Inc.

"Taking" means any circumstance or event, or series of circumstances or events (including an Expropriation Event), in consequence of which the Project or any portion thereof is condemned, nationalized, seized, compulsorily acquired or otherwise expropriated by any Governmental Authority under power of eminent domain or otherwise. The term "Taken" shall have a correlative meaning.

"TALC Availability Period" means the period commencing on the Closing Date and ending on the seventh anniversary of the Closing Date.

"TALC Commitment" means, as to any TALC Participating Bank, the applicable percentage set forth opposite such Participating Bank's name in Appendix F to this Credit Agreement under the heading "*TALC Percentage*" *multiplied by* the TALC Facility Amount.

"TALC Issuing Bank" prior to May 16, 2014, means The Royal Bank of Scotland plc, and on and after May 16, 2014, means DNB Bank ASA, New York Branch, or its permitted successors or assigns.

"TALC Facility" has the meaning set forth in 2.4(a) of this Credit Agreement.

"TALC Facility Amount" has the meaning set forth in 2.4(a) of this Credit Agreement.

"TALC Maturity Date" has the meaning set forth in Section 2.4(e) of this Credit Agreement.

"TALC Participating Amount" has the meaning set forth in Section 3.25(g) of this Credit Agreement.

"TALC Participating Bank" means each Lender having a TALC Percentage.

"TALC Participation" means, in respect of any TALC Participating Bank as of any day, the aggregate face amount of all TA Letters of Credit *multiplied by* such TALC Participating Bank's TALC Percentage.

"TALC Percentage" means, in respect of each TALC Participating Bank, the percentage set forth under the heading "*TALC Percentage*" and opposite such TALC Participating Bank's name on Appendix F.

"TA Letters of Credit" has the meaning set forth in 2.4(b) of this Credit Agreement.

"Term Conversion" means the conversion of the Construction Loans into Term Loans on the Term Conversion Date.

"Term Conversion Date" means the date on which the conditions precedent set forth in Section 4.6 of this Credit Agreement are satisfied and Term Conversion occurs.

"Term Facility" has the meaning set forth in Section 2.2(c) of this Credit Agreement.

"Term Lender" means each Lender that has a Term Loan Commitment or Term Loans.

"Term Loans" has the meaning set forth in Section 2.2(c) of this Credit Agreement.

"Term Loan Commitment" means, as to any Lender, (a) prior to the Repricing Date, the sum of an amount equal to the aggregate amount of Construction Loans of such Lender as of the Term Conversion Date (after giving effect to any Borrowing of Construction Loans on such date in accordance with Section 2.1 of this Credit Agreement and any prepayment of Construction Loans on such date in accordance with 3.16 or 3.17 of this Credit Agreement, and (b) on and after the Repricing Date, the sum of the amount listed in (a) in this definition and the Incremental Tranche A Amount.

"Term Maturity Date" has the meaning set forth in Section 2.2(e) of this Credit Agreement.

"Term Note" means each Note issued as evidence of one or more Term Loans.

"Termination Amount" means, in respect of any Rate Swap Transaction, the amount payable pursuant to Section 6(e) of the 1992 ISDA® Master Agreement or 2002 ISDA® Master Agreement (as applicable).

"33-06 Endorsement" means the ALTA Form 33-06 title insurance endorsement in the form attached to and made a part of the Title Policy.

"32-06 Endorsement" means means the ALTA Form 32-06 title insurance endorsement in the form attached to and made a part of the Title Policy.

"Title Indemnity" means the Title Indemnity and Guaranty Agreement, dated the Closing Date, by Natural Gas Repowering LLC in favor of the Collateral Agent.

"Title Insurance Company" has the meaning set forth in the Collateral Agreement.

"Title Policy" has the meaning set forth in the Collateral Agreement.

"Title Policy Amount" has the meaning set forth in the Collateral Agreement.

"Tolling Agreement" means the Amended and Restated Power Purchase Tolling Agreement, dated August 24, 2010, between the Offtaker and the Project Owner, as amended by the Amendment No. 1 thereto dated on or about the Closing Date.

"Tranche" means the tranche of Loan determined with regard to the credit facility under which such Loan was issued, *i.e.*, whether a Tranche A Construction Loan, Tranche B Construction Loan, Tranche A Term Loan, Tranche B Term Loan, Revolving Loan or LC Loan.

"Tranche A Construction Facility" has the meaning set forth in Section 2.1(a) of this Credit Agreement.

"Tranche A Construction Loan Availability Period" means the period commencing on the Closing Date and ending on the earliest to occur of (i) the full utilization of the Tranche A Construction Loan Commitments of the Tranche A Lenders, (ii) the Date Certain, (iii) the Term Conversion Date and (iv) the termination of the Tranche A Construction Loan Commitments pursuant to the provisions of this Credit Agreement.

"Tranche A Construction Loan Commitment" means, as to any Lender, the applicable percentage set forth opposite such Lenders' name in Appendix F to this Credit Agreement under the heading "*Tranche A Construction Loan Commitment*" *multiplied* by the (a) at all times prior to the date of the initial Borrowing of the Construction Loans, $480,000,000 and (b) at all times on and after the initial Borrowing of the Construction Loans, the lesser of (x) $480,000,000 and (y) the Tranche A Loan Amount.

"Tranche A Construction Loans" has the meaning set forth in Section 2.1(c) of this Credit Agreement.

"Tranche A Deferred Principal Amount" has the meaning set forth in Section 3.15 (c) of this Credit Agreement.

"Tranche A Lender" means each Lender that has a Tranche A Construction Loan Commitment or that holds a Tranche A Construction Loan or a Tranche A Term Loan.

"Tranche A Loan Amount" has the meaning set forth in Section 3.14(a).

"Tranche A Notional Amortization" has the meaning set forth in Section 3.14(a).

"Tranche A Percentage Amortization" has the meaning set forth in Section 3.14(c).

"Tranche A Term Facility" has the meaning set forth in Section 2.2(a) of this Credit Agreement.

"Tranche A Term Loans" means collectively the Initial Tranche A Term Loans and the Incremental Tranche A Term Loans.

"Tranche B Construction Facility" has the meaning set forth in Section 2.1(b) of this Credit Agreement.

"Tranche B Construction Loan Availability Period" means the period commencing on the Closing Date and ending on the earliest to occur of (i) the full utilization of the Tranche B Construction Loan Commitments of the Tranche B Lenders, (ii) the Date Certain, (iii) the Term Conversion Date and (iv) the termination of the Tranche B Construction Loan Commitments pursuant to the provisions of this Credit Agreement.

"Tranche B Construction Loan Commitment" means, as to any Lender, the applicable percentage set forth opposite such Lenders' name in Appendix F to this Credit Agreement under the heading "*Tranche B Construction Loan Commitment*" *multiplied* by the Tranche B Loan Amount.

"Tranche B Construction Loans" has the meaning set forth in Section 2.1(c) of this Credit Agreement.

"Tranche B Deferred Principal Amount" has the meaning set forth in Section 3.15 (c) of this Credit Agreement.

"Tranche B Lender" means each Lender that has a Tranche B Construction Loan Commitment or that holds a Tranche B Construction Loan or a Tranche B Term Loan.

"Tranche B Loan Amount" has the meaning set forth in Section 2.1(b) of this Credit Agreement.

"Tranche B Term Facility" has the meaning set forth in Section 2.2(b) of this Credit Agreement.

"Tranche B Term Loans" has the meaning set forth in Section 2.2(c) of this Credit Agreement.

"Transaction Documents" means, collectively, the Project Documents and the Financing Documents.

"Transfer Date Certificate" means has the meaning set forth in the Accounts Agreement.

"True-Up Distributions" has the meaning set forth in Section 7.9(c) of this Credit Agreement.

"True-Up Drawings" has the meaning set forth in Section 2.1(e) of this Credit Agreement.

"Type" means the type of Loan determined with regard to the interest option applicable thereto, *i.e.*, a Base Rate Loan or a LIBOR Loan.

"Unavailable Commitment" means, at any time and in respect of any Credit Facility and any Financing Party, the aggregate Commitment of such Financing Party under such Credit Facility that is not available at such time as a result solely of the fact that the Term Conversion Date or the Initial Delivery Date has not theretofore occurred.

"Undisclosed Administration" means in relation to a Lender or its direct or indirect parent company the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official by a supervisory authority or regulator under or based on the law in the country where such person is subject to home jurisdiction supervision if applicable law requires that such appointment is not to be publicly disclosed.

"Unfunded Pension Liability" of any Pension Plan shall mean the amount, if any, by which the value of the accumulated plan benefits under the Plan, determined on a plan termination basis, exceeds the fair market value of all plan assets allocable to such liabilities under Title IV of ERISA (excluding any accrued but unpaid contributions).

"Uniform Commercial Code" means the Uniform Commercial Code as adopted in any applicable jurisdiction.

"United States" and "U.S." shall each mean the United States of America.

"Unutilized Commitment" means, in respect of any Credit Facility and any Financing Party, the aggregate Commitment of such Financing Party *less* the Unavailable Commitment of such Financing Party in respect of such Credit Facility *less* the aggregate principal amount of all Loans or the aggregate (or, in the case of the TALC Facility, the relevant TALC Participating Bank's pro rata share of the aggregate) stated amount of all Specified Letters of Credit made or issued by (or, in the case of the TALC Facility, purchased by) such Financing Party under such Credit Facility (as applicable).

"USEPA" means the United States Environmental Protection Agency.

"U.S. GAAP" means generally accepted accounting principles applied on a consistent basis in the United States (except to the extent approved or required by the independent public accountants certifying such statements and disclosed therein).

"U.S.A. Patriot Act" means the U.S.A. PATRIOT Improvement and Reauthorization Act, Title III of Pub. L. 109-177 (signed into law March 9, 2009).

"Voluntary Bankruptcy Event" means, with respect to any Person, (i) the institution by such Person of a voluntary case seeking liquidation or reorganization under any Debtor Relief Law, (ii) the consent by such Person to the institution of an involuntary case against it under any Debtor Relief Law, (iii) the application by such Person for, or the consent or acquiescence of such Person to, the appointment of a receiver, liquidator, sequestrator, trustee or other officer with similar powers, (iv) the making by such Person of an assignment of its assets for the benefit of creditors or (v) the admission of such Person in writing of its inability to pay its debts generally as they become due.

"Work" has the respective meanings provided in the EPC Contracts.

2. Rules of Interpretation. In each Financing Document, unless otherwise indicated:

(a) each reference to, and the definition of, any document (including any Financing Document) shall be deemed to refer to such document as it may be amended, supplemented, revised or modified from time-to-time in accordance with its terms and, to the extent applicable, the terms of this Credit Agreement;

(b) each reference to a Law or Permit shall be deemed to refer to such Law or Permit as the same may be amended, supplemented or otherwise modified from time-to-time;

(c) any reference to a Person in any capacity includes a reference to its permitted successors and assigns in such capacity and, in the case of any Governmental Authority, any Person succeeding to any of its functions and capacities;

(d) references to days shall refer to calendar days unless Business Days are specified; references to weeks, months or years shall be to calendar weeks, months or years, respectively;

(e) all references to the "Preamble", "Recitals", a "Section," an "Appendix," a "Schedule" or an "Exhibit" in a Financing Document are to the preamble, recitals or relevant section of such Financing Document or to the relevant appendix, schedule or exhibit attached thereto;

(f) the table of contents and Section headings and other captions therein are for the purpose of reference only and do not affect the interpretation of such Financing Document;

(g) defined terms in the singular shall include the plural and vice versa, and the masculine, feminine or neuter gender shall include all genders;

(h) the words "hereof," "herein" and "hereunder," and words of similar import, when used in any Financing Document, shall refer to such Financing Document as a whole and not to any particular provision of such Financing Document;

(i) the words "include," "includes" and "including" are deemed to be followed by the phrase "without limitation";

(j) where the terms of any Financing Document require that the approval, opinion, consent or other input of any Secured Party be obtained, such requirement shall be deemed satisfied only where the requisite approval, opinion, consent or other input is given by or on behalf of the relevant party in writing;

(k) where the terms of any Financing Document require or permit any action to be taken by the Collateral Agent, such action shall be taken strictly in accordance with the applicable provisions of the relevant Financing Documents; and

(l) any reference to a document shall be deemed to include all exhibits, annexes, appendices and schedules thereto.

Appendix B

KEY TERMS OF THE FINANCING

Tranche A Loan Amount: Determined in accordance with Section 3.14(a)

Tranche B Loan Amount: $60,000,000

Revolving Amount: $1,500,000

TALC Facility Amount: $30,140,000 (prior to the commencement of the Delivery Period (as such term is defined in the Tolling Agreement))/$90,000,000(thereafter)

DSR Facility Amount $48,000,000

Required Equity Contribution Amount Determined in accordance with the definition thereof.

Date Certain: January 28, 2014

Term Maturity Date: August 31, 2023

Revolver Maturity Date: 7th anniversary of Closing Date Or, if earlier, the termination of the Revolving Commitment pursuant to the Credit Agreement.

TALC Maturity Date: 7th anniversary of Closing Date

DSR Maturity Date: 7th anniversary of Closing Date

Applicable Margin		
Tranche	Period	Applicable Margin
Tranche A Construction Loans Revolving Loans TALC LC Loans	Closing Date through but excluding the Term Conversion Date	LIBO Rate: 2.25% Base Rate: 1.25%
Tranche B Construction Loans	Closing Date through but excluding the Term Conversion Date	LIBO Rate: 2.75% Base Rate: 1.75%
Tranche A Term Loans Revolving Loans TALC LC Loans	Term Conversion Date through but excluding the Repricing Date	LIBO Rate: 2.25% Base Rate: 1.25%
Tranche A Term Loans Revolving Loans TALC LC Loans	Repricing Date through and including August 31, 2017	LIBO Rate: 1.625% Base Rate: 0.625%
Tranche A Term Loans Revolving Loans TALC LC Loans	September 1, 2017 through and including August 31, 2020	LIBO Rate: 1.75% Base Rate: 0.75%
Tranche A Term Loans	September 1, 2020 through and including the Term Maturity Date	LIBO Rate: 1.875% Base Rate: 0.875 %
Tranche B Term Loans DSR LC Loans	Term Conversion Date through but excluding the Repricing Date	LIBO Rate: 2.875% Base Rate: 1.875%
Tranche B Term Loans DSR LC Loans	Repricing Date through and including August 31, 2017	LIBO Rate: 2.25% Base Rate: 1.25%
Tranche B Term Loans DSR LC Loans	September 1, 2017 through and including August 31, 2020	LIBO Rate: 2.375% Base Rate: 1.375 %
Tranche B Term Loans	September 1, 2020 through and including the Term Maturity Date	LIBO Rate: 2.50 % Base Rate: 1.50 %

Borrowing Minimum: $1,000,000

Borrowing Multiple: $100,000

Appendix C

PROJECTED AMORTIZATION SCHEDULE

DATE	Tranche A %	Tranche B %	Tranche A $	Tranche B $
September 30, 2013	NA	NA	NA	NA
October 31, 2013	NA	NA	NA	NA
November 30, 2013	NA	NA	NA	NA
December 31, 2013	NA	NA	NA	NA
January 31, 2014	NA	NA	NA	NA
February 28, 2014	NA	NA	NA	NA
August 31, 2014	NA	NA	NA	NA
February 28, 2015	NA	NA	NA	NA
August 31, 2015	0.983%	0.50%	$ 4,229,240.90	$ 300,000.00
February 28, 2016	6.420%	0.50%	$ 27,630,655.91	$ 300,000.00
August 31, 2016	3.261%	0.50%	$ 14,035,256.67	$ 300,000.00
February 28, 2017	6.517%	0.50%	$ 28,046,244.73	$ 300,000.00
August 31, 2017	3.376%	0.50%	$ 14,531,020.83	$ 300,000.00
February 28, 2018	7.103%	0.50%	$ 30,569,942.90	$ 300,000.00
August 31, 2018	3.769%	0.50%	$ 16,220,222.81	$ 300,000.00
February 28, 2019	7.361%	0.50%	$ 31,679,283.56	$ 300,000.00
August 31, 2019	3.833%	0.50%	$ 16,498,295.56	$ 300,000.00
February 28, 2020	7.870%	0.50%	$ 33,871,576.96	$ 300,000.00
August 31, 2020	4.392%	0.50%	$ 18,902,309.59	$ 300,000.00
February 28, 2021	8.422%	0.50%	$ 36,246,747.36	$ 300,000.00
August 31, 2021	4.769%	0.50%	$ 20,525,239.15	$ 300,000.00
February 28, 2022	8.998%	0.50%	$ 38,727,019.15	$ 300,000.00
August 31, 2022	5.398%	0.50%	$ 23,229,942.76	$ 300,000.00
February 28, 2023	10.042%	0.50%	$ 43,220,293.80	$ 300,000.00
August 31, 2023	7.485%	90.50%	$ 32,215,003.56	$54,300,000.00
Total	**100.0%**	**100.0%**	**$430,378,296.20**	**$60,000,000.00**

Appendix D

SPECIFIED LETTERS OF CREDIT

1. TA Letter of Credit

Beneficiary: Southern California Edison Company

Relevant Contractual Provision: Section 13.02 of Tolling Agreement

Stated Amount: $30,140,000 prior to the Initial Delivery Date
$90,000,000.00 on and after the Initial Delivery Date

Posting Term (per Project Document): Closing Date through last day of Delivery Period

Expiration Date: 7th anniversary of Closing Date

Renewals: None.

Form Appendix 13.04.02 of Tolling Agreement

2. LGIA Letter of Credit

Beneficiary: CAISO

Relevant Contractual Provision: Section 11.5 of Large Generator Interconnection Agreement

Stated Amount: Up to $10,000,000

Posting Term (per Project Document): Closing Date until completion of all works under the LGIA

Expiration Date: Term Conversion Date

Renewals: None

Form Exhibit 18 hereto

3. DSR Letter of Credit

Beneficiary: Administrative Agent

Relevant Contractual Provision: Accounts Agreement

Stated Amount: Proportionate share of up to $48,000,000

Posting Term (per Project Document): N/A

Expiration Date: 7th anniversary of Closing Date

Renewals: Yes

Form Exhibit 11 of the Collateral Agreement

Appendix E

CB/OB APPROVAL THRESHOLDS

A. CB Approval Thresholds

Any reduction of the Contingency below $64,200,000 on or prior to the date of the initial Borrowing of the Construction Loans.	Requisite Financing Parties.
Reallocation of the Contingency to pay for Change Orders permitted under this Credit Agreement.	None.
Reallocation of the Contingency to pay for fees and expenses of advisors and consultants (including legal counsel) incurred as contemplated by the Transaction Documents in excess of the amounts then budgeted.	None.
Application of cost-savings from any completed Construction Budget category (which completion has been confirmed by the Independent Engineer) to one or more other Construction Budget categories.	Prior written confirmation from Independent Engineer that Construction Budget category has been completed, such confirmation not to be unreasonably withheld, conditioned or delayed
Reallocation of cost savings from a fixed price line item (based upon an executed contract for that fixed price item) to one or more other Construction Budget categories.	Prior written approval of Independent Engineer, such approval not to be unreasonably withheld, conditioned or delayed
Reallocation of the Contingency to other Construction Budget categories.	Prior written consent of Independent Engineer. If the aggregate amount of Contingency theretofore allocated to Change Orders, consultant fees or other Construction Budget categories since the date of this Credit Agreement equals or is less than $30,000,000, prior written notice to Administrative Agent. If the aggregate amount of Contingency theretofore allocated to Change Orders, consultant fees or other Construction Budget categories since the date of this Credit Agreement exceeds $30,000,000, the prior written consent of the Administrative Agent (such consent not to be unreasonably withheld, conditioned or delayed).

B. OB Approval Thresholds

Increase in the aggregate amount of O&M Expenses set forth in any Operating Budget in respect of the period covered thereby above 115% of the aggregate amount of O&M Expenses set forth in the Base Case Model in respect of such period.	Prior written approval of the Administrative Agent, in consultation with the Independent Engineer.
Decrease in the aggregate forecast Project Revenues set forth in any Operating Budget in respect of the period covered thereby below 85% of the aggregate amount of Project Revenues set forth in the Base Case Model in respect of such period.	Prior written approval of the Administrative Agent, in consultation with the Independent Engineer.
Decrease in the forecast CFADS set forth in any Operating Budget in respect of the period covered thereby below 85% of the forecast CFADS set forth in the Base Case Model in respect of such period.	Prior written approval of the Administrative Agent, in consultation with the Independent Engineer.

Appendix F

COMMITMENTS[2]

Lender and/or Issuing Bank	Tranche A Construction Loan Commitment	Incremental Tranche A Commitment	Tranche B Construction Loan Commitment	Revolving Commitment	TALC Percentage	DSR Commitment
Credit Agricole Corporate and Investment Bank	0.21%		16.67%	0.00%	23.33%	8.33%
Mizuho Bank, Ltd.	1.67%		0.00%	0.00%	0.00%	79.17%
ING Capital LLC	5.83%	100%	33.00%	0.00%	27.78%	12.50%
MUFG Union Bank, N.A.	8.33%		16.67%	0.00%	0.00%	0.00%
CoBank, ACB	14.02%		0.00%	0.00%	0.00%	0.00%
DNB Capital LLC	8.99%		0.00%	0.00%	0.00%	0.00%
DNB Bank ASA, New York Branch	0.00%		0.00%	0.00%	27.78%	0.00%
Landesbank Hessen Thüringen Girozentrale, New York Branch	8.96%		0.00%	0.00%	0.00%	0.00%
Societe Generale	1.67%		8.33%	0.00%	0.00%	0.00%
Sumitomo Mitsui Trust Bank, Limited, New York Branch	4.79%		0.00%	0.00%	0.00%	0.00%
Sumitomo Mitsui Banking Corporation	6.88%		0.00%	0.00%	0.00%	0.00%
Santander Bank	6.88%		0.00%	0.00%	0.00%	0.00%
The Bank of Nova Scotia	1.88%		0.00%	100.00%	21.11%	0.00%
CIT Bank	0.00%		25.00%	0.00%	0.00%	0.00%
Associated Bank, N.A.	5.21%		0.00%	0.00%	0.00%	0.00%
Credit Industriel et Commercial	6.85%		0.00%	0.00%	0.00%	0.00%
Landesbank Baden-Wuerttemberg, New York Branch	8.33%		0.00%	0.00%	0.00%	0.00%
DekaBank Deutsche Girozentrale	9.51%		0.00%	0.00%	0.00%	0.00%
Total	100.00%		100.00%	100.00%	100.00%	100.00%

[2] NOTE TO DRAFT: Updated as of 5/11/15.

Appendix G

NOTICES

Administrative Agent

ING CAPITAL LLC

Payment/Loan Service Matters:
1325 Avenue of the Americas
New York, NY 10019
Attn: Patrick Kennedy
Tel: (646) 424-8235
Fax: (646) 424-8223
Email: Patrick.Kennedy@ing.com

Credit Matters:
1325 Avenue of the Americas
New York, NY 10019
Attn: Sven Wellock
Tel: (646) 424-7204
Fax: (646) 424-6440
Email: Sven.Wellock@ing.com

AA Disbursement Account

Not applicable.

AA Payment Account

Pay to: JPMorgan Chase New York, New York
ABA: 0210-0002-1
Account Name: ING Capital LLC/Loans Agency NY
Account: 066-297-311
Ref: NRG West Holdings - El Segundo
Attention: Patrick Kennedy

Borrower

NRG West Holdings LLC
211 Carnegie Center

Princeton, NJ 08540-61213
Attn: Senior Vice President and Treasurer
Fax: (609) 524-4501

With a copy to:

NRG West Holdings LLC
211 Carnegie Center
Princeton, NJ 08540-61213
Attn: General Counsel

NRG West Holdings LLC
100 California Street, Suite 650
San Francisco, CA 94111
Attn: Sean P. Beatty, Regional General Counsel, West
Tel: (415) 627-1639
E-mail: sean.beatty@nrg.com

Lenders

CREDIT AGRICOLE CORPORATE AND INVESTMENT BANK

Applicable Lending Office and Notice Office
1301 Avenue of the Americas
New York, NY 10019-6022
Attn: Fred Petit
Tel: (212) 261-7332
Fax: (917) 849-5455

MIZUHO BANK, LTD.

Applicable Lending Office and Notice Office
Harborside Financial Center
1800 Plaza Ten
Jersey City, NJ 07311
Attn: Maxine Bunbury
Tel: (201) 626-9139
Fax: (201) 626-9935
Email: maxine.bunbury@mizuhocbus.com

ING CAPITAL LLC

Applicable Lending Office and Notice Office

Payment/Loan Service Matters:

1325 Avenue of the Americas
New York, NY 10019
Attn: Patrick Kennedy
Tel: (646) 424-8235
Fax: (646) 424-8223
Email: Patrick.Kennedy@ing.com

Credit Matters:

1325 Avenue of the Americas
New York, NY 10019
Attn: Sven Wellock
Tel: (646) 424-7204
Fax: (646) 424-6440
Email: Sven.Wellock@ing.com

If sent electronically, with a copy to:

Stefano Palombo
Email: stefano.palombo@ing.com

Julie Chu
Email: Julie.chu@americas.ing.com

MUFG UNION BANK, N.A.

Applicable Lending Office and Notice Office
445 S. Figueroa Street, 15th Floor
Los Angeles, CA 90071
Attn: Kevin Zitar, Senior Vice President
Tel: (213) 236-5503
Fax: (213) 236-4096
E-mail:Kevin.Zitar@unionbank.com

Landesbank Baden-Wuerttemberg, New York Branch

Applicable Lending Office and Notice Office

Credit Matters:

Arndt Bruns
Landesbank Baden-Württemberg,
New York Branch
280 Park Avenue, 31st Floor
New York, NY 10017
Phone: (212) 584-1756
e-mail: arndt.bruns@lbbwus.com

Anke Hoffmann
Landesbank Baden-Württemberg,
Germany
Humboldstrasse 25
04105 Leipzig, Germany
Phone: +49-341-220-39342
e-mail: anke.hoffmann@lbbw.de

Christian Moegel
Landesbank Baden-Württemberg,
Germany
Am Hauptbahnhof 2
70173 Stuttgart, Germany
Phone: +49-711-127-49674
e-mail: Christian.moegel@lbbw.de

Operations Matters:

William Gonzalez
Landesbank Baden-Württemberg
New York Branch
280 Park Avenue, 31st Floor West
New York, NY 10017
Phone: (212) 584-1728
Fax: 212-574-1729
E-mail: William.Gonzalez@lbbwus.com; loanadm@lbbwus.com

Doreen Klingenbeck
Landesbank Baden-Württemberg
New York Branch
280 Park Avenue, 31st Floor West
New York, NY 10017
Phone: (212) 584-1727
E-mail: Doreen.klingenbeck@lbbwus.com; loanadm@lbbwus.com

Credit Industriel et Commercial

Applicable Lending Office and Notice Office
4 rue Gaillon
75107 Paris Cedex 02
France
Attn: Mark Palin / Philippe Ginestet / Jean-Baptiste Larthe
Tel: 33 1 42 66 76 27 / 33 1 42 66 77 26 / 33 1 42 66 75 44
Fax: 33 1 42 66 78 38 / 33 1 42 66 78 97

Email: mark.palin@cicny.com / philippe.ginestet@cic.fr / Jeanbaptiste.larthe@cic.fr

Siemens Financial Services, Inc.

Applicable Lending Office
170 Wood Avenue South
Iselin, NJ 08830
Attn: Kevin Keaton
Tel: (732) 590-6563
Fax: (919)374-9105
E-Mail: SFSPOPS.SFS@siemens.com

with a copy to:

170 Wood Avenue South
Iselin, NJ 08830
Attn: April Greaves-Bryan
Tel (732) 476-3443
Fax (919)374-9105
E-Mail: SFSPOPS.SFS@siemens.com

Notice Office
400 Interstate North Pkwy, Suite 1150
Atlanta, GA 30339
Attn: Mark Brewer
Tel: (770) 370-2230
Fax: (770) 370-2234
E-Mail: Energy.SFS@siemens.com

associated Bank, N.A.

Applicable Lending Office
176 Snelling Ave. N
St. Paul, MN 55104
Attn: Cheri Smith
Tel: (651) 523-6453
Fax: (651) 523-6462
Email: Cheri.Smith@associatedbank.com

Notice Office
2870 Holmgren Way
Green Bay, WI 54301
Attn: Julie Nelson
Tel: (920) 405-2840

Fax: (920) 405-2799
Email: Julie.Nelson@associatedbank.com

SOCIETE GENERALE

Applicable Lending Office
Sabryna El Khemir
Societe Generale
----------1221 Avenue of the Americas
New York, New York 10020
Tel: (212) 278 - 5666
Fax: (212) 278 - 6136
E-mail: sabryna.el-khemir@sgcib.com

Notice Office
Annette Megargel
Société Générale
480 Washington Blvd. -20th floor
Jersey City, NJ 07310
Tel: 201-839-8450
Fax: 201-839-8115
E-mail: annette.megargel@sgcib.com

SUMITOMO MITSUI BANKING CORPORATION

Applicable Lending Office
277 Park Avenue
New York, NY 10172
Attn: Anna Lapinska
Tel: (212) 224-4003
Fax: (212) 224-5222
Email: alapinska@smbclf.com

Attn: Van Dao
Tel: (212) 224-4389
Fax: (212) 224-5222
Email: vdao@smbclf.com

Notice Office
277 Park Avenue
New York, NY 10172
Attn: Antonette Mendoza
Tel: (212) 224-4786

Fax: (212) 224-4391
Email: antonette_mendoza@smbcgroup.com

LANDESBANK HESSEN THÜRINGEN GIROZENTRALE, NEW YORK BRANCH

Applicable Lending Office and Notice Office

420 Fifth Avenue
New York, NY 10018-2729
Attention: David Leech (credit notices)
Tel: 212-703-5303
Fax: 212-703-5256
Email: david.leech@helabany.com

Gudrun Dronca (operational notices)
Tel: 212-703-5244
Fax: 212-703-5256
Email: gudrun.dronca@helabany.com

DekaBank Deutsche Girozentrale

Applicable Lending Office
DekaBank Deutsche Girozentrale
Hahnstrasse 55
60528 Frankfurt (Main)
Germany
Attn: Mrs. Stefania Merletti-Iwanowsky
Phone: +49-69-7147-2349
Fax: +49-69-7147-5087
Email: kredit-support.kreditservice@deka.de

Notice Office
DekaBank Deutsche Girozentrale
Mainzer Landstrasse 16
60325 Frankfurt (Main)
Germany
Attn: Mr. Hendrik Buettner
Phone: +49-69-7141-7514
Fax: +49-69-7147-3809
Email: international-finance@deka.de / hendrik.buettner@deka.

SANTANDER BANK

Applicable Lending and Notice Office
Santander Bank
450 Penn Street
Reading, PA 19602
Attn: Susan Kissinger, COML Ops Specialist
Tel: 610-988-1617
Fax: 484-338-2831
Email: participations@sovereignbank.com

with a copy to:

Santander Bank
75 State Street
Boston, MA 02109
Attn: Robert Lanigan, Senior Global Banker
Tel: 617-346-7384
Fax: 617-757-3567
Email: rlanigan@sovereignbank.com

Santander Bank
75 State Street
Boston, MA 02109
Attn: Daniela Hofer, Global Banker
Tel: 617-346-7365
Fax: 617-757-3567
Email: dhofer@sovereignbank.com

Santander Investment Securities Inc
45 East 53rd Street
New York, NY 10022
Attn: Manuel Garcia Lizasoain, Assistant Vice President
Tel: 212-583-4639
Fax: 212-407-7850
Email: mgarcializasoain@santander.us

Banco Santander SA - New York Branch
45 East 53rd Street
New York, NY 10022
Attn: Manuel Perez, Vice President
Tel: 212-407-0997
Fax: 212-407-7850
Email: mperez@santander.us

DnB Bank ASA, NEW YORK BRANCH

Applicable Lending Office
DNB Bank ASA
200 Park Avenue, 31 floor, New York, N.Y 10166
Attn: Einar Gulstad/ Andrea Ozbolt
Tel: (832) 214-5810
Fax: (832-214-5839
Email: einar.gulstad@dnb.no / andrea.ozbolt@dnb.no

Notice Office
DNB Bank ASA
333 Clay street, suite 3950, Houston, TX 77002
Attn: Alberto Caceda
Tel: (832) 214-5807
Fax: (832) 214-5839
Email: alberto.caceda@dnbnor.no

DNB Capital LLC

Applicable Lending Office
DNB Capital LLC
200 Park Avenue, 31 floor, New York, N.Y 10166
Attn: Einar Gulstad/ Andrea Ozbolt
Tel: (832) 214-5810
Fax: (832-214-5839
Email: einar.gulstad@dnb.no / andrea.ozbolt@dnb.no

Notice Office
DNB Capital LLC
333 Clay street, suite 3950, Houston, TX 77002
Attn: Alberto Caceda
Tel: (832) 214-5807
Fax: (832) 214-5839
Email: alberto.caceda@dnbnor.no

THE BANK OF NOVA SCOTIA

Applicable Lending Office
40 King Street W
55th Floor
Toronto, ON
Canada M5H 1H1
Attn: Sandy Dewar
Tel: 416-350-5749

Fax: 416-350-1161
Email: sandy.dewar@scotiabank.com

Notice Office
720 King Street W
2nd Floor
Toronto, ON
Canada M5V 2T3
Attn: Nazmul Arefin
Tel: 212-225-5705
Fax: 212-225-5709
Email: nazmul.arefin@scotiabank.com

COBANK, ACB

Applicable Lending Office and Notice Office
5500 South Quebec Street
Greenwood Village, CO 80111
Attn: Michelle Alexander
Tel: (303) 740-4386
Fax: (303) 740-4021
Email: AlexanM@cobank.com

5500 South Quebec Street
Greenwood Village, CO 80111
Attn: Michael Gee
Tel: (303) 740-6535
Fax: (303) 224-2579
Email: mgee@cobank.com

CIT BANK

Applicable Lending Office and Notice Office
CIT Energy
11 West 42nd Street
New York, NY 10036
Attn: Joseph Gyurindak, Director
Head of Portfolio Management
Tel: (212) 461-5263
Fax: (212) 771-6023
Email: joseph.gyurindak@cit.com

SUMITOMO MITSUI TRUST BANK, LIMITED, NEW YORK BRANCH

Applicable Lending Office and Notice Office

Credit:

527 Madison Ave.
NYC, NY 10022
Attn: Albert C. Tew II
Tel: (212) 303-9362
Fax: (212) 326-0564
Email: tew_albert@smtb.jp

Administrative:

527 Madison Ave.
NYC, NY 10022
Attn: Craig Buska
Tel: (212) 326-0528
Fax: (212) 418-4899
Email: buska_craig@smtb.jp

527 Madison Ave.
NYC, NY 10022
Attn: Yuri Tanaka
Tel: (212) 303-9385
Fax: (212) 418-4899
Email: tanaka_yuri@smtb.jp

ONEWEST BANK N.A.

Applicable Lending Office and Notice Office

2450 Broadway Ave., Suite 400
Santa Monica, CA 90404
Attn: Daniel Miller
First Vice President
Tel: (310) 449-2450
Fax: (866) 292-7389
Email: Daniel.Miller@owb.com

Appendix H

SEPARATENESS PROVISIONS

The Borrower Parties shall maintain their existence separate and distinct from any other Person, including taking the following actions:

II. Maintaining in full effect each such party's existence, rights and franchises as a limited liability company existing under the laws of the State of Delaware and obtaining and preserving their respective qualification to do business in each jurisdiction in which such qualification is or will be necessary to protect the validity and enforceability of its respective LLC Agreement and each other instrument or agreement necessary or appropriate to properly administer its respective LLC Agreement and permit and effectuate the transactions contemplated in its respective LLC Agreement;

III. Maintaining their own deposit accounts, separate from those of the Pledgor and its respective Affiliates;

IV. Conducting all material transactions between each Borrower Party and any of their respective Affiliates on an arm's length basis on commercially reasonable terms;

V. Allocating fairly and reasonably the cost of any shared office space with the Pledgor or any of its respective Affiliates;

VI. Conducting their affairs separately from those of the Pledgor or any of its respective Affiliates and maintaining accurate and separate books, records and accounts;

VII. Acting solely in their own limited liability company name and not that of any other Person, including the Pledgor or any of its respective Affiliates, and at all times use their own stationary, invoices and checks separate from those of the Pledgor and its respective Affiliates;

VIII. Not holding itself out as having agreed to pay, or as being liable for, the obligations of the Pledgor or any of its respective Affiliates;

IX. Not commingling their assets with those of any other Person;

X. Paying their own obligations out of their own funds;

XI. Observing all corporate formalities required under its LLC Agreement and, in the case of the Borrower, its Certificate of Formation, dated July 18, 2008 (as amended June 2, 2010), in the case of the Procurement Sub, its Certificate of Formation, dated June 2, 2010 and, in the case of the Project Owner, its Certificate of Formation, dated February 26. 2008;

XII. Paying the salaries of their own employees;

XIII. Not acquiring obligations of their members or any of their respective Affiliates;

XIV. Each such Borrower Party holding itself out as a separate entity;

XV. Not forming, acquiring or holding any subsidiaries;

XVI. Paying their debts and liabilities (including, as applicable, shared personnel and overhead expenses) from their own assets;

XVII. Maintaining separate financial statements (including not listing its assets on the financial statements of any other Person); provided that Borrower Parties' assets may be included in a consolidated financial statement of its Affiliates so long as (i) appropriate notations are made on such consolidated financial statements to indicate separateness of the Borrower Parties and such Affiliates and to indicate that the Borrower Parties' assets and credit are not available to satisfy the debts and other obligations of such Affiliates or any other Person and (ii) such assets shall be listed on each Borrower Party's own separate balance sheet; and

XVIII. Filing each Borrower Party's own tax returns (to the any such Borrower Party is required to file any such tax returns).

"LLC Agreement" means any of the Third Amended and Restated Limited Liability Company Agreement of the Borrower, dated as of June 21, 2011, entered into by the Pledgor, the Third Amended and Restated Limited Liability Company Agreement of the Project Owner, dated as of June 21, 2011, entered into by the Borrower, or the Amended and Restated Limited Liability Company Agreement of the Procurement Sub, dated as of June 21, 2011, entered into by the Borrower, as applicable.

Appendix I

INDEPENDENT CONSULTANTS' REPORTS

- Independent Engineer

As set forth in the Independent Engineer's Report - El Segundo Energy Center, dated August 23, 2011, by SAIC Energy, Environmental & Infrastructure, LLC.

- Insurance Consultant

As set forth in the Insurance Report on El Segundo Power Project, dated August 23, 2011, by Moore-McNeil, LLC.

Appendix J

MAJOR MILESTONE DATE Extensions

Scheduled Delivery Dates (as currently defined in the Equipment Services Agreement)		
Scheduled Delivery Date for Gas Turbine Longitudinal	March 2, 2012	April 1, 2012
Scheduled Delivery Date for Gas Turbine Step Up Transformer	March 13, 2012	April 11, 2012
Scheduled Delivery Date for Gas Turbine Generator	March 5, 2012	April 3, 2012
Scheduled Delivery Date for GT Electrical Package	February 29, 2012	March 29, 2012
Scheduled Delivery Date for HRSG First Delivery Structural Steel	December 2, 2011	January 1, 2012
Scheduled Delivery Date for HRSG Modules	March 7, 2012	March 7, 2012
Scheduled Delivery Date for Steam Turbine Assembly	June 1, 2012	June 1, 2012
Scheduled Delivery Date for Steam Turbine Generator	June 1, 2012	June 1, 2012
Scheduled Delivery Date for ACHE First Delivery Structural Steel	January 1, 2012	February 1, 2012
Scheduled Delivery Date for ACHE Air Cooler Fan Assembly	May 28, 2012	June 25, 2012
Mechanical Completion Guaranteed Dates (as currently defined in the BOP Contract)		
Mechanical Completion Guaranteed Date for HRSG Hydro Final Flush	September 18, 2012	November 18, 2012
Mechanical Completion Guaranteed Date for CTG First Fire	October 21, 2012	December 21, 2012
Mechanical Completion Guaranteed Date for STG Synchronization	December 19, 2012	February 18, 2013
Substantial Completion Guaranteed Date (as currently defined in the Equipment Services Agreement)	May 31, 2013	May 31, 2013

Appendix K

TERM CONVERSION OPINION MATTERS

I. Addressees:

To the Secured Parties and the Agent Referred to Below

c/o Credit Agricole Corporate and Investment Bank, as Administrative Agent

1301 Avenue of the Americas New York, NY 10019-6022

II. Opinion Parties: The Borrower Parties, the Pledgor and any other Affiliate of the Borrower that is a party to any Transaction Document.

III. Opinion Documents: Additional Project Documents

IV. Opinion Laws: Federal, California, New York and Delaware

V. Opinions:

A. Corporate Housekeeping Opinions

Each of the opinions set forth in the in-house opinion referenced in Section 4.1(m)(i) of the Credit Agreement.

B. Enforceability, No Violation of Laws and No Consents

Each of the opinions set forth in paragraphs (a) and (b) of the opinion of Jones Day referenced in Section 4.1(m)(ii) of the Credit Agreement.

C. Federal Energy Regulatory; Federal Permitting

The Borrower has filed with FERC a Notice of Self-Certification as an EWG and FERC has issued a Notice of Effectiveness with respect thereto, and such Notice of Effectiveness is final and in full force and effect.

Each of the opinions set forth in paragraphs (8), (9) and (10) of the opinion of Jones Day referenced in Section 4.1(m)(iii) of the Credit Agreement.

D. Environmental; State Energy Regulatory; State and Local Permitting

Each of the opinions set forth in the opinion of Stoel Rives LLP referenced in Section 4.1(m)(iv) of the Credit Agreement, in each case, as they relate to the use, owernship and/or operation of the Project; provided, that the first sentence of paragraph C4 shall be modified as follows:

"Each of the permits set forth in Part B of Schedule I is not required to be obtained as of the date of this opinion and is not obtainable until after a period of operations."

[FORM OF BORROWING REQUEST]

INCREMENTAL TRANCHE A BORROWING REQUEST

[_____ __], 20[__] [1]

ING Capital LLC,
as Administrative Agent for the Lenders party
to the Credit Agreement referred to below

1325 Avenue of the Americas
New York, NY 10019
Attn: Patrick Kennedy

Ladies and Gentlemen:

The undersigned, NRG WEST HOLDINGS LLC, refers to the Amended and Restated Credit Agreement dated as of _____, 2015 (as amended, supplemented, revised or otherwise modified from time to time, the "Credit Agreement," the terms defined therein being used herein as therein defined) among, *inter alia*, the undersigned, ING Capital LLC, as Administrative Agent and each of the financial institutions from time-to-time party thereto as Lenders and Issuing Banks, and hereby gives you notice, irrevocably, pursuant to Sections 3.3(b) and 4.7(c) of the Credit Agreement, that the undersigned hereby requests a Borrowing of Loans under the Credit Agreement, and in that connection sets forth below the information relating to such Borrowing (the "Proposed Borrowing") as required by Section 3.3(b) of the Credit Agreement:

(i) The Business Day of the Proposed Borrowing is [_____ __], 20[__].

(ii) The aggregate principal amount of the Proposed Borrowing is:

$[_____].

(iii) The Proposed Borrowing is to consist of [Base Rate][LIBOR] Loans.

[(iv) The initial Interest Period for the Proposed Borrowing is [__] month[s] and such Interest Period shall expire [_____ __], 20[__].][2]

(v) The Proposed Borrowing is to be disbursed as set forth on Exhibit A attached hereto.

[1] At least three Business Days prior to the date of Proposed Borrowing in the case of LIBOR Loans. At least one Business Day prior to the date of Proposed Borrowing in the case of Base Rate Loans

[2] To be included for a Proposed Borrowing of LIBOR Loans.

The undersigned hereby certifies that the following statements are true on the date hereof, and will be true on the date of the Proposed Borrowing:

(A) The date of the Proposed Borrowing is a Business Day;

(B) Each of the conditions precedent contained in Section 4.7 of the Credit Agreement has been fully satisfied;

(C) the representations and warranties of each Borrower Party set forth in the Financing Documents to which it is a party are true and correct in all material respects, before and after giving effect to the Proposed Borrowing and to the application of the proceeds thereof, as though made on and as of such date (or if expressly stated to have been made as of an earlier date, were true and correct as of such date);

(D) no Default or Event of Default has occurred and is continuing, or would result from such Proposed Borrowing or from the application of the proceeds thereof;
(E) the proceeds of the Incremental Tranche A Term Loans shall be used solely to pay the costs and expenses associated with Amendment No. 5 and the transactions contemplated thereby and in the Credit Agreement in connection with the Repricing Date; and

(F) the undersigned is an Authorized Officer of the Borrower.

Very Truly Yours,

NRG WEST HOLDINGS LLC

By:
Name:
Title:

Exhibit A

[Attach Flow of Funds]

EXHIBIT 10.9

FIRST AMENDMENT
TO AMENDED & RESTATED CREDIT AGREEMENT

THIS FIRST AMENDMENT TO AMENDED & RESTATED CREDIT AGREEMENT (this **"Amendment"**) is dated as of June 26, 2015 and is entered into by and among **NRG YIELD OPERATING LLC**, a Delaware limited liability company (the **"Borrower"**), **NRG YIELD LLC**, a Delaware limited liability company (**"Holdings"**), each other Guarantor party hereto, **ROYAL BANK OF CANADA**, as Administrative Agent (the **"Administrative Agent"**), and the Lenders party hereto, and is made with reference to that certain **AMENDED AND RESTATED CREDIT AGREEMENT** dated as of April 25, 2014 (the **"Credit Agreement"**) by and among the Borrower, Holdings, the other Guarantors party thereto, the Lenders and L/C Issuers party thereto and the Administrative Agent. Capitalized terms used herein without definition shall have the same meanings herein as set forth in the Credit Agreement after giving effect to this Amendment.

RECITALS

WHEREAS, the Loan Parties have requested that the Credit Agreement be amended to, among other things, provide for an increase in the Revolving Credit Commitments thereunder in an aggregate amount determined by the Borrower not to exceed $45,000,000, which increased commitment shall be made by a lender that (x) is an Eligible Assignee and (y) executes a signature page hereto on the First Amendment Effective Date (as defined herein) as a "New Revolving Credit Lender" (such lender committing to provide such Revolving Credit Commitment on the First Amendment Effective Date being referred to herein as a "New Revolving Credit Lender") in the amount set forth on such signature page (the amount so set forth on such signature page, which shall not exceed $45,000,000, the "New Revolving Credit Commitment");

WHEREAS, the Loan Parties have requested that the Required Lenders agree to amend certain other provisions of the Credit Agreement as provided for herein; and

WHEREAS, subject to certain conditions, the Required Lenders are willing to agree to such amendments to the Credit Agreement.

NOW, THEREFORE, in consideration of the premises and the agreements, provisions and covenants herein contained, the parties hereto agree as follows:

SECTION I. AMENDMENTS TO CREDIT AGREEMENT

1.1 Amendments to Article 1: Definitions.

A. Section 1.01 of the Credit Agreement is hereby amended by adding the following definitions in proper alphabetical sequence:

""2020 Convertible Senior Notes" has the meaning set forth in the definition of "Convertible Senior Notes."

""A&R Credit Agreement First Amendment" means that certain First Amendment to Amended and Restated Credit Agreement, dated as of June 26, 2015, among the Borrower, Holdings, the other Guarantors party thereto, the Administrative Agent and the financial institutions listed on the signature pages thereto."

""A&R Credit Agreement First Amendment Effective Date" means the date of satisfaction of the conditions referred to in Section III of the A&R Credit Agreement First Amendment."

""Equity Investor Credit Agreement" means that certain Amended and Restated Credit Agreement, dated as of July 1, 2011, by and among Equity Investor, as borrower, the various financial institutions party

thereto as lenders, issuing banks, arrangers and agents, and Citicorp North America, Inc., as administrative agent and collateral agent."

""Equity Investor Subsidiary" means (i) NRG RPV Holdco 1 LLC and NRG DGPV Holdco 1 LLC, (ii) any Subsidiary of the Borrower that (a) is a "Subsidiary" (as that term is defined in the Equity Investor Credit Agreement as in effect on the date hereof) and (b) is a limited partnership, limited liability company or corporation, if a majority of the limited partnership interests, limited liability company interests or stock thereof are owned, directly or indirectly, by the Borrower or one or more Subsidiaries of the Borrower and more than 50% of the general partnership (with respect to a limited partnership) or limited liability company interests or stock that directly or indirectly result in the control of the management of such first Subsidiary are owned by the Equity Investor or one or more Subsidiaries of the Equity Investor (other than any such Subsidiary of the Equity Investor that is Parent or a Subsidiary of Parent) (an "NRG Subsidiary") and that is designated by the Borrower to be an Equity Investor Subsidiary in a certificate of a Responsible Officer of the Borrower at least three (3) Business Days before giving effect to such designation, and (iii) any Subsidiary of the Equity Investor Subsidiaries described in the foregoing clauses (i) and (ii); provided that, (1) immediately before and immediately after giving pro forma effect to any such designation, no Event of Default shall have occurred and be continuing, (2) immediately before and immediately after giving effect to such designation, the Borrower and its Subsidiaries shall be in pro forma compliance with all of the covenants set forth in Section 7.11, such compliance to be determined on the basis of the financial statements most recently delivered to the Administrative Agent and the Lenders pursuant to Section 6.01(a) or (b) as though such designation had been made as of the first day of the four fiscal quarter period ended on the date of such financial statements, and the Borrower shall deliver to the Administrative Agent a certificate of its chief executive officer, chief financial officer, treasurer or controller demonstrating such compliance calculations for this clause (2) in reasonable detail and (3), except for such Persons designated in clause (i) of this definition, the Borrower may not designate any Person (x) that is a Subsidiary as of the A&R Credit Agreement First Amendment Effective Date or (y) that is a Project Company or a Guarantor or, in the case of each of clauses (x) and (y), any of their respective Subsidiaries, as an Equity Investor Subsidiary. For the avoidance of doubt, if a Subsidiary shall no longer be an NRG Subsidiary, such Subsidiary shall cease to be an Equity Investor Subsidiary."

""Holdings Tax Equity Credit Support" means unsecured indemnification, unsecured guarantee and other unsecured credit support obligations of Holdings entered into by Holdings in favor of (x) a Tax Equity Partner or (y) the Equity Investor or an Affiliate of the Equity Investor that has itself indemnified or provided other credit support to such Tax Equity Partner, in the case of each of clauses (x) and (y), in connection with a Permitted Tax Equity Financing of a Project Company (and/or a Company Group Party that is a direct or indirect parent company of such Project Company)."

""Holdings Tax Equity Payments" means payments actually made by Holdings pursuant to Holdings Tax Equity Credit Support. "

""NRG Subsidiary" has the meaning specified in the definition of "Equity Investor Subsidiary".

B. The definition of "Convertible Senior Notes" in Section 1.01 of the Credit Agreement is hereby amended and restated in its entirety as follows:

""Convertible Senior Notes" means (a) the unsecured Convertible Senior Notes due 2019 issued by Parent in an aggregate principal amount of US $345,000,000 (the "Original Convertible Senior Notes"); (b) the unsecured Convertible Senior Notes due 2020 issued by Parent in an aggregate principal amount of up to US $350,000,000 (the "2020 Convertible Senior Notes"); and (c) any amendments, modifications, replacements or refinancings of the Indebtedness described in the foregoing clause (a) and (b) or any Indebtedness incurred pursuant to this clause (c) from time to time (the "Permitted Refinancing Convertible Senior Notes"); provided that (i) the aggregate principal amount (or accreted value, if applicable) of such Permitted Refinancing Convertible Senior Notes does not exceed the aggregate outstanding principal amount (or accreted value, if applicable) of the Indebtedness being amended, modified, replaced or refinanced (plus all accrued interest and original issue discount in the nature of interest on such Indebtedness and the amount of all expenses and

premiums, underwriting, issuance, commitment, syndication and other similar fees, costs and expenses incurred in connection therewith) unless another available exception under Section 7.02 is then utilized, (ii) such Permitted Refinancing Convertible Senior Notes have a Weighted Average Life to Maturity equal to or greater than the Weighted Average Life to Maturity of the applicable Convertible Senior Notes being refinanced, (iii) the Permitted Refinancing Convertible Senior Notes have a Stated Maturity on or later than the maturity date of the applicable Convertible Senior Notes being refinanced, (iv) the obligations in respect of such Permitted Refinancing Convertible Senior Notes shall continue to be unsecured and (v) the primary obligor in respect of such Permitted Refinancing Convertible Senior Notes shall be the Parent; provided, further, that, in the case of each of clauses (a), (b) and (c) above, the net proceeds shall be loaned to the Borrower as a Parent CSN Proceeds Loan."

C. The definition of "Eurodollar Rate" in Section 1.01 of the Credit Agreement is hereby amended and restated in its entirety as follows:

""Eurodollar Rate" means,

(a) for any Interest Period with respect to a Eurodollar Rate Loan, the rate per annum, expressed on the basis of a year of 360 days, determined by the Administrative Agent at approximately 11:00 a.m. (London time), on the date that is two Business Days prior to the commencement of such Interest Period by reference to the rate set by ICE Benchmark Administration for deposits in Dollars (as set forth by any service selected by the Administrative Agent that has been nominated by ICE Benchmark Administration as an authorized information vendor for the purpose of displaying such rates) for a period equal to such Interest Period ("LIBOR"); provided, however, that, to the extent that an interest rate is not ascertainable pursuant to the foregoing provisions of this definition, the "Eurodollar Rate" shall be the interest rate per annum determined by the Administrative Agent to be the average of the rates per annum at which deposits in Dollars are offered for such relevant Interest Period to major banks in the London interbank market in London, England by the Administrative Agent at approximately 11:00 a.m. (London time) on the date that is two Business Days prior to the beginning of such Interest Period; provided, that, if such rate is below zero, Eurodollar Rate will be deemed to be zero for purposes of this Agreement; and

(b) for any interest calculation with respect to a Base Rate Loan on any date, the rate per annum equal to LIBOR, at approximately 11:00 a.m., London time determined on such date for U.S. Dollar deposits being delivered in the London interbank market for a term of one month commencing that day, provided, that, if such rate is below zero, Eurodollar Rate will be deemed to be zero for purposes of this Agreement.

D. The definition of "Investments" in Section 1.01 of the Credit Agreement is hereby amended and restated in its entirety as follows:

""Investment" means, as to any Person, any direct or indirect acquisition or investment by such Person, whether by means of (a) the purchase or other acquisition of Equity Interests of another Person, (b) a loan, advance or capital contribution to, Guarantee or assumption of debt of, or purchase or other acquisition of any other debt or interest in, another Person, or (c) the purchase or other acquisition (in one transaction or a series of transactions) of assets of another Person that constitute a business unit or all or a substantial part of the business of, such Person. Except as otherwise expressly provided in this Agreement, the amount of an Investment will be the fair market value of such Investment determined at the time the Investment is made and without giving effect to subsequent changes in value; provided that, to the extent, if any, that a Guarantee, other guarantee, and/or credit support results in an Investment, the amount of such Investment (x) will be the fair market value thereof determined first as of the time such Investment is made and thereafter on an annual basis, (y) will be zero upon such Guarantee, other guarantee and/or credit support being released or terminated and (z) will be the fair market value of such Guarantee, other guarantee and/or credit support determined as of the time of any modification thereof, if modified or amended. Notwithstanding anything to the contrary herein, in the case of any Investment made by the Borrower or a Company Group Party in a Person substantially concurrently with a cash distribution by such Person to the Borrower or such Company Group Party, as the case may be (a

"Concurrent Cash Distribution"), then the amount of such Investment shall be deemed to be the fair market value of the Investment, less the amount of the Concurrent Cash Distribution."

E. The definition of "L/C Issuer" in Section 1.01 of the Credit Agreement is hereby amended and restated in its entirety as follows:

""L/C Issuer" means each of RBC, Goldman Sachs Bank USA, Bank of America, JPMorgan Chase Bank, National Association and any Additional L/C Issuers, each in its capacity as an issuer of Letters of Credit hereunder, or any successor issuer(s) of Letters of Credit hereunder. Any reference to "L/C Issuer" herein shall be to the applicable L/C issuer, as appropriate."

F. The definition of "Other Permitted Guarantees" in Section 1.01 of the Credit Agreement is hereby amended and restated in its entirety as follows:

""Other Permitted Guarantees" means unsecured guarantees and/or other credit support by the Loan Parties of (1) obligations of Project Companies that do not constitute Permitted Operating Guarantees, which obligations were incurred in the ordinary course of business of the Project Companies, and (2) any indemnification obligations (or similar obligations and guarantees) made by a Project Company or a Company Group Party that is a direct or indirect parent company of such Project Company that has entered into a Permitted Tax Equity Financing in favor of (x) its Tax Equity Partner or (y) the Equity Investor or an Affiliate of the Equity Investor that has itself indemnified or provided other credit support to such Tax Equity Partner in respect of such Project Company or Company Group Party, in the case of each of clauses (x) and (y), in respect of representations and warranties and/or other obligations not covered by clause (B) of the definition of "Permitted Operating Guarantees"; provided that the amount guaranteed pursuant to Other Permitted Guarantees shall not, at any one time, exceed the sum of, solely in the case of Other Permitted Guarantees entered into after the A&R Credit Agreement First Amendment Effective Date, (a) $55,000,000 and (b) the amount of unrestricted cash that is held by the Borrower (which cash shall be held by the Borrower for so long as such guarantee is in place) and subject to a Lien in favor of the Administrative Agent for the benefit of the Secured Parties."

G. The definition of "Permitted Operating Guarantees" in Section 1.01 of the Credit Agreement is hereby amended and restated in its entirety as follows:

""Permitted Operating Guarantees" means (A) unsecured guarantees and/or other unsecured credit support by the Loan Parties of (i) customary contractual obligations of the Project Companies which have been incurred in the ordinary course of business on fair and reasonable terms substantially as favorable to such Person as would be obtained at the time in a comparable arm's length transaction in respect of the operation and maintenance of the energy generating, transmission or distribution assets, and assets related thereto, owned or leased by such Person (collectively, "O&M Obligations"), but excluding (a) obligations constituting Indebtedness (unless such obligations which otherwise would have constituted O&M Obligations are Indebtedness solely due to clause (d) of the definition of Indebtedness), (b) obligations in respect of fuel procurement and financial obligations which are not reasonably related to the daily operations and maintenance of such energy generating, transmission or distribution assets, or assets related thereto and (c) obligations to acquire, construct or remediate

assets (including obligations in respect of capital expenditures and other capital improvements) (clauses (a) through (c), "Excluded Obligations") and (ii) obligations of Project Companies in respect of surety bonds incurred in the ordinary course of business with respect to O&M Obligations or remediation obligations in respect of the energy generating, transmission and distribution assets, and assets related thereto, owned or leased by such Person and (B) indemnification obligations (or similar obligations and guarantees) made by a Project Company or a Company Group Party that is a direct or indirect parent company of such Project Company that has entered into a Permitted Tax Equity Financing in favor of (x) its Tax Equity Partner or (y) the Equity Investor or an Affiliate of the Equity Investor that has itself indemnified or provided other credit support to such Tax Equity Partner in respect of such Project Company or Company Group Party, in the case

of each of clauses (x) and (y), in respect of representations and warranties with respect to (1) O&M Obligations of such Project Company (other than Excluded Obligations) and (2) upstream transfers that adversely affect the tax status of such Project Company, in each case made by (x) such Project Company or (y) a Company Group Party that is a direct or indirect parent company of such Project Company, in each case pursuant to any definitive documentation in respect of the applicable Permitted Tax Equity Financing."

H. The definition of "Permitted Tax Equity Financing" in Section 1.01 of the Credit Agreement is hereby amended and restated in its entirety as follows:

""Permitted Tax Equity Financing" means a tax equity financing entered into solely in connection with the acquisition, expansion, upgrade or refurbishment (or refinancing of any of the foregoing or of any Indebtedness incurred in connection therewith) of or by a Project Company (and/or a Company Group Party that is a direct or indirect parent company of such Project Company) of energy generating, transmission or distribution assets, or of any other energy or power facility or any assets related to any of the foregoing that are eligible for renewable energy production tax credits available under Section 45 of the Code or renewable energy investment tax credits available under Section 48 of the Code, as applicable, on an arm's-length basis."

I. The definition of "Project Companies" in Section 1.01 of the Credit Agreement is hereby amended and restated in its entirety as follows:

""Project Companies" means (a)(i) each entity listed on Part (e) of Schedule 5.13 (x) that, other than with respect to the Kennedy Project Companies (solely to the extent that such Kennedy Project Companies collectively shall have total assets of less than $20,000,000), is subject to the applicable terms of and any applicable covenants contained in (which shall, at a minimum, include limitations on debt and liens of such entities) any Project-Level Indebtedness or Permitted Tax Equity Financing binding upon such Person and (y) that is not Holdings or the Borrower and (ii) each entity listed on Part (f) of Schedule 5.13 that (w) is not Holdings or the Borrower, (x) owns an entity listed on Part (e) of such Schedule, (y) is subject to the applicable terms of and any applicable covenants contained in (which shall, at a minimum, include limitations on debt and liens of such entities) any Project-Level Indebtedness or Permitted Tax Equity Financing binding upon such Person and (z) together with all other entities listed on such Part (f),

has no Indebtedness other than up to $7,000,000 of unsecured Indebtedness, (b) any new direct or indirect Subsidiary of any Loan Party which, after the Closing Date, is created or acquired by any Loan Party in accordance with the terms hereof, is the direct owner or lessee or is intended to become the direct owner, lessee or developer of energy generating, transmission or distribution assets, or assets related thereto, or of any other power or energy facility, or any assets relating to any of the foregoing and is subject to the applicable terms of and any applicable covenants contained in (which shall, at a minimum, include limitations on debt and liens of such entities) any Project-Level Indebtedness or Permitted Tax Equity Financing binding upon such Person or expected to become binding upon such Person within one hundred eighty (180) days (or such longer period not to exceed 270 days as is reasonably acceptable to the Administrative Agent) following its formation or acquisition by any Loan Party, (c) if so elected by the Borrower by written notice to the Administrative Agent, any direct parent (other than Holdings or the Borrower) of any Subsidiary described in the foregoing clause (b) which is subject to the applicable terms of and any applicable covenants contained in (which shall, at a minimum, include limitations on debt and liens of such entities) (or if not subject to such terms and covenants, where certain actions or omissions by such parent would cause a default of its Subsidiary's Project-Level Indebtedness or Permitted Tax Equity Financing) any Project-Level Indebtedness or Permitted Tax Equity Financing binding upon such Person or expected to become binding upon such Person within one hundred eighty (180) days (or such longer period not to exceed 270 days as is reasonably acceptable to the Administrative Agent) following its formation or acquisition by any Loan Party, (d) any Subsidiary of the Project Companies described in the foregoing clauses (a), (b) and (c), (e) NRG Solar Apple LLC, (f) any holding company that is the direct or indirect parent company of one or more Project Companies, which holding company (x) is formed after the A&R Credit Agreement First Amendment Effective Date or acquired by a Loan Party pursuant to a transaction or acquisition permitted by Section 7.03(g) and (y) is the obligor in respect of Indebtedness or Permitted Tax Equity Financing that is outstanding at the time of such acquisition,

which Indebtedness or Permitted Tax Equity Financing prohibits such holding company from becoming a Guarantor under the Loan Documents and (g) any holding company that (1) is the direct or indirect parent company of one or more Project Companies, (2) is formed after the A&R Credit Agreement First Amendment Effective Date or acquired by a Loan Party pursuant to a transaction or acquisition permitted by Section 7.03 (g), (3) provides operations or maintenance services or guarantees thereof in respect of such Project Companies and (4) is not created or formed, and did not begin providing such services, in contemplation of or in connection with such acquisition permitted by Section 7.03(g); provided, that (x) in each such case, the Indebtedness or Permitted Tax Equity Financing (if any) referred to in such clause shall prohibit such person from becoming a Guarantor under the Loan Documents and (y) in the case of each of the foregoing clauses other than clause (f), any Liens or Indebtedness or obligation under any Permitted Tax Equity Financing incurred by such Persons shall be in favor of the applicable secured parties under the Project-Level Indebtedness or Permitted Tax Equity Financing binding upon such Person or its Subsidiary which is the borrower under the applicable Project-Level Indebtedness or Permitted Tax Equity Financing; provided further that in each such case,

in no event shall Holdings or the Borrower constitute a Project Company and all Project Companies shall be Subsidiaries of the Borrower."

J. The definition of "Subsidiary" in Section 1.01 of the Credit Agreement is hereby amended and restated in its entirety as follows:

""Subsidiary" of a Person means a corporation, partnership, joint venture, limited liability company or other business entity of which a majority of the shares of securities or other interests having ordinary voting power for the election of directors or other governing body (other than securities or interests having such power only by reason of the happening of a contingency) are at the time beneficially owned, or the management of which is otherwise controlled, directly, or indirectly through one or more intermediaries, or both, by such Person. Unless otherwise specified, all references herein to a "Subsidiary" or to "Subsidiaries" shall refer to a Subsidiary or Subsidiaries of Holdings and shall exclude all Equity Investor Subsidiaries."

K. The definition of "Tax Equity Partner" in Section 1.01 of the Credit Agreement is hereby amended and restated in its entirety as follows:

""Tax Equity Partner" means any tax equity partner that (x) has entered into a joint venture agreement, limited liability company agreement or similar arrangement with a Project Company (and/or a Company Group Party that is a direct or indirect parent company of such Project Company) in connection with the consummation of a Permitted Tax Equity Financing and (y) is not an Affiliate of such Project Company or Company Group Party.

L. The definition of "Total Debt" in Section 1.01 of the Credit Agreement is hereby amended and restated in its entirety as follows:

""Total Debt" means, as of any date of determination, for the Borrower and the Guarantors, the sum of (a) the outstanding principal amount of all obligations, whether current or long-term, for borrowed money (including Obligations hereunder constituting indebtedness for borrowed money) and all obligations evidenced by bonds, debentures, notes, loan agreements or other similar instruments constituting Indebtedness, (b) all purchase money Indebtedness, (c) all direct obligations arising under letters of credit (including standby and commercial), bankers' acceptances, bank guaranties, surety bonds and similar instruments, (d) all obligations in respect of the deferred purchase price of property or services constituting Indebtedness, (e) all Attributable Indebtedness, (f) without duplication, all Guarantees with respect to outstanding Indebtedness of the types specified in clauses (a) through (e) above of Persons other than the Borrower and the Guarantors and (g) all Indebtedness of the types referred to in clauses (a) through (f) above of any partnership or joint venture (other than a joint venture that is itself a corporation or limited liability company) in which the Borrower or any Guarantor is a general partner or joint venturer, unless such Indebtedness is expressly made non-recourse or limited recourse to the Borrower and the Guarantors (it being understood that, in respect of limited recourse

Indebtedness, Total Debt will be limited to the extent of such recourse). Notwithstanding anything herein to the contrary, (i) the undrawn amount

of any Letters of Credit that are outstanding shall be excluded and not be given any effect in the calculation of Total Debt, (ii) the amount of any surety bonds that are outstanding and that are not subject to an outstanding claim shall be excluded and not be given any effect in the calculation of Total Debt, and (iii) for so long as the Borrower guarantees the Indebtedness represented by the Convertible Senior Notes, the Parent CSN Proceeds Loan shall not constitute Total Debt, except to the extent the aggregate principal amount of the Parent CSN Proceeds Loan exceeds the aggregate principal amount guaranteed by the Borrower in respect of the Indebtedness represented by the Convertible Senior Notes (in which case the amount of such excess shall constitute Total Debt in addition to the amount guaranteed by the Borrower in respect of the Indebtedness represented by the Convertible Senior Notes)."

1.2 Amendments to Section 5.02.

a. Section 5.02 of the Credit Agreement is amended and restated in its entirety as follows:

"Authorization; No Contravention. The execution, delivery and performance by each Loan Party of each Loan Document to which such Person is or is to be a party have been duly authorized by all necessary corporate or other organizational action, and do not and will not (a) contravene the terms of any of such Person's Organization Documents; (b) conflict with or result in any breach or contravention of, or require any payment to be made under, (i) any material Contractual Obligation to which such Person is a party or affecting such Person or the properties of such Person or any of its Subsidiaries, or (ii) any order, injunction, writ or decree of any Governmental Authority or any arbitral award to which such Person or its property is subject; (c) result in the creation or imposition of any Lien upon or with respect to any property or assets now owned or hereafter acquired by such Person or any of its Subsidiaries (other than Liens created under the Collateral Documents); or (d) violate any material Law."

1.3 Amendments to Section 6.03.

A. Section 6.03(b) of the Credit Agreement is amended by deleting the "and" at the end of such section.

B. Section 6.03(c) of the Credit Agreement is amended by deleting the period appearing at the end of such section and replacing it with "; and"

C. Section 6.03 of the Credit Agreement is amended by inserting a new clause (d) at the end of such section, as follows:

"(d) Holdings shall provide notification to the Administrative Agent promptly upon the making of any Holdings Tax Equity Payments."

1.4 Amendments to Section 7.03.

A. Section 7.03(e) of the Credit Agreement is hereby amended and restated in its entirety as follows:

(e) to the extent constituting Investments, (x) Guarantees permitted by Section 7.02 and (y) Permitted Guarantees;

B. Section 7.03(g) of the Credit Agreement is hereby amended and restated in its entirety as follows:

"(g) (i) the formation of any Person in connection with a Permitted Tax Equity Financing, (ii) the purchase or other acquisition of all or any portion of the Equity Interests in any Person, (iii) the purchase by any Company Group Party of all or substantially all of the property of any Person, in each case, where such Person, upon the consummation of such formation, transaction, purchase or other acquisition, will be owned directly by the Borrower or one or more of the Company Group Parties (including as a result of a merger or consolidation with a Company Group Party);

provided that, with respect to each formation, transaction, purchase or other acquisition made pursuant to this Section 7.03(g):

(w) the Loan Parties shall comply with the requirements of Section 6.12, to the extent applicable;

(x) the lines of business of the Person to be (or the property of which is to be) so formed, purchased or otherwise acquired shall be substantially the same lines of business as one or more of the principal businesses of the Borrower and its Subsidiaries in the ordinary course;

(y) (A) immediately before and immediately after giving pro forma effect to any such formation, transaction, purchase or other acquisition, no Default shall have occurred and be continuing and (B) immediately after giving effect to such formation, transaction, purchase or other acquisition, the Borrower and its Subsidiaries shall be in pro forma compliance with all of the covenants set forth in Section 7.11, such compliance to be determined on the basis of the financial statements most recently delivered to the Administrative Agent and the Lenders pursuant to Section 6.01(a) or (b) as though such formation, transaction, purchase or other acquisition had been consummated as of the first day of the four quarter period covered thereby, and the Borrower shall deliver to the Administrative Agent a certificate of its chief executive officer, chief financial officer, treasurer or controller demonstrating such compliance calculations for this clause (B) in reasonable detail; and

(z) the Borrower shall have delivered to the Administrative Agent and each Lender, solely with respect to the consummation of any Qualified Acquisition, at least one Business Day prior to the date on which any such Qualified Acquisition is to be consummated (provided that if no Borrowing will be made in connection with such Qualified Acquisition, the Borrower shall deliver to the Administrative Agent and each Lender the following certificate no later than three (3) Business Days following the closing date of such Qualified Acquisition), a certificate of a Responsible Officer certifying that all of the requirements set forth in this clause (g) have been satisfied or will be satisfied on or prior to the consummation of such formation, transaction, purchase or other acquisition (or, in the case of clause (g)(i), will be satisfied within the periods required by Section 6.12)."

1.5 Amendment to Section 7.12.

A. Section 7.12 of the Credit Agreement is hereby amended and restated in its entirety as follows:

"Sanctions. Directly or indirectly, use the proceeds of any Credit Extension, or lend, contribute or otherwise make available such proceeds to any Subsidiary of the Borrower or any Company Group Party, or to any Equity Investor Subsidiary, joint venture partner or other individual or entity, to fund any activities of or business with any individual or entity, or in any Designated Jurisdiction, that, at the time of such funding, is the subject of Sanctions or in any other manner that will result in a violation by any individual or entity (including any individual or entity participating in the transaction, whether as Lender, Arranger, Administrative Agent, L/C Issuer or otherwise) of Sanctions."

1.6 Amendment to Section 7.17.

A. Section 7.17 of the Credit Agreement is hereby amended and restated in its entirety as follows:

"Holding Company. In the case of Holdings, engage in any business, activity or transaction or own any interest (fee, leasehold or otherwise) in any real property, or incur, assume, or suffer to exist any Indebtedness other than (a) the ownership of all outstanding Equity Interests in the Borrower, (b) maintaining its corporate existence, (c) participating in tax, accounting and other administrative activities as the parent of a consolidated group of companies, including the Borrower, (d) making Restricted Payments of amounts received by it pursuant to Section 7.06, and making Investments in the Borrower, (e) in respect of the execution and delivery of the Loan Documents to which it is a party and the performance of its obligations thereunder, (f) the execution and delivery of the Exchange Agreement and the performance of its obligations thereunder, (g) incurring Indebtedness consisting of an unsecured guarantee of the Indebtedness represented by the Convertible Senior Notes, (h) providing, and complying with its obligations in respect of, Permitted Guarantees, (i) (x) entering into Holdings Tax Equity Credit Support and (y) making Holdings Tax Equity Payments in an amount not to exceed, in the aggregate for all such Holdings Tax Equity Payments made by Holdings during the term of this Agreement, 10% of Holdings' shareholders' equity as reported in the most recent financial statements filed by Holdings with the SEC on Form 10-Q or Form 10-K, as applicable, (it being understood that Holdings may enter into Holdings Tax Equity Credit Support without regard to such 10% cap, but that actual payments made by Holdings with respect thereto are subject to such 10% cap) and (j) activities incidental to the businesses or activities described in clauses (a) through (i) of this Section."

1.7 Addition of Section 7.20.

A. Article VII of the Credit Agreement is hereby amended by adding a new Section immediately following Section 7.19, as follows:

"7.20. Permitted Tax Equity Credit Support. Enter into any indemnification, guarantee or other credit support agreement in respect of any tax equity financing, or incur any obligations or make any payments thereunder or in connection therewith, other than pursuant to Permitted Guarantees (it being understood that Holdings may enter into Holdings Tax Equity Credit Support and make Holdings Tax Equity Payments pursuant to clause (i) of Section 7.17)."

1.8 Amendment to Schedules.

A. Schedule 2.01 of the Credit Agreement is hereby amended and restated in its entirety as set forth on Annex A hereto.

B. Schedule 2.03 of the Credit Agreement is hereby amended and restated in its entirety as set forth on Annex B hereto.

C. Part (e) of Schedule 5.13 of the Credit Agreement are hereby amended and restated in their entirety as set forth on Annex C hereto.

SECTION II. INCREASE IN REVOLVING COMMITMENTS

On the First Amendment Effective Date, (i) each of the existing Revolving Credit Lenders shall assign to the New Revolving Credit Lender, and the New Revolving Credit Lender shall purchase from each of the existing Revolving Credit Lenders, at the principal amount thereof, such interests in the Revolving Credit Loans and participations in L/C Borrowings (if any) outstanding on the First Amendment Effective Date as shall be necessary in order that, after giving effect to all such assignments and purchases, such Revolving Credit Loans and participations in L/C Borrowings will be held by existing Revolving Credit Lenders and the New Revolving Credit Lender ratably in accordance with their Revolving Credit Commitments after giving effect to the addition of the New Revolving Credit Commitment to the Revolving Credit Commitments, (ii) the New Revolving Credit Commitment shall be deemed for all purposes a Revolving Credit Commitment and each Revolving Credit Loan made thereunder shall be deemed, for all purposes, a Revolving Credit Loan and (iii) the New Revolving Credit Lender shall become a Revolving Credit Lender with respect to the New Revolving Credit Commitment and all matters relating thereto.

By its execution of this Amendment, the New Revolving Credit Lender hereby confirms and agrees that, on and after the First Amendment Effective Date, (i) it shall be and become a party to the Amended Credit Agreement (as defined below) as a Revolving Credit Lender, and shall have all of the rights and be obligated to perform all of the obligations of a Revolving Credit Lender thereunder with the Revolving Credit Commitment applicable to such New Revolving Credit Lender identified on Schedule 2.01 attached hereto and (ii) it shall be and become a party to the Amended Credit Agreement (as defined below) as an L/C Issuer, and shall have all of the rights and be obligated to perform all of the obligations of an L/C Issuer thereunder with the L/C Commitment applicable to such New Revolving Credit Lender identified on Schedule 2.03 attached hereto. The New Revolving Credit Lender further (i) acknowledges that it has received a copy of the Credit Agreement and the schedules and exhibits
thereto and such other documents and information as it has deemed appropriate to make its own credit and legal analysis and decision to enter into this Amendment and extend its Revolving Credit Commitment and L/C Commitment, (ii) acknowledges that it has independently and without reliance upon the Administrative Agent, any other L/C Issuer, or any other Lender and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Amendment and to become a Lender and an L/C Issuer, and (iii) agrees that it will, independently and without reliance upon the Administrative Agent, any other L/C Issuer or any other Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit and legal decisions in taking or not taking action under the Amended Credit Agreement and the other Loan Documents.

Upon the First Amendment Effective Date, the Revolving Credit Commitment of each Revolving Credit Lender will be as set forth on Schedule 2.01 attached hereto as Annex A and the L/C Commitment of each L/C Issuer will be as set forth on Schedule 2.03 attached hereto as Annex B.

SECTION III. CONDITIONS TO EFFECTIVENESS

This Amendment shall become effective upon the satisfaction of all of the following conditions precedent (the date of satisfaction of such conditions being referred to herein as the **"First Amendment Effective Date"**):

A. Execution. The Administrative Agent shall have received (i) a counterpart signature page of this Amendment duly executed by each of the Loan Parties, (ii) a counterpart signature page of this Amendment duly executed by each of the Required Lenders and (iii) a counterpart signature page of this Amendment duly executed by the New Revolving Credit Lender.

B. Fees. The Administrative Agent shall have received all fees and other amounts due and payable on or prior to the First Amendment Effective Date, including, to the extent invoiced, reimbursement or other payment of all out-of-pocket expenses in each case required to be reimbursed or paid by the Borrower under the Credit Agreement.

C. Legal Opinion. The Administrative Agent shall have received a favorable opinion of Kirkland & Ellis LLP, counsel to the Loan Parties, addressed to the Administrative Agent and the New Revolving Credit Lender, in form and substance reasonably satisfactory to the Administrative Agent.

D. Secretary's Certificate. The Administrative Agent shall have received (A) if reasonably requested by the Administrative Agent, a certificate of the secretary or assistant secretary of each Loan Party dated the First Amendment Effective Date certifying that attached thereto is a true and complete copy of resolutions duly authorizing the execution, delivery and performance of this Amendment and the other Loan Documents to which such person is a party contemplated hereby (including the increase in the Revolving Credit Commitments as contemplated hereby) and (B) a certificate of the secretary or assistant secretary of each Loan Party dated the First Amendment Effective Date either certifying that there has been change in

the information set forth in and attached to the certificate delivered on the Closing Date pursuant to Section 4.01(a)(iv) of the Credit Agreement and/or identifying such changes.

E. Representations and Warranties, Etc. Both before and immediately after giving effect to this Amendment and the transactions contemplated hereby, (x) all representations and warranties contained in Section IV hereof and in Article V of the Credit Agreement shall be true and correct in all material respects (but in all respects if such representation or warranty is qualified by "materiality" or "Material Adverse Effect") and (y) no Default shall have occurred and be continuing and the Administrative Agent shall have received a certificate, dated as of the First Amendment Effective Date, signed by a Responsible Officer of the Borrower, certifying as to the foregoing.

F. Flood Matters. The Borrower shall have delivered to the Administrative Agent a completed standard "life of loan" flood hazard determination form for each property encumbered by an Existing Mortgage, and if the property is located in an area designated by the U.S. Federal Emergency Management Agency (or any successor agency) as having special flood or mud slide hazards, (i) a notification to the Borrower (a "Borrower Notice") and (if applicable) notification to the Borrower that flood insurance coverage under the National Flood Insurance Program ("NFIP") created by the U.S. Congress pursuant to the National Flood Insurance Act of 1968, the Flood Disaster Protection Act of 1973, the National Flood Insurance Reform Act of 1994 and the Flood Insurance Reform Act of 2004 is not available because the applicable community does not participate in the NFIP, (ii) documentation evidencing the Borrower's receipt of the Borrower Notice (e.g., countersigned Borrower Notice, return receipt of certified U.S. Mail, or overnight delivery), and (iii) if a Borrower Notice is required to be given and flood insurance is available in the community in which the property is located, a copy of one of the following: the flood insurance policy, the Borrower's application for a flood insurance policy plus proof of premium payment, a declaration page confirming that flood insurance has been issued, or such other evidence of flood insurance reasonably satisfactory to the Administrative Agent.

SECTION IV. REPRESENTATIONS AND WARRANTIES

In order to induce the Lenders to enter into this Amendment and to amend the Credit Agreement in the manner provided herein, each Loan Party which is a party hereto represents and warrants to each Lender that the following statements are true and correct in all material respects:

A. Corporate Power and Authority. Each Loan Party has all requisite power and authority and all requisite governmental licenses, authorizations, consents and approvals to execute, deliver and perform its obligations under this Amendment and to perform its obligations under the Credit Agreement as amended by this Amendment (the "Amended Agreement") and consummate the transactions contemplated by this Amendment.

B. Authorization of Amendment. The execution, delivery and performance by each Loan Party of this Amendment have been duly authorized by all necessary corporate or other organizational action.

C. No Conflict. The execution, delivery and performance by each Loan Party of this Amendment do not and will not (a) contravene the terms of any of such Person's Organization Documents; (b) conflict with or result in any breach or contravention of, or require any payment to be made under, (i) any material Contractual Obligation to which such Person is a party or affecting such Person or the properties of such Person or any of its Subsidiaries, or

(ii) any order, injunction, writ or decree of any Governmental Authority or any arbitral award to which such Person or its property is subject; (c) result in the creation or imposition of any Lien upon or with respect to any property or assets now owned or hereafter acquired by such Person or any of its Subsidiaries (other than Liens created under the Collateral Documents); or (d) violate any material Law.

D. Governmental Consents. No approval, consent, exemption, authorization or other action by, or notice to, or filing with, any Governmental Authority or any other Person is necessary or required in connection with the execution, delivery or performance by, or enforcement against, any Loan Party of this Amendment or any other Loan Documents to which it is a party or for the consummation of the transactions contemplated by this Amendment, except for any immaterial actions, consents, approvals, registrations or filings.

E. Binding Effect. This Amendment has been duly executed and delivered by each Loan Party that is party hereto. Each of this Amendment and the Amended Agreement constitute a legal, valid and binding obligation of such Loan Party, enforceable against each Loan Party that is party hereto or thereto in accordance with its terms, except as enforceability hereof or thereof may be limited by (i) bankruptcy, insolvency, reorganization, moratorium, fraudulent transfer or other laws now or hereafter in effect relating to creditors' rights generally (including specific performance) and (ii) general equitable principles (whether considered in a proceeding in equity or at law), and to the discretion of the court before which any proceeding may be brought.

F. Absence of Default. After giving effect to this Amendment, no Default has occurred and is continuing.

G. Solvency. As of the First Amendment Effective Date, each Loan Party, and the Loan Parties and their Subsidiaries taken as a whole, is Solvent.

SECTION V. POST-CLOSING COVENANT

Within 60 days of the First Amendment Effective Date, the Borrower shall, or shall cause the applicable Loan Party to, (A) execute, deliver and file amendments to the mortgages and deeds of trust existing on or prior to the First Amendment Effective Date (the "Existing Mortgages") in a form reasonably acceptable to the Administrative Agent, and shall deliver to the Administrative Agent such title endorsements as are reasonably required to give effect thereto in a form reasonably acceptable to the Administrative Agent, together with (x) such owner's title affidavits as may be reasonably required by the title insurer in substantially the form previously accepted by the title insurer with respect to such mortgages, including therein any so-called "no-change" survey affidavit and (y) any documents required in connection with the recording of such mortgage amendments and issuance of such endorsements and (B) deliver to the Administrative Agent legal opinions relating to the amendments to the Existing

Mortgages, which opinions shall be in form and substance, and from counsel, reasonably satisfactory to the Administrative Agent.

SECTION VI. ACKNOWLEDGMENT AND CONSENT

Each of the Loan Parties hereby acknowledges that it has reviewed the terms and provisions of the Credit Agreement and this Amendment and consents to the amendment of the Credit Agreement effected pursuant to this Amendment. Each of the Loan Parties hereby confirms that each Loan Document (as amended by this Amendment) to which it is a party or otherwise bound and all Collateral encumbered thereby will continue to guarantee or secure, as the case may be, to the fullest extent possible in accordance with the Loan Documents, as amended by this Amendment, the payment and performance of all "Obligations" under each of the Loan Documents to which is a party (in each case as such terms are defined in the applicable Loan Document).

Each of the Loan Parties acknowledges and agrees that any of the Loan Documents, as amended by this Amendment, to which it is a party or otherwise bound shall continue in full force and effect and that all of its obligations thereunder shall be valid and enforceable and shall not be impaired or limited by the execution or effectiveness of this Amendment.

Each Guarantor acknowledges and agrees that (i) notwithstanding the conditions to effectiveness set forth in this Amendment, the Guarantor is not required by the terms of the Credit Agreement or any other Loan Document to consent to the amendments to the Credit Agreement effected pursuant to this Amendment, (ii) nothing in the Credit Agreement, this Amendment or any other Loan Document shall be deemed to require the consent of the Guarantor to any future amendments to the Credit Agreement, and (iii) all liens and guaranties created, extended or renewed by the Security Agreement are hereby ratified.

SECTION VII. MISCELLANEOUS

A. Reference to and Effect on the Credit Agreement and the Other Loan Documents.

(i) On and after the First Amendment Effective Date, each reference in the Credit Agreement to "this Amendment", "hereunder", "hereof", "herein" or words of like import referring to the Credit Agreement, and each reference in the other Loan Documents to the "Credit Agreement", "thereunder", "thereof" or words of like import referring to the Credit Agreement shall mean and be a reference to the Credit Agreement as amended by this Amendment.

(ii) Except as specifically amended by this Amendment, the Credit Agreement and the other Loan Documents shall remain in full force and effect and are hereby ratified and confirmed.

(iii) The execution, delivery and performance of this Amendment shall not constitute a waiver of any provision of, or operate as a waiver of any right, power or remedy of any Agent, Lender or L/C Issuer under, the Credit Agreement or any of the other Loan Documents.

B. Loan Document. For the avoidance of doubt, this Amendment constitutes a Loan Document.

C. Headings. Section and Subsection headings in this Amendment are included herein for convenience of reference only and shall not constitute a part of this Amendment for any other purpose or be given any substantive effect.

D. Applicable Law. THIS AMENDMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

E. Submission to Jurisdiction; Waiver of Venue; Service of Process; Waiver of Jury Trial. The provisions of Sections 11.14(b), (c) and (d) and Section 11.15 of the Credit Agreement are hereby incorporated by reference, *mutatis mutandis*, as if set forth in full herein

F. Counterparts. This Amendment may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. Delivery of an executed counterpart of a signature page of this Amendment by telecopy or other electronic imaging means shall be effective as delivery of a manually executed counterpart of this Amendment.

[*Remainder of this page intentionally left blank.*]

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be duly executed and delivered by their respective officers thereunto duly authorized as of the date first written above.

BORROWER:

NRG YIELD OPERATING LLC

By: /s/ Kirkland B. Andrews
Name: Kirkland B. Andrews
Title: Executive Vice President and Chief Financial Officer

GUARANTORS:

NRG YIELD LLC

By: /s/ Kirkland B. Andrews
Name: Kirkland B. Andrews
Title: Executive Vice President and Chief Financial Officer

NRG SOUTH TRENT HOLDINGS LLC

By: /s/ Daniel M. Keane
Name: Daniel M. Keane
Title: Vice President

NRG ENERGY CENTER OMAHA HOLDINGS LLC

By: /s/ Gaetan Frotte
Name: Gaetan Frotte
Title: Vice President and Treasurer

NRG ENERGY CENTER OMAHA LLC

By: /s/ Kevin P. Malcarney
Name: Kevin P. Malcarney
Title: Secretary

ALTA WIND COMPANY, LLC

By: /s/ Daniel M. Keane

Name: Daniel M. Keane
Title: Vice President

ALTA WIND 1-5 HOLDING COMPANY, LLC

By: /s/ Daniel M. Keane

Name: Daniel M. Keane
Title: Vice President

NYLD FUEL CELL HOLDINGS LLC

By: /s/ Gaetan Frotte

Name: Gaetan Frotte
Title: Vice President and Treasurer

UB FUEL CELL, LLC

By: /s/ Gaetan Frotte

Name: Gaetan Frotte
Title: Vice President and Treasurer

NRG YIELD RPV HOLDING LLC

By: /s/ Gaetan Frotte

Name: Gaetan Frotte
Title: Vice President and Treasurer

NRG YIELD DGPV HOLDING LLC

By: /s/ Kirkland B. Andrews

Name: Kirkland B. Andrews
Title: Executive Vice President and Chief Financial Officer

ROYAL BANK OF CANADA,
as Administrative Agent

By: /s/ Rodica Dutka
Name: Rodica Dutka
Title: Manager, Agency

ROYAL BANK OF CANADA,
as a Lender and L/C Issuer

By: /s/ Frank Lambrinos
Name: Frank Lambrinos
Title: Authorized Signatory

BANK OF AMERICA, N.A.,
as a Lender and L/C Issuer

By: /s/ JB Meanor II
Name: JB Meanor II
Title: Managing Director

BARCLAYS BANK PLC,
as a Lender

By: /s/ May Huang
Name: May Huang
Title: Assistant Vice President

CITIBANK, N.A.,
as a Lender

By: /s/ Amit Vasani
Name: Amit Vasani
Title: Vice President

CREDIT SUISSE AG, CAYMAN ISLANDS BRANCH
as a Lender

By: /s/ Mikhail Faybusovich
Name: Mikhail Faybusovich
Title: Authorized Signatory

By: /s/ Whitney Gaston
Name: Whitney Gaston
Title: Authorized Signatory

DEUTSCHE BANK AG NEW YORK BRANCH,
as a Lender

By: /s/ Marcus M. Tarkington
Name: Marcus M. Tarkington
Title: Director

By: /s/ Peter Cucchiara
Name: Peter Cucchiara
Title: Vice President

GOLDMAN SACHS BANK USA,
as a Lender and L/C Issuer

By: /s/ Anna Ashurov
Name: Anna Ashurov
Title: Authorized Signatory

KEYBANK NATIONAL ASSOCIATION,
as a Lender

By: /s/ Paul J. Pace

Name: Paul J. Pace

Title: Senior Vice President

MORGAN STANLEY SENIOR FUNDING, INC.,
as a Lender

By: /s/ Dmitriy Barskiy
Name: Dmitriy Barskiy
Title: Vice President

MUFG UNION BANK, N.A. f/k/a UNION BANK, N.A.,
as a Lender

By: /s/ Paul V. Farrell
Name: Paul V. Farrell
Title: Managing Director

JPMORGAN CHASE BANK, NATIONAL ASSOCIATION
as a New Revolving Credit Lender

By: /s/ Juan J. Javellana

Name: Juan J. Javellana

Title: Executive Director

New Revolving Credit Commitment: $45,000,000

ANNEX A

Schedule 2.01

(*see attached*)

Schedule 2.01

Revolving Credit Commitments and Applicable Revolving Credit Percentages

Revolving Credit Lender	Revolving Credit Commitment	Revolving Credit Percentage
Royal Bank of Canada	$45,000,000	9.09%
Bank of America, N.A.	$45,000,000	9.09%
Barclays Bank PLC	$45,000,000	9.09%
Credit Suisse AG	$45,000,000	9.09%
Deutsche Bank AG New York Branch	$45,000,000	9.09%
Goldman Sachs Bank USA	$45,000,000	9.09%
Morgan Stanley Senior Funding, Inc.	$45,000,000	9.09%
Citibank, N.A.	$45,000,000	9.09%
MUFG Union Bank, N.A.	$45,000,000	9.09%
KeyBank National Association	$45,000,000	9.09%
JPMorgan Chase Bank, National Association	$45,000,000	9.09%
TOTAL	$495,000,000	100%

ANNEX B

Schedule 2.03

(*see attached*)

Schedule 2.03

L/C Commitments

L/C Issuer	L/C Commitment
Royal Bank of Canada	$45,000,000
Bank of America, N.A.	$45,000,000
Goldman Sachs Bank USA	$45,000,000
JPMorgan Chase Bank, National Association	$45,000,000

ANNEX C

Schedule 5.13

(*see attached*)

Section 5.13

(e)

1. NRG Solar Alpine LLC
2. NRG Solar Roadrunner LLC
3. NRG Solar Borrego I LLC
4. NRG Solar Avra Valley LLC
5. South Trent Wind LLC
6. PESD Energy, LLC
7. Wildcat Energy, LLC
8. Longhorn Energy, LLC
9. Vail Energy, LLC
10. SCWFD Energy, LLC
11. FUSD Energy, LLC
12. Continental Energy, LLC
13. El Mirage Energy, LLC
14. Monster Energy, LLC
15. NRG Solar Blythe LLC
16. NRG Thermal LLC
17. NRG Energy Center Princeton LLC
18. NRG Electricity Sales Princeton LLC
19. NRG Energy Center San Diego LLC
20. NRG Energy Center Minneapolis LLC
21. NRG Energy Center Pittsburgh LLC
22. NRG Energy Center Dover LLC
23. Statoil Energy Power/Pennsylvania Inc.
24. NRG Energy Center Smyrna LLC
25. NRG Energy Center Harrisburg LLC
26. NRG Harrisburg Cooling LLC
27. NRG Energy Center Paxton LLC
28. NRG Energy Center HCEC LLC
29. NRG Energy Center San Francisco LLC
30. NRG Energy Center Phoenix LLC
31. NRG Energy Center Tuscon LLC
32. PFMG 2011 Finance HoldCo, LLC
33. PFMG Apple I LLC
34. HSD Solar Holdings LLC
35. PM Solar Holdings LLC
36. WSD Solar Holdings LLC
37. OC Solar 2010 LLC
38. HLE Solar Holdings LLC
39. NRG Marsh Landing LLC
40. NRG Solar CVSR Holdings LLC
41. High Plains Ranch II LLC
42. GenConn Energy LLC
43. GenConn Middletown LLC
44. GenConn Devon LLC
45. Avenal Solar Holdings LLC
46. Sun City Project LLC
47. Sand Drag LLC
48. Avenal Park LLC
49. Alta Wind X, LLC
50. Alta Wind XI, LLC
51. Alta Wind X-XI TE Holdco LLC
52. Alta Wind X Holding Company, LLC
53. Alta Wind XI Holding Company, LLC
54. Spring Canyon Expansion Holdings LLC

55. Spring Canyon Expansion LLC
56. Spring Canyon Energy II LLC
57. Spring Canyon Energy III LLC
58. Spring Canyon Interconnection LLC
59. Spring Canyon Expansion Class B Holdings LLC

EXHIBIT 31.1

CERTIFICATION

I, David Crane, certify that:

1. I have reviewed this quarterly report on Form 10-Q of NRG Yield, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

   (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officers and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

/s/ DAVID CRANE

David Crane
Chief Executive Officer
(Principal Executive Officer)

Date: August 4, 2015

EXHIBIT 31.2

CERTIFICATION

I, Kirkland B. Andrews, certify that:

1. I have reviewed this quarterly report on Form 10-Q of NRG Yield, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

   (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officers and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

/s/ KIRKLAND B. ANDREWS

Kirkland B. Andrews
Chief Financial Officer
(Principal Financial Officer)

Date: August 4, 2015

EXHIBIT 31.3

CERTIFICATION

I, David Callen, certify that:

1. I have reviewed this quarterly report on Form 10-Q of NRG Yield, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

   (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officers and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

/s/ DAVID CALLEN

David Callen
Chief Accounting Officer
(Principal Accounting Officer)

Date: August 4, 2015

EXHIBIT 32

CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Quarterly Report of NRG Yield, Inc. on Form 10-Q for the quarter ended June 30, 2015, as filed with the Securities and Exchange Commission on the date hereof (the "Form 10-Q"), each of the undersigned officers of the Company certifies, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to such officer's knowledge:

(1) The Form 10-Q fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(2) The information contained in the Form 10-Q fairly presents, in all material respects, the financial condition and results of operations of the Company as of the dates and for the periods expressed in the Form 10-Q.

Date: August 4, 2015

/s/ DAVID CRANE
David Crane
Chief Executive Officer
(Principal Executive Officer)

/s/ KIRKLAND B. ANDREWS
Kirkland B. Andrews
Chief Financial Officer
(Principal Financial Officer)

/s/ DAVID CALLEN
David Callen
Chief Accounting Officer
(Principal Accounting Officer)

The foregoing certification is being furnished solely pursuant to 18 U.S.C. Section 1350 and is not being filed as part of this Form 10-Q or as a separate disclosure document.

A signed original of this written statement required by Section 906, or other document authenticating, acknowledging or otherwise adopting the signature that appears in typed form within the electronic version of this written statement required by Section 906, has been provided to NRG Yield, Inc. and will be retained by NRG Yield, Inc. and furnished to the Securities and Exchange Commission or its staff upon request.