



***Appendix B***

***Term Sheet For PPAs***  
***For***  
***2016 Request For Proposals***  
***For***  
***Long-Term Renewable***  
***Generation Resources***  
***For***  
***Entergy Louisiana, LLC***

**DRAFT**

Entergy Services, Inc.  
~~March 24~~June 8, 2016

The statements contained in this Term Sheet are made subject to the Reservation of Rights set forth in Appendix E of the RFP and the terms and acknowledgements set forth in the Proposal Submission Agreement.

### Term Sheet for PPA Product

The following bid submission term sheet (this “**Term Sheet**”) describes certain terms and conditions of a potential agreement between Entergy Louisiana, LLC (“**Buyer**” or “**ELL**”), and the seller of power proposed by the applicable bidder (“**Bidder**”) in Bidder’s proposal submitted in the RFP (“**Seller**” and, together with Buyer (defined below), the “**Parties**”) for the purchase by Buyer of long-term energy, environmental attributes, capacity, capacity-related benefits, and other electric products from a run-of-river hydroelectric, solar photovoltaic (“**Solar PV**”), solar thermal, or wind technology renewable resource capable of meeting the requirements of this product (the “**Facility**”) in connection with the RFP. The terms set forth in this Term Sheet will establish the basis for the negotiation and execution of a definitive agreement between Buyer and any Seller whose proposal is selected by Entergy Services, Inc. (“**ESI**”) for contract negotiations in connection with the RFP (the “**Definitive Agreement**”), with necessary changes to accurately reflect any special considerations set forth in Bidder’s proposal that are accepted by Buyer in its sole and absolute discretion. Buyer will provide the initial draft of the Definitive Agreement to the selected third-party Bidder (if any) at the beginning of contract negotiations.

If Bidder is unable or unwilling to accept one or more of the terms and conditions set forth in this Term Sheet or wishes to propose any alternate or additional terms or conditions (such as a buy-out option at some point during the term of the Definitive Agreement), Bidder should indicate in the “Special Considerations” section of its Proposal Package (i) the terms and conditions to which Bidder takes exception, describing with specificity any terms and conditions that Bidder proposes in substitution therefor, and/or (ii) the additional terms and conditions that Bidder proposes as a supplement to the terms and conditions in this Term Sheet. Bidder is advised to refer to Section 2.2 in the Main Body for additional information pertaining to Special Considerations.

	Proposal Term	Description of Proposal Term
1	<b>Product Description:</b>	The product described in this Term Sheet is designated as the “ <b>PPA Product</b> .” This product provides for generation capacity of (i) for any resource except a Solar PV resource, not less than 20 MW and not more than 50 MW of capacity from the Facility or (ii) for any Solar PV resource, not less than 500 kW and not more than 50 MW of capacity from the Facility. Buyer will be entitled to all energy, environmental attributes, capacity, capacity-related benefits, and other electric products from the Facility (or portion thereof allocated to Buyer).
2	<b>Buyer:</b>	Buyer is ELL. For purposes of the RFP and the Definitive Agreement, Buyer will be considered an entity entirely separate and distinct from any Entergy transmission organization and, without limiting the foregoing, the acts and omissions of any Entergy transmission organization will not be deemed to be acts and omissions of Buyer for any purpose arising out of or relating to the RFP or the Definitive Agreement.
3	<b>Seller:</b>	“ <b>Seller</b> ” will be the party specified by Bidder in the applicable proposal.

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4	<b>Facility:</b>	The “ <b>Facility</b> ,” including the nameplate capacity and major equipment, will be as specified by Bidder in the applicable proposal.
5	<b>Physical Delivery Point; Electric Interconnection Point; Financial Settlement Point:</b>	<p>The “<b>Physical Delivery Point</b>” will be the electric interconnection point and/or CP Node at which energy and other products contracted for by ELL pursuant to the Definitive Agreement are physically delivered by Seller under the Definitive Agreement. If the Facility is or will be directly interconnected to the MISO System, the Physical Delivery Point will be the Electric Interconnection Point (defined below). If the Facility is not or will not be directly interconnected to the MISO System, the Physical Delivery Point will be the point in MISO South at which energy and other products contracted for by ELL from Seller pursuant to this RFP are physically delivered by Seller under the Definitive Agreement, which point is expected to be as specified by Bidder in the applicable proposal.</p> <p>The “<b>Electric Interconnection Point</b>” will be the point where the Facility interconnects to the host utility (and is represented by a CP Node (the “<b>Interconnection CP Node</b>”)), which point is expected to be as specified by Bidder in the applicable proposal.</p> <p>The “<b>Financial Settlement Point</b>” will be the CP Node for Buyer’s load (EES.ELILD).</p> <p><del>For purposes of this Term Sheet, the term “<b>Entergy Transmission System</b>” means the interconnected group of transmission lines and substations that, as of the date of this Term Sheet, are owned, leased, or controlled by ELL and the other Entergy Operating Companies, each in its capacity as the owner and/or lessee of regulated transmission and distribution functions, and/or its successor(s) in such capacity, that are used to transfer bulk electricity between supply and delivery points, notwithstanding that there may be a Balancing Authority (including any regional transmission organization (“<b>RTO</b>”) or independent system operator (“<b>ISO</b>”)) applicable thereto that covers a system broader than such interconnected group of transmission lines and substations.</del></p>
6	<b>Electric Inter-connection; Transmission; ARRs and FTRs:</b>	Seller will be responsible for (and bear the full costs and risks of) the arrangement, procurement, receipt and maintenance prior to and throughout the Delivery Term of the interconnection, deliverability, and transmission service required for the Facility, including, without limitation, (i) the electric interconnection of the Facility to the host utility and establishment of the Electric Interconnection Point (including the Interconnection CP Node) and (ii) the injection of energy and other electric products at the Electric Interconnection Point, the transfer and delivery of energy, capacity, and other electric products to the Physical Delivery Point, and the financial settlement

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	<p>of power delivered to or for Buyer under the Definitive Agreement at the Financial Settlement Point.</p> <p>Without limiting the foregoing, Seller will bear (a) all related interconnection, deliverability, or transmission request, application, study, registration, and comparable fees, charges, or costs, (b) all upgrade, improvement, and other fees, charges, and costs arising out of the requested interconnection, deliverability, or transmission service, except to the extent stated to be the exclusive responsibility and cost of the host utility or an applicable transmission provider, transmission owner, or Balancing Authority under the applicable tariffs, rules, regulations, or requirements of, or generator interconnection or other agreements with, the host utility or such transmission provider, transmission owner, or Balancing Authority, (c) all upgrade, improvement, and other fees, charges, and costs arising out of Buyer's request for full network integration service for the energy delivered from the Facility (or portion thereof allocable to Buyer), (d) all fees, charges, and costs to receive interconnection, deliverability, transmission, or financial settlement service, (e) all transformer, line, energy, capacity, and other losses or costs related to the interconnection, deliverability, transmission, or financial settlement service with respect to the Facility (including, without limitation, any basis differential and associated costs between the Physical Delivery Point and the Financial Settlement Point with respect to any power delivered from the Facility (or portion thereof allocated to Buyer) at the Physical Delivery <del>Point</del><u>Point in</u> accordance with the terms of the Definitive Agreement), and (f) all costs assigned or allocated to Seller or to a financially settling party under the applicable tariffs, rules, regulations, or requirements of, or agreements with, the host utility, transmission provider, transmission owner, or any applicable Balancing Authority.</p> <p>For the avoidance of doubt, if Seller is the Market Participant (as defined in item 14 below) and Seller is required to deliver energy and/or other electric products to Buyer over any settlement interval on an operating day pursuant to the terms of the Definitive Agreement, the Parties will reflect in the financial schedule (under the current MISO Rules, through designation of the Financial Settlement Point as both the Sink Point (as defined in the MISO Rules) and the Internal Delivery Point (as defined in the MISO Rules) and the Physical Delivery Point as the Source Point (as defined in the MISO Rules) in such financial schedule) or comparable documentation submitted to MISO or other applicable Balancing Authority(ies) for such settlement interval of such operating day any basis differential between the Physical Delivery Point and the Financial Settlement Point over such settlement interval of such operating day. If Seller is not the Market Participant, <u>or the Facility is registered as a Load Modifying Resource (as defined in the MISO Rules)</u>, the basis differential and associated costs will be reflected in the applicable monthly invoice covering the applicable settlement interval</p>
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	<p>through a dollar-for-dollar adjustment for such settlement interval.</p> <p>As part of its responsibilities under this item 6, if the Facility is or will be directly interconnected to the MISO System, Seller will be required to obtain and maintain throughout the Delivery Term energy resource interconnection service (“ERIS”) and network resource interconnection service (“NRIS”) from MISO as required herein under the MISO Tariff (or the most equivalent service in the event MISO discontinues or modifies the nature of ERIS or NRIS or both, as applicable, or, with respect to ERIS, is not the Balancing Authority in which the Facility is located) in a quantity (a) with respect to ERIS, equal to at least the amount of the capacity of the Facility (or, if applicable, the portion of the capacity allocated to Buyer) and (b) with respect to NRIS, (x) sufficient to allow the Facility to receive the maximum capacity credits a resource of its capacity size can receive under the MISO rules <u>throughout the Delivery Term</u> or (y) to be allocated and prioritized such that the NRIS level associated with the capacity of the Facility (or, if applicable, the portion of the capacity allocated to Buyer) under contract to Buyer cannot limit the amount of MISO capacity credits Buyer receives for any planning period during the Delivery Term.</p> <p>If the Facility is not or will not be directly interconnected to the MISO System, Seller will be required to obtain and maintain throughout the Delivery Term both interconnection service and firm deliverability/transmission service <u>from the Facility to the Physical Delivery Point in amount(s) sufficient</u> to enable Seller to deliver the maximum amount of <u>powercontract energy</u> that Seller may deliver to the Physical Delivery Point under the Definitive Agreement.</p> <p>Other provisions will apply in the event a Definitive Agreement is negotiated with respect to a Facility that is or will be interconnected to the grid at a distribution level (lower than 69 kV).</p> <p>Without limiting Seller’s responsibilities set forth in this item 6, at a time deemed appropriate by Buyer after execution of the Definitive Agreement with Seller, Buyer will seek to qualify the Facility (or the portion thereof allocated to Buyer), or have the Facility (or the portion thereof allocated to Buyer) recognized, as a firm designated network resource of Buyer in the applicable Balancing Authority(ies) for the Delivery Term. Seller will be responsible and reimburse Buyer upon demand for all out-of-pocket costs incurred by Buyer in connection with Buyer obtaining, or attempting to obtain, such qualification or recognition, including, without limitation, with respect to Buyer’s obtaining full network integration service for the energy delivered from the Facility (or portion thereof allocable to Buyer).</p> <p>Subject to Buyer’s rights under item 14 below and any Buyer’s instruction to the contrary in whole or in part, Seller will, at its own expense, timely</p>
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		<p>execute and file all documents and take all other actions necessary or advisable to cause (1) the Facility (or portion thereof allocated to Buyer) to be qualified and/or recognized by the applicable Balancing Authority(ies) as a firm designated network resource, for the Delivery Term in the applicable Balancing Authority(ies) and to maintain such status throughout the Delivery Term, (2) the Facility (or portion thereof allocated to Buyer) to be qualified and/or recognized by the applicable Balancing Authority(ies) as a firm designated network resource of Buyer, for the Delivery Term in the applicable Balancing Authority(ies) and to maintain such status throughout the Delivery Term, and (3) Buyer to obtain directly (or, if not possible for Buyer to obtain directly, Seller to obtain and transfer to Buyer, at and subject to Buyer’s direction) all Auction Revenue Right (as defined in the MISO Rules) (“<b>ARR</b>”), Financial Transmission Right (as defined in the MISO Rules) (“<b>FTR</b>”), and other similar entitlements and rights with respect to such firm designated network resource.</p> <p>Notwithstanding anything to the contrary, and without limiting item 10 below, all allocations of ARRs and, if applicable, FTRs and similar rights by any Balancing Authority(ies) applicable to the Physical Delivery Point or arising out of the Definitive Agreement that are associated with the energy, capacity, capacity-related benefits, and/or other electric products to be provided under the Definitive Agreement during the Delivery Term, including, for the avoidance of doubt, ARR and FTR allocations based on data, performance, or periods prior to the Delivery Term (or are associated with any transmission service or usage or physical, financial, or other transfer with respect to any of the same), and all FTRs and other entitlements derived therefrom or otherwise related thereto, will exclusively and solely accrue to and be owned by Buyer, including after termination of the Definitive Agreement.</p> <p>Buyer will have the right to exercise, in its sole and absolute discretion, any and all rights with respect to any such entitlement or similar right, including the right to nominate (or not nominate) the same. Without limiting the foregoing, Seller will support fully, and not take any action or position to oppose, Buyer’s receipt of such firm designated network resource status or such allocations, entitlements, or rights or its exercise of its rights with respect thereto.</p>
7	<b>Delivery Term:</b>	<p>The Delivery Term is expected to be as specified by Bidder in the applicable proposal. Subject to the final paragraph of this item 7, the Delivery Term will commence at the start of the hour ending 0100 BA Time on the first day of (i) the first month following the month in which the last of the conditions to the commencement of the Delivery Term (see item 26) has been satisfied or waived if notice of such satisfaction or waiver is provided by the</p>

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		<p>satisfying or waiving party to the other on or before the first ten (10) days of such month or (ii) the second month following the month in which the last of the conditions to the commencement of the Delivery Term has been satisfied or waived if notice of such satisfaction or waiver is provided by the satisfying or waiving party to the other after the first ten (10) days and before the end of such month. The Delivery Term will continue until the end of the hour ending 2400 BA Time on the day prior to the specified anniversary of such start date; <u>provided, however</u>, that if such anniversary day falls on a day other than the first day of the planning period for the applicable Balancing Authority, Buyer may elect, in its sole and absolute discretion, upon notice to Seller given at least one (1) year before the date on which, without such notice, the Delivery Term would expire, to have the Delivery Term continue until the last day of such planning period.</p> <p>Notwithstanding the foregoing, unless Buyer otherwise elects, the Delivery Term will not commence at the time it would otherwise commence if, at such time, (i) the Facility is experiencing an outage or other limitation, including a Force Majeure (as defined in item 21 below), that reduces the amount of the capacity allocated to Buyer that Seller could reasonably make available to Buyer at the Physical Delivery Point by ten percent (10%) or more below the capacity allocated to Buyer or (ii) there exists a default (or event or circumstance that with the passage of time or the giving of notice or both would constitute a default) of Seller under the Definitive Agreement.</p>
8	<b>Energy Price:</b>	<p>For each MWh of contract energy delivered from the Facility (or portion thereof allocated to Buyer) at the Physical Delivery Point in accordance with the terms of the Definitive Agreement, Buyer will pay the “<b>Energy Price</b>” for the applicable year of the Delivery Term (expressed in \$/MWh), which is expected to be the price specified by Bidder in the applicable proposal; <u>provided, however</u>, for any energy so delivered in excess of one hundred and fifteen percent (115%) of the Annual Expected Energy Quantity (defined below) in any contract year, the Energy Price shall be fifty percent (50%) of the otherwise applicable energy price.</p> <p>For purposes of this Term Sheet, the term “<b>Annual Expected Energy Quantity</b>” means the amount of energy Seller expects to deliver from the Facility (or portion thereof allocated to Buyer) in accordance with the Definitive Agreement at the Physical Delivery Point for a given contract year, which is expected to be the amount at which there is a fifty percent (50%) probability that the actual energy deliveries at the Physical Delivery Point for a given contract year will exceed such amount and a fifty percent (50%) probability that such actual energy deliveries will be less than such amount.</p> <p>The Energy Price described above is an all-in price and, accordingly, will be inclusive of all costs to Seller of generating, delivering, and/or providing</p>

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		<p>energy, environmental attributes, capacity, capacity-related benefits (including any capacity credit or similar right or benefit), and other electric products to Buyer under the Definitive Agreement and all other costs that Bidder is proposing to pass through to Buyer, including, without limitation, costs of cyclical, major, and other maintenance, adders and any applicable ancillary services, costs of licensing, permitting, and legal compliance (including future legal compliance), and costs of other Balancing Authority services, penalties, settlements, and other charges. <u>The Energy Price should also take into account any tax credits and tax benefits associated with the Facility.</u></p> <p>Except to the extent otherwise expressly provided in this Term Sheet, Buyer will not be required to pay any amount to Seller other than the Energy Payment (equal to the Energy Price multiplied by the energy that is delivered from the Facility (or portion thereof allocated to Buyer) at the Physical Delivery Point in accordance with the terms of the Definitive Agreement, subject to adjustment to reflect the financial settlement of such deliveries at the Financial Settlement Point as provided herein).</p> <p>All payments will be monthly in arrears.</p>
9	<b>Capacity Allocated to Buyer:</b>	<p>The capacity of the Facility allocated to Buyer, expressed in MW (the “<b>Capacity Allocated to Buyer</b>”), is expected to be as specified by Bidder in the applicable proposal. In the event Bidder has proposed to allocate to Buyer the entire nameplate capacity of the Facility, at Buyer’s election, the Capacity Allocated to Buyer may be reflected in the Definitive Agreement as one hundred and five percent (105%) of such nameplate capacity to account for actual generation capabilities greater than such nameplate capacity. Other provisions will apply in the event Bidder has proposed to allocate to Buyer less than the entire capacity of the Facility to Buyer, including, without limitation, priority of the Facility’s capacity, allocation of capacity-related benefits (including capacity credits), and separate metering of energy.</p>
10	<b>Capacity-Related Benefits, Environmental Attributes, and Other Electric Products:</b>	<p>Buyer’s purchase of energy under the Definitive Agreement will include the purchase of all capacity-related benefits (including any capacity credit or similar right or benefit), environmental attributes, and other electric products associated with the Facility (or portion thereof allocated to Buyer) or its capacity, energy, or operation. The Energy Payment includes all compensation to Seller for such purchase, and no other or further amount will be payable by Buyer in connection with the acquisition, provision, or delivery of such capacity-related benefits, environmental attributes, and other electric products. Throughout the Delivery Term, Buyer will have the right to dispatch such products, and Seller will (at its own expense) generate and deliver to Buyer at the Physical Delivery Point, and financially settle with Buyer at the Financial Settlement Point, any products so dispatched by or for Buyer. In the case of any such product that is not physical in nature (such as</p>

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	<p>capacity credits and other intangible products), Seller will, without the requirement of any dispatch or other notice from Buyer and at Seller's own expense, (i) cause to be issued any and all such products for which the Facility (or portion thereof allocated to Buyer) is eligible and (ii) to the extent not issued directly to Buyer, obtain and transfer to Buyer custody of and title to (or, if not possible, the benefit of, as directed by Buyer) all such products.</p> <p>Without limiting the foregoing, Seller will (at its own expense) (a) timely execute and file all documents, including any applicable requests for qualification or registration of the Facility (or portion thereof allocated to Buyer) for or to provide (as applicable) each of such products for which it is eligible (including capacity credits and other capacity-related benefits), (b) take all other actions, including identifying and complying with any applicable certification procedures and operating requirements (including required testing and outage reporting), in all cases, necessary or advisable to register and qualify the Facility (or portion thereof allocated to Buyer) for or to provide (as applicable) all such products for which it is eligible and otherwise meet its obligations above, including, if applicable, for Buyer to be able to obtain and, if applicable (see item 14), schedule, offer, bid, and settle such products with the applicable Balancing Authority(ies) and (c) use commercially reasonable efforts to maximize any capacity credits and other capacity-related benefits for which the Facility (or portion thereof allocated to Buyer) is eligible.</p> <p>In the event any capacity credit or other capacity-related benefit is sourced from a resource not located within the Local Resource Zone (as defined in the MISO Rules) that includes Buyer's service territory (currently Local Resource Zone 9), (i) if the auction clearing price for such capacity credit or capacity-related benefit ("<b>Out-of-Zone ACP</b>") is greater than the auction clearing price for a capacity credit or capacity-related benefit sourced from a resource located within the Local Resource Zone that includes Buyer's service territory ("<b>In-Zone ACP</b>"), Buyer will pay Seller the positive difference between the Out-of-Zone ACP and the In-Zone ACP and (ii) if the In-Zone ACP is greater than the Out-of-Zone ACP, Seller will pay Buyer the positive difference between the In-Zone ACP and the Out-of-Zone ACP. In addition, Seller will be responsible for all charges and other costs assigned or allocated to Seller or Buyer or to a financially settling party under the applicable tariffs, rules, regulations, or requirements of, or agreements with, the host utility, transmission provider, transmission owner, or any applicable Balancing Authority with respect to the settlement or transfer any capacity credit or other capacity-related benefit pursuant to the Definitive Agreement.</p> <p>Without limiting the first paragraph of this item 10, Seller will be required to provide the Guaranteed Environmental Attributes (as defined below) to</p>
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	<p>Buyer for each MW of Capacity Allocated to Buyer or each MWh of energy delivered to the Physical Delivery Point and financially settled with Buyer at the Financial Settlement Point throughout the Delivery Term (even if some of such energy in any settlement interval is serviced from the imbalance energy market or any of such capacity or energy is produced by fossil fuel for any reason).</p> <p>To the extent Seller does not provide Buyer environmental attributes to satisfy its obligations pursuant to this item 10 for any MW of Capacity Allocated to Buyer or MWh of energy delivered to the Physical Delivery Point and financially settled with Buyer at the Financial Settlement Point (e.g., because such MWh was serviced from the imbalance energy market or such MW or MWh is produced by fossil fuel for any reason or, in the case of the Guaranteed Environmental Attributes, because the applicable environmental attribute program is no longer an environmental attribute program for which the Facility (or portion thereof allocated to Buyer) or its capacity, energy, or operation is eligible), then Seller will satisfy such obligation by providing Replacement EAs (as defined below) for such MW or MWh. For any such environmental attribute (or Replacement EA) that Seller does not provide to Buyer (after using commercially reasonable efforts to provide such environmental attribute or Replacement EA), Seller will pay to Buyer an amount equal to the highest “alternative compliance payment” or equivalent concept or market value then in effect pursuant to the environmental attribute program for which such environmental attribute or Replacement EA would have qualified.</p> <p>“<b>Guaranteed Environmental Attributes</b>” are expected to be the environmental attributes for which the Facility (or portion thereof allocated to Buyer) would be eligible as of the date of the Definitive Agreement.</p> <p>“<b>Replacement EAs</b>” means, for any MW of Capacity Allocated to Buyer or MWh of energy, environmental attributes of equivalent or higher market and compliance/qualification value and of the same vintage as the environmental attributes for which, if such MW or MWh were generated by the Facility, such MW or MWh would be eligible.</p>
<p><b>11 Testing/ Required Data:</b></p>	<p>Without limiting item 10 above, to the extent Buyer is required by applicable laws (including Balancing Authority rules) to demonstrate the capability of, or otherwise test, the Facility (or portion thereof allocated to Buyer) for purposes of capacity qualification or for any other purpose (including to meet requirements imposed by Buyer’s participation in any reliability group or Balancing Authority (including <del>any ISO or RTO</del><u>independent system operator (“ISO”) or regional transmission organization (“RTO”)</u>) or in any marketplace administered by any Balancing Authority (including any ISO or RTO)), Seller will cause such tests to be performed (including any deliverability tests and capability tests) according to applicable requirements</p>

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		<p>at Seller’s sole cost and expense. In such event, (i) in the event the Capacity Allocated to Buyer is the entire capacity of the Facility, Buyer will purchase the power delivered from the Facility at the Physical Delivery Point according to such tests and (ii) in the event the Capacity Allocated to Buyer is less than the entire capacity of the Facility, Buyer will not be obligated, but will have the option, to purchase the power delivered from the Facility at the Physical Delivery Point according to such tests.</p> <p>Seller will provide to Buyer (in the form and time frame reasonably requested by Buyer) all data and other information relating to the Facility, or the delivery of energy, environmental attributes, capacity, capacity-related benefits, and other electric products under the Definitive Agreement, necessary or advisable for Buyer to (i) participate fully in any markets (including any marketplace administered by any Balancing Authority) in which Buyer is participating or otherwise realize the benefits of the energy, environmental attributes, capacity, capacity-related benefits, and other electric products provided under the Definitive Agreement and (ii) otherwise comply with applicable laws or its obligations (including those set forth in item 6 above) or exercise its rights (including those set forth in item 14 below) under the Definitive Agreement, including, if Seller is the Market Participant, by providing Buyer with unrestricted “view” access to the MISO web portal for the Facility or portion thereof allocated to Buyer (or if unrestricted “view” access is no longer recognized in such portal, the most equivalent access then available in such portal). In addition, to the extent that, in Buyer’s good faith judgment, any of the matters described in clauses (i) or (ii) of the preceding sentence require modification or amendment of the Definitive Agreement or the development or implementation of, or agreement upon, protocols, procedures, processes, or terms and Buyer so requests, the Parties will make such modifications or amendments, and/or will develop, agree upon, and implement such protocols, procedures, processes, or terms, as expeditiously as practicable.</p>
12	<b>Delivery/Receipt Commitment:</b>	<p>Subject to item 18, Seller will be required to provide, sell, and deliver to Buyer, and Buyer will be required to purchase and accept from Seller, all energy generated by the Facility (or portion thereof allocated to Buyer) delivered to the Physical Delivery Point in accordance with the Definitive Agreement during the Delivery Term; <u>provided, however</u>, that in no event will Buyer be obligated to purchase and accept a quantity of energy in any hour in excess of the Capacity Allocated to Buyer, multiplied by one (1) hour.</p>
13	<b>Deliveries; Exclusivity:</b>	<p>Seller will make available to Buyer all capacity of the Facility (or portion thereof allocated to Buyer) and will deliver to Buyer all associated energy, environmental attributes, capacity-related benefits, and other electric products from the Facility at the Physical Delivery Point and financially</p>

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		<p>settle with Buyer at the Financial Settlement Point in accordance with the requirements of the Definitive Agreement (including the applicable Buyer’s Delivery Directive (defined in item 14 below) or Buyer’s generation notices, as applicable). Except to the extent required by a unit contingency or according to a curtailment or Buyer’s Delivery Directive, Seller will not interrupt, curtail, or otherwise reduce the availability or deliveries of the Capacity Allocated to Buyer or any associated energy, environmental attribute, capacity-related benefit, or other electric product, even if Seller is above the Annual Guaranteed Energy Quantity.</p> <p>Buyer’s rights to the energy, environmental attributes, capacity, capacity-related benefits, and other electric products from the Facility (or portion thereof allocated to Buyer) are exclusive, and, except with respect to Buyer-Curtailed Energy and any other limited exceptions expressly set forth in the Definitive Agreement, Seller may not offer, sell, deliver, or make available for any delivery period during the Delivery Term any of such energy, environmental attributes, capacity, capacity-related benefits, or other electric products for the benefit of any person other than Buyer.</p>
14	<p><b>Market Functions and Revenues:</b></p>	<p>Subject to certain limitations, throughout the term of the Definitive Agreement, Buyer will have the right to determine from time to time whether Buyer (or a designee of Buyer) or Seller will serve as the market participant or other representative for the Facility (or the portion thereof allocated to Buyer) before MISO or, in the event Buyer is not subject to the MISO Balancing Authority, the largest Balancing Authority to which Buyer is then subject with respect to any planning period of MISO or such other Balancing Authority during the Delivery Term (“<b>Market Participant</b>”). As of the date of this Term Sheet, Buyer’s preference is (i) for Seller to serve initially as the Market Participant during the Delivery Term <u>if the Facility will be registered with MISO as a Capacity Resource (defined below) and (ii) for Buyer to serve initially as the Market Participant during the Delivery Term if the Facility will not be registered as a Capacity Resource.</u> In the event Buyer elects to replace Seller as Market Participant, Seller will provide any service that, pursuant to MISO Rules, may only be performed by the party acting as Market Participant with respect to the period during which Seller served as Market Participant (e.g., services involving adjustments to determinations of the generation output of the Facility; or that results from or arises out of the performance of such service, <del>—</del> (e.g., related billing adjustments, reconciliations, and settlements under the Definitive Agreement). <u>If the Facility is not registered as a Capacity Resource and Buyer elects to serve as the Market Participant, Seller will be required to cooperate with Buyer to ensure that the registration and any qualification of the resource in MISO is made in accordance with MISO Rules and Buyer’s reasonable requirements, including, without limitation, with regard to generator availability</u></p>

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forecasting.

For purposes of this Term Sheet, the term “Capacity Resource” means any Generation Resource, Dispatchable Intermittent Resource, External Resource, or Intermittent Generation that is available to meet Demand (as each such capitalized term is defined in the MISO Rules). For the avoidance of doubt, “Capacity Resource” does not include any Load Modifying Resource.

Buyer will be entitled to (and, to the extent required by the rules, procedures, and protocols of the applicable Balancing Authority or other applicable laws, Buyer will), on an exclusive basis, select the type of resource designation(s) that would apply to the Facility or portion thereof allocated to Buyer (e.g., intermittent resource, capacity resource, load-modifying resource or behind-the-meter resource generator, or other type of resource recognized by the applicable Balancing Authority) in such Balancing Authority(ies) and register, or cause the registration of, the Facility in the MISO Commercial Model (or similar commercial model in the applicable Balancing Authority), provided that any such resource designation is a designation for which the Facility is eligible, and the Facility is eligible for such registration and the decision to so register the Facility can be made by Seller or the Market Participant pursuant to MISO Rules (or the rules of the applicable Balancing Authority), in Buyer’s good faith judgment, at the time Buyer selects such designation or elects such registration.

If Seller is the Market Participant and the Facility is registered as a Capacity Resource, the following provisions will apply at such time during the Delivery Term:

- Seller or Seller’s agent will (1) schedule, offer and/or bid, on an exclusive basis, the energy, environmental attributes, capacity, capacity-related benefits, and other electric products from the Facility (or portion thereof allocated to Buyer) with the applicable Balancing Authority at the Physical Delivery Point, subject to the terms of the Definitive Agreement, and (2) settle any such schedules, offers and/or bids with such Balancing Authority, subject to re-allocation of associated amounts, if applicable, according to the Definitive Agreement.
- Subject to item 18, in respect of each settlement interval, Buyer will provide to Seller, by electronic mail or other electronic transmission acceptable to Seller in its reasonable discretion, the Buyer’s Delivery Directive (defined below) at least two (2) hours before the applicable deadline for submitting schedules or offers to the applicable Balancing Authority for such settlement interval (“**Directive Deadline**”).
- If Seller receives a Buyer’s Delivery Directive by the Directive Deadline, Seller will schedule, offer and/or bid the products with such Balancing

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### Term Sheet for PPA Product

	<p>Authority such that the offer or bid price for a given settlement interval is equal to the Minimum Settlement Price (defined below) for such settlement interval set forth in such Buyer's Delivery Directive.</p> <p>If Seller is to serve as the Market Participant, Seller will cause MISO (or such other applicable Balancing Authority) to qualify and recognize Seller as the exclusive Market Participant as of the start of the Delivery Term (or such later date as specified by Buyer) and maintain such qualification and recognition throughout the remainder of the Delivery Term (or the period(s) specified by Buyer).</p> <p>For purposes of this Term Sheet, "<b>Buyer's Delivery Directive</b>" means, in respect of each settlement interval for a given operating day, a written notice from Buyer to Seller setting forth the Minimum Settlement Price and any limits on the amount of the energy and other electric products for such settlement interval that Buyer is willing to take delivery of pursuant to the Definitive Agreement.</p> <p>For purposes of this Term Sheet, "<b>Minimum Settlement Price</b>" means the price or prices, which may be included in a price curve, that Buyer provides in any Buyer's Delivery Directive indicating the minimum LMP at the Financial Settlement Point for the relevant hour(s) and day(s) for the MISO Day-Ahead Energy Market or MISO Real-Time Energy Market, as applicable, at which Buyer is willing to take delivery of energy pursuant to the terms of the Definitive Agreement.</p> <p>If Buyer is the Market Participant <u>and the Facility is registered as a Capacity Resource</u>, the following provisions will apply at such time during the Delivery Term:</p> <ul style="list-style-type: none"><li>• Subject to the bullet point below, Buyer will (1) to the extent permitted or required by the applicable Balancing Authority, schedule, offer, and/or bid, on an exclusive basis, the energy, environmental attributes, capacity, capacity-related benefits, and other electric products from the Facility (or portion thereof allocated to Buyer) with such Balancing Authority at the Physical Delivery Point in its sole and absolute discretion and (2) settle any such schedules, offers, and/or bids with such Balancing Authority, subject to re-allocation of associated amounts, if applicable, according to the Definitive Agreement.</li><li>• Buyer may submit one or more schedules, offers, and/or bids with respect to each settlement interval, provided that the Balancing Authority requirement of the Facility to generate energy for any settlement interval as a result of Buyer's schedules, offers, and/or bids equals the maximum amount of capacity available to Buyer based on the applicable generation forecast for the applicable settlement interval as set forth in the Definitive Agreement, subject to certain adjustments, including for Buyer-Curtailed</li></ul>
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### Term Sheet for PPA Product

	<p>Energy.</p> <ul style="list-style-type: none"><li>• Seller will continue to perform all other functions with respect to the Facility (and the provision and/or delivery of energy, environmental attributes, capacity, capacity-related benefits, and other electric products) before each applicable Balancing Authority, including, to the extent applicable, transmitting to the applicable Balancing Authority operational data or information (including derating and outage notices) and coordinating outages; <u>provided, however</u>, that, to the extent that, under applicable Balancing Authority rules, procedures, protocols, and other laws, such functions cannot be performed by a different person than the person that performs the functions described in the bullet points above, Buyer will perform such functions at Seller's expense and with full release and indemnification from Seller.</li></ul> <p>If Buyer is to serve as the Market Participant, Seller will cause MISO (or such other applicable Balancing Authority) to (A) qualify and recognize Buyer or its designee as the exclusive Market Participant as of the start of the Delivery Term (or such later date as of which such concept is applicable or Buyer has specified to Seller) and maintain such qualification and recognition throughout the remainder of the Delivery Term (or the period(s) specified by Buyer) and (B) terminate such qualification and recognition as of the end of the Delivery Term, except to the extent required for transactions under the Definitive Agreement occurring prior to the end of the Delivery Term.</p> <p>Seller will ensure that at all times the Balancing Authority(ies) applicable to the Physical Delivery Point recognize the Facility (or portion thereof allocated to Buyer) as a separate generating resource and the Physical Delivery Point as a separate CP Node for settlement purposes (including that such Balancing Authority(ies) determine separately for settlement purposes the amount of energy actually delivered specifically from the Facility (or portion thereof allocated to Buyer) to the Physical Delivery Point and, if applicable, recognize the Facility (or portion thereof allocated to Buyer) as a separate generating resource for scheduling, offering, and bidding purposes). Seller will keep Buyer reasonably apprised of the progress and will obtain Buyer's approval (not to be unreasonably withheld, conditioned, or delayed) prior to entering into (or modifying) such arrangements.</p> <p>Except as the parties may otherwise agree, and subject to the financial settlement of products delivered pursuant to the terms of the Definitive Agreement at the Financial Settlement Point, Buyer will be entitled to (i) all payments and credits from any Balancing Authority or other person for (and will be responsible for any settlement at negative prices of) the energy, environmental attributes, capacity, capacity-related benefits, and other electric products provided under the Definitive Agreement during the</p>
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**Term Sheet for PPA Product**

	<p>Delivery Term and (ii) all other payments and credits from any applicable Balancing Authority in respect of the Facility or portion thereof allocated to Buyer (including the curtailment thereof). If Seller receives any such payment or credit due Buyer, Seller will promptly pay (or cause to be paid) to Buyer all amounts so received. In addition, Seller will pay to Buyer any shortfall in the payments or credits received for or relating to the energy, environmental attributes, capacity and capacity-related benefits, and other electric products provided under the Definitive Agreement, to the extent resulting from Seller’s breach of the Definitive Agreement. For the avoidance of doubt, as used in this paragraph, the terms “payment” and “credit” do not include any “payment” or “credit” at negative prices or other amount that is effectively a charge; such amounts are addressed expressly in the parenthetical to clause (i) above and elsewhere in this Term Sheet (including item 19 below). Further, clause (i) of this paragraph does not include settlement at negative prices of, and other Imbalance Charges (as defined in item 19 below) for, positive imbalance energy, which settlement and other Imbalance Charges will be allocated between the Parties according to item 19 below.</p> <p>If Seller is the Market Participant, Seller will, at Buyer’s reasonable direction and expense for direct, out-of-pocket costs reasonably incurred by Seller and approved in advance by Buyer, dispute, settle, appeal, or otherwise challenge before MISO or other applicable Balancing Authority any cost, charge, payment, credit, or computation thereof by such Balancing Authority to the extent such cost, charge, payment, credit, or computation (i) is relevant to payments from such Balancing Authority or other credits to which Buyer is entitled or costs or charges paid by or invoiced to Buyer under the Definitive Agreement and (ii) as between the Parties, may be disputed only by Seller (or an agent or other representative of Seller in its capacity as such).</p>
<p><b>15 Financial Schedules:</b></p>	<p><i>{If the Facility is registered as a Capacity Resource}</i> Throughout the Delivery Term while Seller is serving as the Market Participant, with respect to each settlement interval, Seller shall, at its sole cost and expense and to the extent available under applicable laws (including MISO Rules), create and submit to the applicable Balancing Authority one or more “financial schedules” from Seller to Buyer covering such settlement interval (or equivalent concept in such Balancing Authority that causes such Balancing Authority to charge to Seller and pay to Buyer the price of the energy and other electric products delivered during such settlement interval and assign transmission losses and congestion risk from the Physical Delivery Point to the Financial Settlement Point to Seller) (each, a “<b>Financial Schedule</b>”) as described in this item 15.</p> <p>Seller and Buyer shall work together using commercially reasonable efforts to provide the necessary documentation to the applicable Balancing</p>

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	<p>Authority to facilitate the processing of Financial Schedules. Subject to the terms set forth in this item 15, each Financial Schedule shall: (i) reflect the amount of energy actually or deemed delivered to Buyer under the Definitive Agreement and the amount of MISO Curtailed Energy (defined below) (collectively, “<b>Delivered Energy</b>”) that cleared the MISO Day-Ahead Energy Market or the MISO Real-Time Energy Market during the applicable settlement interval, as applicable, as determined pursuant to the paragraph below; (ii) designate the Physical Delivery Point as the Source Point (as defined in the MISO Rules); (iii) designate the Financial Settlement Point as both the Internal Delivery Point (as defined in the MISO Rules) and the Sink Point (as defined in the MISO Rules); and (iv) otherwise meet the requirements for an accurate, complete and valid Financial Schedule in the applicable Balancing Authority.</p> <p>Except as set forth in the paragraph below, for each hour of each operating day, the Financial Schedule settlements shall be based on real-time MISO Financial Schedules and/or day-ahead MISO Financial Schedules as follows: (a) first, if the LMP at the Financial Settlement Point for a given operating hour in the MISO Day-Ahead Energy Market and the MISO Real-Time Energy Market is equal to or greater than the Minimum Settlement Price in the applicable Buyer’s Delivery Directive, the settlement for such hour shall be pursuant to a day-ahead Financial Schedule with respect to such operating day and reflect the quantity of Delivered Energy during such hour or, if any quantity limitations are set forth in such Buyer’s Delivery Directive, such lesser amount consistent with Buyer’s Delivery Directive, and (b) second, to the extent any Delivered Energy is not accounted for pursuant to clause (a) above and the LMP at the Financial Settlement Point for a given operating hour in the MISO Real-Time Energy Market is equal to or greater than the Minimum Settlement Price in the applicable Buyer’s Delivery Directive, the settlement for such hour shall be pursuant to a real-time Financial Schedule with respect to such operating day and reflect the quantity of such Delivered Energy.</p> <p>In the event that the LMP at both the Physical Delivery Point and the Financial Settlement Point for a given operating hour in the MISO Day-Ahead Energy Market is equal to or greater than the Minimum Settlement Price in the applicable Buyer’s Delivery Directive, but the LMP at the Physical Delivery Point for such operating hour in the MISO Real-Time Energy Market is less than the Minimum Settlement Price in the applicable Buyer’s Delivery Directive, the settlement for such hour shall be pursuant to (1) a day-ahead Financial Schedule with respect to the quantity of Delivered Energy during such hour, and (2) a real-time Financial Schedule with respect to the MISO Curtailed Energy, if any, during such hour, with such real-time Financial Schedule structured such that Buyer receives the credit or payment from MISO for such MISO Curtailed Energy that Seller, as Market</p>
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		<p>Participant, would otherwise receive from MISO for such MISO Curtailed Energy.</p> <p>For purposes of this Term Sheet, “<b>MISO Curtailed Energy</b>” means energy that could have been delivered by the Facility to the Physical Delivery Point during a given settlement interval but was not delivered because or when the LMP at the Physical Delivery Point for such settlement interval in the MISO Real-Time Energy Market was less than the Minimum Settlement Price.</p> <p>Examples illustrating the operation of the Financial Schedule provisions described in this item 15 are provided in <u>Attachment A to this Term Sheet</u>.</p>
16	<p><b>Minimum Energy Delivery Requirement:</b></p>	<p>Seller will be required to deliver energy pursuant to and in accordance with the Definitive Agreement at the Physical Delivery Point in an amount at or above the Annual Guaranteed Energy Quantity (defined below) in any contract year of the Delivery Term.</p> <p>For purposes of this Term Sheet, the “<b>Annual Guaranteed Energy Quantity</b>” means the amount of energy Seller guarantees it will deliver from the Facility (or portion thereof allocated to Buyer) at the Physical Delivery Point in accordance with the terms of the Definitive Agreement for a given contract year. The Annual Guaranteed Energy Quantity is expected to be established based on the technology utilized and/or the Annual Guaranteed Energy Quantity for a given contract year specified by Bidder in the proposal selected for negotiation of the Definitive Agreement. For all resources, the Annual Guaranteed Energy Quantity is expected to be at least the amount at which there is a ninety percent (90%) probability that the actual energy deliveries at the Physical Delivery Point for a given contract year will exceed such guaranteed amount and a ten percent (10%) probability that such actual energy deliveries will be less than such guaranteed amount. The Annual Guaranteed Energy Quantity for a given contract year will be subject to adjustment for Force Majeure and Buyer-Curtailed Energy (see items 21 and 18 below) in such contract year. Energy supplied from or to the imbalance market will not be considered energy delivered from the Facility (or portion thereof allocated to Buyer) at the Physical Delivery Point in accordance with the terms of the Definitive Agreement for purposes of determining satisfaction of Seller’s Annual Guaranteed Energy Quantity commitment. In the event of a shortfall in annual energy deliveries below the applicable Annual Guaranteed Energy Quantity, Seller will, among other things, pay liquidated damages to Buyer and, as described in item 10 above, transfer to Buyer or pay Buyer for the environmental attributes that Seller would have been obligated to transfer to Buyer if the energy shortfall had actually been generated by the Facility and delivered at the Physical Delivery Point. The failure of Seller to deliver energy from the Facility (or portion thereof allocated to Buyer) at the Physical Delivery Point in accordance with the terms of the Definitive Agreement in an amount equal to at least (a) eighty</p>

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		<p>percent (80%) of the Annual Guaranteed Energy Quantity in any two consecutive contract years (“<b>Minimum Two Consecutive Contract Year Energy Quantity</b>”) or (b) seventy-five percent (75%) of the Annual Guaranteed Energy Quantity in any three contract years (“<b>Minimum Three Contract Year Energy Quantity</b>”) will be an event of default of Seller that would, among other things, entitle Buyer to terminate the PPA and receive termination damages. The Minimum Two Consecutive Contract Year Energy Quantity and the Minimum Three Contract Year Energy Quantity may be higher than eighty percent (80%) and seventy-five percent (75%), respectively, based on the probability distribution of annual generation output for a given resource, including, without limitation, considering such resource’s generation technology.</p>
17	<b>Generation Forecasts:</b>	<p>Seller will cause a reputable third-party forecaster to provide to Buyer (at Seller’s expense), in good faith and in accordance with accepted electrical practices, generation forecasts for the Facility (or portion thereof allocated to Buyer) for each day by the day-ahead generation forecast deadline specified in the Definitive Agreement for such day and updates thereto. In the event that any third-party forecaster is not providing forecasts in accordance with accepted electrical practices, then, upon receipt of written request from Buyer, Seller will, as soon as practicable, replace such third-party forecaster with another reputable third-party forecaster mutually agreeable to the Parties.</p>
18	<b>Buyer-Curtailed Energy:</b>	<p>Buyer will have the right, in its sole and absolute discretion, to curtail some or all of the energy that would otherwise be energy delivered from the Facility at the Physical Delivery Point and financially settled with Buyer at the Financial Settlement Point for any operating hour.</p> <p>Buyer can exercise such right by providing Seller notice of such curtailment (including pursuant to any Buyer’s Delivery Directive). In the case where Seller is the Market Participant <u>and the Facility is registered as a Capacity Resource</u>, if both the MISO Day-Ahead Energy Market and the MISO Real-Time Energy Market clear at the Financial Settlement Point with an LMP for any such operating hour below the applicable Minimum Settlement Price set forth in Buyer’s Delivery Directive, Buyer will be deemed to have curtailed any energy actually generated or, as further described below, that would have been generated by the Facility and delivered at the Physical Delivery Point under the Definitive Agreement during such operating hour.</p> <p>If Buyer exercises such curtailment rights, then, for any settlement interval for which Buyer has exercised such rights, Seller will provide to Buyer a calculation (which will be subject to audit and dispute by Buyer) determined in accordance with accepted electrical practices taking into account generator output data from reference generator units and data from the Facility’s SCADA system, including meteorological and other measurements, of the</p>

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	<p>quantity of energy that would have been but was not generated by the Facility and delivered at the Physical Delivery Point during such interval due solely to Buyer’s exercise of its curtailment rights (the “<b>Buyer-Curtailed Energy</b>”).</p> <p>For each MWh of Buyer-Curtailed Energy, Buyer shall pay to Seller (i) the Energy Price that would have been applicable to such Buyer-Curtailed Energy, minus (ii) either (A) if, using commercially reasonable efforts consistent with the Facility’s operational characteristics and to the extent not prohibited under applicable law, Seller could re-sell such Buyer-Curtailed Energy to another purchaser (including MISO or other applicable Balancing Authority) for a price that exceeds the amount in clause (B) below and Buyer does not expressly direct Seller not to re-sell such Buyer-Curtailed Energy, the price obtained by Seller by re-selling such Buyer-Curtailed Energy (or that would have been obtained by Seller had it used commercially reasonable efforts to re-sell such Buyer-Curtailed Energy) or (B) otherwise, the net costs saved by Seller (expressed in \$/MWh) as a result of not generating such Buyer-Curtailed Energy (or that would have been saved by Seller if, by using commercially reasonable efforts to maximize its net cost savings, it had not generated such Buyer-Curtailed Energy), the calculation of such net cost savings (determined in accordance with accepted electrical practices) to be provided by Seller to Buyer and subject to audit and dispute by Buyer, minus (iii) if applicable, the amount of the federal production tax credits or other similar generation-based credits, payments or benefits for which Seller would otherwise be eligible to receive if such Buyer-Curtailed Energy were actually generated (expressed in \$/MWh); <u>provided, however</u>, that, the amount determined pursuant to clause (ii) above may not be less than zero (0) as a result of the sale of any such Buyer-Curtailed Energy at negative prices or otherwise (and Buyer will not otherwise be responsible for any such negative amounts if Seller incurs them).</p> <p>Reliability curtailments (that is, curtailments made, initiated, directed, or ordered by an entity other than Buyer (<i>e.g.</i>, MISO or a local Balancing Authority) or other curtailments, limitations, or shortcomings (including emergency and scheduled or unscheduled outages, maintenance, or otherwise)) will not give rise to Buyer-Curtailed Energy.</p> <p>Seller will receive credit toward the Annual Guaranteed Energy Quantity for any Buyer-Curtailed Energy.</p>
<p><b>19 Operation and Maintenance Costs/ Imbalances:</b></p>	<p>Without limiting Buyer’s Energy Payment obligations provided in this Term Sheet, and except to the extent otherwise expressly provided in this Term Sheet, as between the Parties, Seller will bear all costs and expenses, of any kind or character, whether now in effect or at any time in the future coming into effect, arising out of or in connection with (i) the ownership, leasing, financing, insuring, development, engineering, procurement of equipment</p>

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	<p>for, design, construction, installation, operation, maintenance, management, replacement, repair, studying, testing, or other use of the Facility (or any part thereof), including the real property interests related thereto, (ii) the conduct of business by Seller, (iii) Seller’s or Buyer’s functions pursuant to item 14 above, or (iv) the provision or delivery (or scheduling, offering, and bidding into the applicable Balancing Authority) of energy, environmental attributes, capacity, capacity-related benefits, and other electric products, or the performance of Seller’s other obligations, under the Definitive Agreement (collectively, the “<b>Seller Cost Scope</b>”), including, without limitation:</p> <ul style="list-style-type: none"> <li>• any Balancing Authority (including applicable RTO or ISO) or other transmission provider membership, transaction, or other fees, costs, or charges, including costs and charges associated with (a) any schedule, offer, or bid made at the Physical Delivery Point pursuant to item 14 above, (b) any settlement with respect to or arising out of any such schedule, offer, or bid, including settlement through Financial Schedules or similar financial arrangements or transfers to the Financial Settlement Point for the purpose of settlement between Buyer and Seller or Buyer and any applicable Balancing Authority, or (c) otherwise with Seller’s or Buyer’s functions pursuant to item 14 above;</li> <li>• any penalties, fees, assessments, or other costs or charges for failure to satisfy any policy, rule, guideline, procedure, protocol, standard, criterion, or requirement of any market monitor, independent coordinator of transmission, Balancing Authority (including any applicable RTO or ISO), or other transmission provider (“<b>BA Penalties</b>”), including any penalties, fees, reductions in payment, assessments, or other costs, debits, or charges arising out of (1) any mitigation action taken by, any disallowance by, or other limitation on the recovery or payment of a cost, charge, expense, or credit imposed by any market monitor or MISO in connection with such failure or (2) any failure to meet operational directives, instructions, or requirements of MISO or other applicable Balancing Authority (including imbalance penalties);</li> <li>• electric imbalance charges and penalties (including any revenue sufficiency guarantee and similar charges, the cost of purchasing imbalance or real-time energy to settle under-generated energy and the cost of settlement at negative prices of over-generated energy), integration charges, the cost of any ancillary services and other Balancing Authority (including any applicable RTO or ISO) or other transmission provider services (including regulation, operating reserve, transmission study and upgrade costs, transmission congestion costs, transmission losses, and other transmission service costs) (“<b>Imbalance Charges</b>”); and</li> <li>• similar fees, costs, and charges arising out of or in connection with the</li> </ul>
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		<p>Seller Cost Scope, regardless of whether imposed or assessed against Seller or Buyer (including in its role pursuant to item 14 above).</p> <p>Notwithstanding the foregoing, if Buyer is the Market Participant, Buyer will be responsible for (i) Imbalance Charges and BA Penalties incurred by Seller solely as a result of compliance by Seller with a generation notice issued by Buyer that requires Seller to violate (A) a directive or other instruction communicated by the Balancing Authority to Buyer in its role as Market Participant that has not been communicated to Seller or (B) a Balancing Authority requirement to generate (or not generate) a product expressly scheduled, offered and/or bid by Buyer pursuant to the Definitive Agreement that is triggered solely by Buyer's schedules, offers and/or bids, and (ii) except to the extent arising out of, in connection with, or resulting from a unit contingency or other outage or act or omission of Seller or its affiliates or its subcontractors or any of their respective agents or representatives, BA Penalties incurred by Seller solely as a result of Buyer scheduling, offering and/or bidding the capacity-related benefits, environmental attributes, energy and other electric products during the Delivery Term in a manner that violates Balancing Authority requirements.</p>
20	<b>Planned Maintenance:</b>	<p><b>“Planned Maintenance”</b> means maintenance of the Facility (or portion thereof allocated to Buyer) that is scheduled in advance with Buyer in accordance with the terms of the Definitive Agreement and included in an agreed Planned Maintenance schedule and has a predetermined start date and expected duration (<i>e.g.</i>, inspections, testing).</p> <p>All maintenance of the Facility (or any portion thereof) that has a predetermined start date and duration and includes a reduction in the availability of the Capacity Allocated to Buyer is required to be coordinated and scheduled in accordance with the Definitive Agreement as Planned Maintenance. For resources other than Solar PV and solar thermal resources, Seller will have the right to schedule and conduct Planned Maintenance only during the months of March and April and the months of October and November and otherwise in accordance with the terms of the Definitive Agreement. For Solar PV and solar thermal resources, Seller will have the right to schedule and conduct Planned Maintenance only during (i) times that do not occur during a daylight period (beginning sixty (60) minutes prior to sunrise on a given day and ending sixty (60) minutes after sunset on such day) and (ii) any daylight period occurring in the months of October or November.</p> <p>For resources other than Solar PV and solar thermal resources, during the Delivery Term, Seller will deliver to Buyer its proposed schedule for Planned Maintenance on or before, in respect of the March/April maintenance period, September 1 of the preceding year, and in respect of the October/November maintenance period, February 1 of the calendar year in</p>

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		<p>which such maintenance period will begin. The Parties will then finalize a mutually acceptable schedule for Planned Maintenance. The expected timing and permitted duration of Planned Maintenance will be consistent with the technology utilized in the Facility.</p> <p>For resources other than Solar PV and solar thermal resources, Seller will deliver to Buyer its proposed schedule for Planned Maintenance sufficiently in advance to allow Buyer a reasonable opportunity to review such schedule.</p>
21	<b>Force Majeure:</b>	<p><b>“Force Majeure”</b> means any event that meets all of the following criteria: (i) the event occurs after the effective date of the Definitive Agreement; (ii) the event and its effects are not within the reasonable control, directly or indirectly, of the Party claiming Force Majeure (including its direct and indirect contractors, subcontractors and suppliers); (iii) the event and its effects are unavoidable or could not be prevented, overcome, or removed by the reasonable efforts and diligence of the Party claiming Force Majeure (including its direct and indirect contractors, subcontractors and suppliers); (iv) the event and its effects do not result from the negligence or fault of the Party claiming Force Majeure (including any breach by such Party of the Definitive Agreement) or the negligence or fault of its direct and indirect contractors, subcontractors and suppliers; and (v) the event causes the Party claiming Force Majeure, despite such Party’s (including its direct and indirect contractors’, subcontractors’ and suppliers’) use of reasonable efforts and diligence, to be actually delayed in performing, or unable to perform, its obligations under the Definitive Agreement, in whole or in part (for reasons other than economic hardship, including lack of money).</p> <p>Provided the event meets all of the criteria described above, Force Majeure will include: natural disasters; landslides; droughts; fires; floods; earthquakes; hurricanes; tornados; tsunamis; hail and ice and ice storms that are abnormally severe for the period of time when, and the area where, such weather event or condition occurs; epidemics; wars (whether declared or undeclared) or other armed conflicts; riots; explosions; civil disturbances; sabotage; vandalism; terrorism; documented threats of terrorism; and blockades.</p> <p>Force Majeure will not include: (a) mechanical failure or other breakdown, flaw, defect, or failure of equipment or systems that is not the direct or proximate result of, subject to clauses (d) and (f) of this sentence, acts of God (which acts of God will include floods, earthquakes, hurricanes, and tornadoes), epidemics, wars, riots, civil disturbances, or, subject to clause (b) of this sentence, sabotage; (b) sabotage by employees, agents, representatives, or direct and indirect contractors, subcontractors, and suppliers (including their employees, agents, and representatives) of the Party claiming Force Majeure; (c) delay in obtaining, or failure to obtain or revocation of, a governmental approval; (d) any event stated in the technical</p>

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	<p>specifications of the Facility to be within the tolerance of the Facility; (e) the failure or other act or omission of employees, agents, representatives, or direct and indirect contractors, subcontractors, and suppliers (including their employees, agents and representatives) of the Party claiming Force Majeure (including the failure of a direct or indirect contractor, subcontractor, or supplier to furnish machinery, spare parts, materials, consumables, labor, equipment, or services in accordance with its contractual obligations) or any other non-delivery, delayed delivery, shortages, or other unavailability of machinery, spare parts, materials, consumables, labor, equipment or services (including any interruption or curtailment of electric transmission), unless (1) the Party claiming Force Majeure has a firm contract for the applicable service or item (provided that this clause (1) will apply with respect to electric transmission only to the extent the concept of a firm contract for electric transmission exists in the relevant context) and (2) (A) in any case other than interruption or curtailment of electric transmission, the provider, if it were a party hereto, would be entitled to Force Majeure protection as an affected party or (B) in any case of interruption or curtailment of electric transmission, the interruption or curtailment is due to “force majeure” or “uncontrollable force” or similar term as defined under the applicable transmission provider’s tariff; (f) any weather event or condition that is not abnormally severe for the period of time when, and the area where, such weather event or condition occurs; (g) Seller’s ability to sell the energy, environmental attributes, capacity, capacity-related benefits, and/or other electric products at a price greater than provided for in the Definitive Agreement; (h) a Party’s financial inability to perform; (i) events that affect the cost of equipment or materials or other costs of the Seller Cost Scope or changes in market conditions affecting the economics of either Party (including a change in commodity prices or increased inflation) or any other economic hardship (including lack of money); (j) wind conditions that do not qualify as a hurricane, tornado, tsunami, or other storm of an equivalent magnitude; <del>or (k) {For Solar PV resources} a lack of, or insufficient, solar insolation for energy production, including as a result of environmental or weather conditions, or</del> (l) labor strikes, slowdowns, or stoppages; <u>provided, however,</u> that the existence of one or more of the factors listed in the exceptions to clauses (a), (e), and (f) will not be sufficient to conclusively or presumptively prove the existence of a Force Majeure if the event does not meet the criteria described in the first paragraph of this definition.</p> <p>If Buyer is the Party claiming Force Majeure and does not overcome the Force Majeure for a reasonably sustained period of time and resume performance of its obligations under the Definitive Agreement within (i) twelve (12) months after the inception of such Force Majeure if the Force Majeure commences within the first third of the Delivery Term (rounded to the nearest contract year), (ii) nine (9) months after the inception of such</p>
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		<p>Force Majeure if the Force Majeure commences within the second third of the Delivery Term (rounded to the nearest contract year), or (iii) six (6) months after the inception of such Force Majeure if the Force Majeure commences within the final third of the Delivery Term, then Buyer may, at any time following the end of such twelve (12), nine (9), or six (6)-month period, as applicable, and for so long as performance continues to be delayed or prevented by Force Majeure, terminate the Definitive Agreement upon notice to Seller without liability to either Party arising out of such termination.</p>
22	<p><b>Replacement Products:</b></p>	<p>If Seller is not capable of providing the full availability of energy, environmental attributes, capacity, capacity-related benefits, and/or other electric products from the Facility (or portion thereof allocated to Buyer), Seller will have no right and will not be permitted to provide replacement capacity, capacity-related benefits, energy, environmental attributes, and/or other electric products without the prior written consent of Buyer in its sole and absolute discretion. Notwithstanding the foregoing, Seller may make a proposal or offer to Buyer to provide such replacement products. In such event, Buyer may accept or reject, in its sole and absolute discretion, any such proposal or offer from Seller. If Buyer receives such a proposal or offer and Buyer, in its sole and absolute discretion, accepts such proposal or offer in writing, such replacement products will constitute, for the period for which Buyer has agreed that Seller may provide such replacement products and subject to the other terms of such agreement, replacement products for all purposes under the Definitive Agreement, and, except to the extent the Parties have agreed otherwise in writing, Seller will be obligated to provide such replacement products in accordance with the terms of the Definitive Agreement at no additional cost to Buyer.</p> <p>Notwithstanding the foregoing, if the applicable Balancing Authority considers a quantity of energy or other electric products to have been delivered from the Facility (or portion thereof allocated to Buyer) at the Physical Delivery Point for settlement purposes (and credits the Market Participant therefor) even though such energy or other electric products were actually imbalance or real-time energy or other electric products that were directly or indirectly provided by such Balancing Authority, rather than being actually generated by the Facility (or portion thereof allocated to Buyer), then, to the extent Seller pays the <del>imbalances—charges, penalties</del> <u>Imbalances Charges, BA Penalties</u>, and all other costs associated with such replacement energy or other electric products, such replacement energy and other electric products will automatically be treated as energy and other electric products provided by the Facility (or portion thereof allocated to Buyer) <del>for all purposes,</del> except for purposes of determining satisfaction of Seller’s Annual Guaranteed Energy Quantity commitment and Seller’s related obligation to provide Buyer the environmental attributes that</p>

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		Seller would have been obligated to transfer to Buyer if it had met its Annual Guaranteed Energy Quantity commitment.
23	<b>No QF Put:</b>	Notwithstanding any other provision of the Definitive Agreement, Seller will waive any and all rights to deliver “qualifying facility” energy from the Facility (or portion thereof allocated to Buyer) to the host utility at any time during the Delivery Term and expressly agrees not to deliver “qualifying facility” energy from the Facility (or portion thereof allocated to Buyer) to the host utility at any time during the Delivery Term.
24	<b>Change in Law:</b>	The Parties acknowledge the possibility that a change in law may occur that requires or will require one or both of the Parties to incur additional costs (including environmental costs) during the Delivery Term beyond those projected to be incurred by such Party as of the date of execution of the Definitive Agreement. Notwithstanding the foregoing, if such a change in law occurs, the other Party will not be required to share in, reimburse, or otherwise pay all or any portion of such additional costs, except as expressly provided in the Definitive Agreement, including with respect to items 25 and 37 below.
25	<b>Disallowance:</b>	Please see Section 2.5 of the Main Body.
26	<b>Conditions Precedent:</b>	<p>Without limiting item 29, Buyer’s obligations under the Definitive Agreement will be conditioned upon the fulfillment or express waiver, by Buyer, of numerous conditions, including, without limitation, the following:</p> <ol style="list-style-type: none"> <li>1. Buyer has obtained all approvals, permits, licenses, consents, waivers, and other authorizations from, notifications to, and filings and registrations with, governmental authorities deemed necessary or advisable by Buyer (i) that (a) approve the Definitive Agreement and the transactions thereunder or contemplated thereby, including approval of the full recovery of all Buyer costs associated with the Definitive Agreement and all related agreements and transactions (through base rates, fuel adjustment charges, and/or such other rates or charges as may be applied pursuant to a rider or otherwise) pursuant to a finding that the participation by Buyer in the foregoing is prudent and in the public interest, or (b) provide any other regulatory treatment desired by Buyer of the Definitive Agreement and transactions thereunder or contemplated thereby, and/or (ii) in order for Buyer to enter into the Definitive Agreement and/or perform its obligations thereunder, each of which is on terms and conditions acceptable to Buyer in its sole and absolute discretion and is final and not subject to appeal or otherwise subject to challenge;</li> <li>2. Buyer has obtained all third-party consents, approvals, and authorizations (to the extent not covered by clause 1 above) deemed necessary or advisable by Buyer to enter into the Definitive Agreement</li> </ol>

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	<p>and/or perform its obligations thereunder, each of which is on terms and conditions acceptable to Buyer in its sole and absolute discretion;</p> <ol style="list-style-type: none"> <li>3. the Facility (or the portion thereof allocated to Buyer) has qualified as and is or will be registered and recognized as, as of the start of the Delivery Term commencement date, a <del>firm-designated-network resource</del><u>Long-Term Network Resource</u> of Buyer, with deliverability on a firm network resource basis in the largest Balancing Authority applicable to the Physical Delivery Point, pursuant to, to the extent such Balancing Authority is MISO, ERIS and NRIS as required herein under the MISO Tariff (or the equivalent service in the event MISO discontinues or modifies the nature of NRIS) or network integration transmission service as required under the MISO Tariff (or the equivalent service in the event MISO discontinues or modifies the nature of such service);</li> <li>4. if required, credit support meeting the requirements of the Definitive Agreement has been posted by Seller and remains in full force and effect;</li> <li>5. certificates of insurance evidencing the coverages required by the Definitive Agreement have been obtained and submitted to Buyer and the insurance required by the Definitive Agreement remains in full force and effect;</li> <li>6. the Balancing Authority(ies) applicable to the Physical Delivery Point recognize the Facility (or portion thereof allocated to Buyer) as a separate generating resource and the Physical Delivery Point as a separate CP Node for settlement purposes (including that such Balancing Authority(ies) determine separately for settlement purposes the amount of energy actually delivered specifically from the Facility (or portion thereof allocated to Buyer) to the Physical Delivery Point and, if applicable, recognize the Facility (or portion thereof allocated to Buyer) as a separate generating resource for scheduling, offering, and bidding purposes);</li> <li>7. Seller or, if applicable, Buyer (or an Affiliate designated to Seller by Buyer) has been designated as the exclusive representative of the Facility before each Balancing Authority applicable to the Physical Delivery Point (including any applicable RTO or ISO) for purposes of the functions described in item 14 above (with effect, if Buyer or its Affiliate is such representative, as of the start of the Delivery Term or the deadline for Buyer to registered as such representative under the applicable rules of the Balancing Authority);</li> <li>8. Seller will deliver to Buyer a certification from Seller's Principal Accounting Officer (as defined by the rules of the Securities and</li> </ol>
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		<p>Exchange Commission) that, to the best of the Principal Accounting Officer’s knowledge, the Definitive Agreement and the transactions thereunder or contemplated thereby do not and will not result in, under the accounting standards existing at the time of the certification or that will be in effect during the term of the Definitive Agreement, the recognition of a long-term liability by Buyer or any of its Affiliates on its or any of its Affiliates’ books and addressing any other accounting-related risks relating to the Definitive Agreement deemed necessary or advisable by Buyer in its sole and absolute discretion;</p> <p>9. {<i>For Developmental Resources</i>} the COD has occurred; and</p> <p>10. if applicable, Seller has satisfied the condition precedent referenced in item 32 below.</p> <p>Buyer conditions precedent in addition to those specified above may be required as a result of operational aspects of the specific proposed generating resource, the Facility not being directly interconnected to the MISO System, special considerations or other provisions included in the proposal selected for contract negotiation that are addressed in the Definitive Agreement, diligence conducted by or for Buyer, the status of applicable laws, rules, and regulations, and other factors as Buyer deems relevant in its sole and absolute discretion. Buyer will have a defined period of time from the effective date of the Definitive Agreement to satisfy its conditions to commencement of the Delivery Term.</p>
27	<b>Completion:</b>	<p>{<i>For Developmental Resources only</i>} The date by which the COD must occur is expected to be the date specified as such by Bidder in the proposal (as such date may be extended on a day-for-day basis, up to a maximum of 180 days in the aggregate, to the extent that the COD is delayed as a result of Force Majeure, the “<b>Guaranteed COD</b>”). The “<b>Commercial Operation Date,</b>” or “<b>COD,</b>” will be the date all of the following conditions have been satisfied or expressly waived by Buyer:</p> <p>(a) the Facility has achieved “Substantial Completion” (or equivalent term meaning completion in all material respects, except punch list items that do not materially adversely affect the ability of the Facility to operate as intended) under its engineering, procurement, and construction contract (or, if the Facility does not have a single engineering, procurement, and construction contract, under each of the subcontracts that together aggregate the scope of an engineering, procurement, and construction contract) at a nameplate capacity equal to that specified in item 4 above and studies and testing of the Facility required pursuant to its interconnection agreement(s), financing documents, or permits, authorizations, or other project documents for the commencement of commercial operation will have been successfully performed and</p>

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	<p>completed;</p> <p>(b) the Facility (i) has successfully completed a capacity demonstration test at a capacity equal to at least 95% of the full nameplate capacity specified by Bidder in the applicable proposal, (ii) has achieved initial synchronization with the grid, (iii) is available for normal and continuous operation and fully capable of reliably producing the energy, environmental attributes, capacity, capacity-related benefits, and other electric products and delivering the same at the Physical Delivery Point at the full nameplate capacity specified by Bidder in the applicable proposal, and (iv) is in compliance with the applicable interconnection agreements and applicable laws;</p> <p>(c) <i>{If the Facility is or will be directly interconnected to the MISO System }</i> the required quantities of ERIS and NRIS have been received and the interconnection, deliverability, and transmission agreements have been executed and are effective and the interconnection, deliverability, and transmission upgrades required by such agreements for the Facility (i) have been completed, (ii) have been tested in accordance with such agreements <u>and any applicable laws</u>, (iii) are available for normal and continuous operation and fully capable of reliably transmitting and delivering the capacity, energy, and other electric products to Buyer at the Physical Delivery Point at the full Capacity Allocated to Buyer, and (iv) are in compliance with such agreements and applicable laws;</p> <p><i>{If the Facility is not or will not be directly interconnected to the MISO System }</i> the required interconnection, deliverability, and transmission agreements have been executed and are effective and the deliverability and transmission upgrades required by Buyer’s request for full network integration transmission service or similar service for the energy delivered from the Facility (or portion thereof allocable to Buyer) (i) have been completed, (ii) have been tested in accordance with any applicable agreements and laws, (iii) are available for normal and continuous operation and fully capable of reliably transmitting and delivering the capacity, energy, and other electric products to Buyer at the Physical Delivery Point at the full Capacity Allocated to Buyer, and (iv) are in compliance with any such agreements and applicable laws;</p> <p>(d) the communications and telemetry equipment required by the Definitive Agreement has been programmed, installed, commissioned, and tested and has demonstrated that it is fully capable of reliably transmitting real-time data to Buyer according to the Definitive Agreement;</p> <p>(e) Seller is in compliance in all material respects with the Definitive Agreement and there are no defaults (or events or circumstances that with the passage of time or the giving of notice or both would constitute</p>
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	<p>a default) of Seller thereunder that have occurred and are continuing;</p> <p>(f) Seller has obtained all material permits and other authorizations, entered into all agreements, and made all other arrangements and acquired all other tangible and intangible rights required to construct the Facility and produce and deliver the energy, environmental attributes, capacity, capacity-related benefits, and other electric products at the Physical Delivery Point pursuant to the Definitive Agreement and otherwise perform its obligations according to the Definitive Agreement; such permits and authorizations, agreements, arrangements, and other rights are in full force and effect and not subject to conditions precedent; and no party thereto is in default thereunder, and no event or circumstance will have occurred and be continuing that with the passage of time or the giving of notice or both would constitute a default by a party thereunder;</p> <p>(g) the Facility, capacity, energy, or environmental attributes, as applicable, are certified for any program or system that becomes an applicable environmental attribute program as of the COD;</p> <p>(h) (i) Seller is otherwise qualified for, and has all necessary accounts to obtain and transfer to Buyer, the environmental attributes corresponding to such applicable environmental attribute programs, (ii) all documents have been executed and filed and all other actions have been taken that are necessary or advisable to obtain all capacity-related benefits for which the capacity or the Facility is eligible and to transfer to Buyer custody of, and give effect to and evidence the title of Buyer in, all such capacity-related benefits, in accordance with the Definitive Agreement and (iii) all documents have been executed and filed and all other actions have been taken that are necessary or advisable to qualify to provide, and sell and deliver at the Physical Delivery Point, all other electric products (including for Buyer or Seller, as applicable, to be able to schedule, offer, bid, and settle the other electric products into the Balancing Authority(ies) applicable to the Physical Delivery Point), in accordance with the Definitive Agreement;</p> <p>—(i) without limiting clause (f) above, all arrangements for the supply of required electric services to the Facility, including the supply of house power and maintenance power, have been completed by Seller separately from the Definitive Agreement, are in effect, and are available for the supply of such electric services to the Facility;</p> <p>(j) certificates of insurance evidencing the coverages required by the Definitive Agreement at the COD have been obtained and submitted to Buyer;</p> <p>(k) Seller has provided to Buyer copies of the major design drawings and electrical specifications relating to the Facility;</p>
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	<p>(l) any additional credit support required at the COD pursuant to the Definitive Agreement has been posted by Seller in accordance with the requirements of the Definitive Agreement; and</p> <p>(m) staffing and training of Seller’s personnel for the operation, maintenance, and asset management of the Facility has been completed, to Seller’s reasonable satisfaction.</p> <p>Conditions in addition to those specified above may be required to achieve COD as a result of operational aspects of the specific proposed generating resource, the Facility not being directly interconnected to the MISO System, special considerations or other provisions included in the proposal selected for contract negotiation that are addressed in the Definitive Agreement, diligence conducted by or for Buyer, the status of applicable laws, rules, and regulations, and other factors as Buyer deems relevant in its sole and absolute discretion.</p> <p>Seller will notify Buyer immediately when the COD has occurred, including in such notice reasonable evidence to Buyer of the satisfaction of all of the conditions set forth above and a certification to that effect by an officer of Seller having responsibility for construction of the Facility after due inquiry of Seller. The Definitive Agreement will require Seller to provide periodic progress reports to Buyer and will grant to Buyer inspection and other rights applicable during the pre-commercial operation phase of the Definitive Agreement.</p> <p>If the COD does not occur on or before the Guaranteed COD specified by Bidder, Seller will pay to Buyer liquidated damages, for each day after the Guaranteed COD until the COD. The liquidated damages payable by Seller for such delays will be designed to address potential costs, charges, and losses of Buyer in the markets of MISO or any other applicable Balancing Authority (including capacity and energy markets) arising out of Seller’s failure to meet the Guaranteed COD and, accordingly, may not have a uniform value for each day of delay. Seller’s aggregate liability for liquidated damages pursuant to this paragraph will be limited to a finite number negotiated by the Parties.</p> <p>If the COD does not occur on or before the date after the Guaranteed COD on which the delay liquidated damages cap is reached (180 days if the liquidated damages are constant day-for-day):</p> <p>(i) Buyer will have the right, at any time thereafter until the COD occurs, to</p> <p>(a) terminate the Definitive Agreement upon notice to Seller (and to receive termination damages arising out of any such termination) or (b) if Seller has satisfied all of the conditions to the COD other than conditions (b)(i) and (b)(iii), require Seller to re-size (and, if so required to re-size, Seller will re-size) the original Capacity Allocated to Buyer to</p>
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		<p>the then-tested Capacity Allocated to Buyer; and</p> <p>(ii) if (a) Buyer’s right to terminate set forth in clause (i) above applies and Buyer has not elected to terminate within 30 days after obtaining such right pursuant to clause (i) above, (b) Seller has satisfied all of the conditions to the COD other than conditions (b)(i) and (b)(iii), and (c) Seller demonstrates to Buyer’s reasonable satisfaction that it is not possible to achieve a tested capacity equal to at least 95% of the full nameplate capacity specified by Bidder in the applicable proposal, Seller will have the right, at any time thereafter until the COD occurs, to re-size the original Capacity Allocated to Buyer to the then-tested Capacity Allocated to Buyer.</p> <p>If Buyer requires Seller to, or Seller elects to, re-size the original Capacity Allocated to Buyer according to clause (i) or (ii) above, Seller will pay to Buyer an amount equal to (a) a \$/MW figure to be negotiated by the Parties multiplied by (b) the difference between (1) the full expected Capacity Allocated to Buyer as specified by Bidder in item 9 above and (2) the re-sized Capacity Allocated to Buyer. Upon such payment, conditions (b)(i) and (b)(v) to the COD will be deemed achieved.</p>
28	<b>Management Approval:</b>	<p>The Definitive Agreement is subject to review and concurrence or approval, as applicable, by the corporate risk office of Entergy Corporation, the board of directors of Buyer, the executive and senior management of Entergy Corporation and Buyer, and such other approvals of Entergy Corporation and its affiliates as Buyer deems necessary or prudent in its sole and absolute discretion to enter into the Definitive Agreement and perform its obligations thereunder (on the terms set forth therein). Buyer will not execute or deliver the Definitive Agreement without such review and concurrence or approval, as applicable, and such approval or concurrence may be granted or denied in such bodies’ sole and absolute discretion.</p>
29	<b>Select Contract Terms and Conditions:</b>	<p>The Definitive Agreement will also include, among other things, the following covenants, terms, and/or conditions:</p> <ul style="list-style-type: none"> <li>• Seller will insure, develop, engineer, procure equipment for, design, construct, install, operate, maintain, manage, replace, repair, study, test, and otherwise use the Facility in accordance with (i) Seller’s obligations in the Definitive Agreement, the Facility’s interconnection agreements, and the other project documents, (ii) accepted electrical practices, and (iii) all applicable laws (including environmental laws), consents, and governmental approvals, including all applicable standards and guidelines adopted from time to time by governmental authorities (including NERC, SERC Reliability Corporation, any RTO and any comparable third party with the right to impose on the Facility or Seller conditions or obligations having the effect of an applicable</li> </ul>

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		<p>law or other binding legal requirement);</p> <ul style="list-style-type: none"> <li>• Seller will maintain adequate reserves for, and schedule and perform according to the Definitive Agreement, required maintenance; and</li> <li>• Seller will insure against all insurable risks with coverage in an amount not less than full replacement cost and on terms specified in the Definitive Agreement.</li> </ul>
30	<b>Events of Default:</b>	<p>The Definitive Agreement will include the following events of default of Seller:</p> <ul style="list-style-type: none"> <li>• failure to pay amounts due or submit or confirm Financial Schedules as required by the Definitive Agreement;</li> <li>• breach of representations and warranties;</li> <li>• failure to provide or maintain required credit support;</li> <li>• breach of covenants;</li> <li>• assignment by Seller of the Definitive Agreement or sale or transfer of the Facility, directly or indirectly, except as permitted by the Definitive Agreement;</li> <li>• bankruptcy, dissolution, or liquidation of Seller;</li> <li>• <del>default of Seller under any agreements relating to indebtedness for borrowed money in excess of a specified aggregate amount;</del></li> <li>• Seller makes any material intentional misrepresentation or omission in any metering report, invoice, or generation forecast required to be made or furnished by Seller pursuant to the Definitive Agreement or Seller's actual fraud, tampering with Buyer-owned facilities, or material intentional misrepresentation or misconduct in connection with the Definitive Agreement or operation or performance of the Facility;</li> <li>• Except as expressly provided by the Definitive Agreement, Seller sells, assigns, or otherwise transfers, or commits to sell, assign, or otherwise transfer, the energy, environmental attributes, capacity, capacity-related benefits, or other electric products that are subject to the Definitive Agreement, or any portion thereof, to any person other than Buyer;</li> <li>• Seller fails to deliver to Buyer energy under the Definitive Agreement in an amount at or above (a) the Minimum Two Consecutive Contract Year Energy Quantity during each of any two (2) consecutive contract years or (b) the Minimum Three Contract Year Energy Quantity during each of any three (3) contract years;</li> <li>• default of Seller under, or failure to maintain in effect, any project document (including the electric interconnection agreements and any</li> </ul>

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		<p>transmission or deliverability service-related agreement);</p> <ul style="list-style-type: none"> <li>• Seller’s abandonment of construction or operation of the Facility (or any portion thereof affecting its obligations under the Definitive Agreement);</li> <li>• the commencement of the Delivery Term is delayed for a period of 180 days or more from the date that the Delivery Term would have commenced as a result of the occurrence of a unit contingency or other limitation, including a Force Majeure, that, individually or collectively, reduces the amount of available capacity to ten percent (10%) or more below the Capacity Allocated to Buyer;</li> <li>• Seller fails to maintain in effect any agreement or arrangement required to deliver energy, environmental attributes, capacity, capacity-related benefits, and other electric products to the Physical Delivery Point;</li> <li>• failure of the resulting, surviving, or transferee entity in a merger or sale of all or substantially all of the assets of Seller to assume such party’s obligations under the Definitive Agreement;</li> <li>• {<i>For Developmental Resources</i>} the Commercial Operation Date has not occurred within 180 days after the Guaranteed Commercial Operation Date; and</li> <li>• the failure to maintain any necessary qualification for, or any necessary account to obtain and transfer to Buyer, any capacity-related benefits, environmental attributes, or other electric products for which the Facility or its capacity or energy is eligible.</li> </ul> <p>The foregoing events of default are illustrative. Other events of default will be included in the Definitive Agreement as appropriate.</p>
31	<b>Termination Rights:</b>	<p>The Definitive Agreement will contain provisions entitling a Party the right to terminate the Definitive Agreement upon the occurrence and continuation of an event of default by the other Party and to calculate termination damages based on the costs, gains, or losses incurred by the non-defaulting Party arising out of termination of the Definitive Agreement. If the termination damages are negative, the non-defaulting Party will not be obligated to pay such amount to the defaulting Party.</p> <p>{<i>For Developmental Resources</i>} The Definitive Agreement will include rights in favor of Buyer to terminate the Definitive Agreement for convenience, in its sole and absolute discretion, after the satisfaction or waiver of the first two conditions set forth in item 26 above (regarding Buyer’s required approvals and consents), financing for the Facility has been obtained by Seller, and Seller has issued a notice to proceed with construction of the Facility but prior to the achievement of Commercial</p>

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		<p>Operation. If Buyer terminates the Definitive Agreement pursuant to such rights, Buyer will be required, as Seller’s sole remedy arising out of such termination, to pay to Seller a pre-agreed amount to be set forth in a schedule to the Definitive Agreement to be negotiated between Buyer and Seller. The amounts set forth in such schedule will vary according to when such termination occurs and will not exceed the actual, direct out-of-pocket costs reasonably incurred by Seller to terminate construction (or, if lesser, to complete construction and make alternate use) of the Facility (or portion thereof allocated to Buyer) at such time. Seller will be required to use commercially reasonable efforts to minimize any such actual, direct out-of-pocket costs.</p>
32	<b>Audit Rights:</b>	<p>Buyer will have the right to examine the books and records of Seller and any affiliates of Seller involved, directly or indirectly, in the transactions or actions contemplated by the Definitive Agreement, including the records for the Facility. Such records will include (i) actual generating records for the Facility, (ii) the records required to be kept according to the Definitive Agreement and in the immediately following sentence and (iii) copies of contracts relating to the Facility to the extent reasonably necessary or appropriate to verify, among other things, (a) the accuracy of any statement, charge, or computation made pursuant to the provisions of the Definitive Agreement or (b) Seller’s performance under or compliance with the terms of the Definitive Agreement. Seller will be responsible for ensuring that all subcontractors commit to supply to Seller, and allow Seller to freely provide to Buyer, the records supporting any cost or charge paid by Seller and passed on to Buyer according to the terms of the Definitive Agreement. All books, records, and data, including all copies thereof, provided to Buyer under this paragraph will be subject to the confidentiality requirements of the Definitive Agreement. As a condition precedent to the Definitive Agreement becoming effective, to the extent that Seller is not the owner of the Facility, Seller will provide to Buyer evidence satisfactory to Buyer of its ability and rights to facilitate Buyer’s access to the books and records of such owner pursuant to the provisions of the audit section of the Definitive Agreement.</p>
33	<b>Seller’s Use of Information:</b>	<p>Seller will limit the availability and disclosure of information with respect to scheduling, offering, bidding, settlements, dispatch, outages, unit contingencies, and other limitations relating to the Facility (or portion thereof allocated to Buyer) or the Definitive Agreement exclusively to the scheduling, operations, and asset management personnel designated by Seller to Buyer in writing from time to time who are primarily responsible for the day-to-day operation and/or management of the Facility. Seller and such personnel may use all such information only for the limited purpose of operating, scheduling and offering the Facility as contemplated hereunder and performing their respective directly-related duties under the Definitive Agreement. Without limiting the generality of the foregoing, Seller and its</p>

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**Term Sheet for PPA Product**

		<p>designees will be expressly forbidden from using, directly or indirectly, any such information, or knowledge thereof, (i) in connection with any activity in which Buyer and Seller (or, if it does not employ its designees, the employer(s) of such designees) compete or where the knowledge or possession of such information would provide, or reasonably be expected to provide, Seller (or such employer(s)) with a competitive advantage or (ii) in contravention, violation, or breach of any applicable law, code of conduct, or binding agreement, including any confidentiality agreement. Seller will be responsible for any unauthorized disclosure or use by personnel designated by Seller or performing work for or on behalf of Seller or any of its Affiliates of any of the information protected under the Definitive Agreement.</p>
34	<p><b>Right of First Refusal:</b></p>	<p>Seller will not (and will not permit any direct or indirect parent or affiliate of Seller to) sell or transfer the Facility or any portion thereof or any undivided interest therein (or any direct or indirect equity interests in Seller), including by merger, consolidation, or sale of all or substantially all of its assets, unless prior to such sale or transfer, Seller provides written notice of such sale or transfer to Buyer that includes a copy of the definitive agreement for such sale or transfer. Upon Buyer’s receipt of such notice, Buyer will have the right, for 120 days, to enter into (or cause a nominee to enter into) a purchase agreement on substantially the same terms and conditions set forth in the definitive agreement included in Seller’s notice, provided that (i) if such definitive agreement specifies any non-cash consideration, Buyer (or its nominee) may pay the cash equivalent of such non-cash consideration, or (ii) if any governmental or regulatory approvals or other consents or authorizations are required for Buyer to consummate the transaction, Buyer will have a reasonable period of time to seek and obtain all necessary approvals, consents or authorizations (with times and on terms consistent with those applicable to Buyer’s approvals, consents, and authorizations under the Definitive Agreement). Seller will provide, in a timely manner, information regarding the Facility that is reasonable or customary to allow Buyer to perform due diligence and to otherwise evaluate in good faith the purchase of the Facility. Seller will covenant to cooperate with Buyer in good faith in the event Buyer exercises such right.</p> <p>In the event that Buyer does not exercise its right to purchase, then, subject to item 35 below, Seller (or any direct or indirect parent or affiliate of Seller) will have the right to consummate the sale or transfer according to the definitive agreement included in Seller’s notice to Buyer (excluding any amendments thereto that make such definitive agreement more favorable to the purchaser), provided that such sale or transfer is consummated within 180 days after the date that Buyer elects not to exercise its right to purchase (or such right to purchase expires). If Seller does not consummate the sale or transfer in accordance with the preceding sentence within such 180 days, Seller will not (and will not permit any direct or indirect parent or affiliate of</p>

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		<p>Seller to sell or transfer the Facility (or its direct or indirect equity interests in Seller), unless prior to such sale or transfer, Seller provides a new written notice of such sale or transfer to Buyer and these provisions are applied with respect to such new written notice.</p>
<p><b>35</b></p>	<p><b>Other Transfer Restrictions:</b></p>	<p>Except as expressly permitted in the following paragraph, Seller will not (and will not permit any affiliate to) sell or transfer all or a material portion of, or an undivided interest in, the Facility (or such affiliate's direct or indirect equity interests in Seller), including by merger, consolidation, or sale of all or substantially all of its assets, without Buyer's prior written consent, which will not be unreasonably withheld or delayed, provided that it will be deemed reasonable for Buyer to withhold its consent if (a) the proposed transferee is not a qualified operator, (b) the proposed transferee has a creditworthiness below that of Seller or, in the case of a transfer of the direct or indirect equity interest in Seller (or portion thereof), Seller's affiliate effecting such transaction, (c) the proposed transferee is (i) a load-serving entity (or an affiliate of a load-serving entity) recognized by an applicable governmental authority or (ii) owns or controls (or an affiliate thereof owns or controls) 1,000 MW or more of electric generation capacity, (d) the proposed transferee is, or during the period commencing four (4) years prior to the date of Seller's notice requesting consent to the transfer until the date of the transfer has been, involved in Adverse Litigation, (e) any credit support provided by Seller prior to such sale or transfer would not remain in effect (or would not continue to be drawable against all obligations of "Seller" hereunder, whether relating to the period before, on or after the date of the transfer) or be substituted with credit support acceptable to Buyer in its sole and absolute discretion, or (f) in the case of a transfer of the Facility (including an undivided interest therein) or portion thereof, Seller does not concurrently assign its rights and obligations under the Definitive Agreement to the transferee of the Facility according to the assignment provisions thereof on terms acceptable to Buyer in its sole and absolute discretion.</p> <p>Seller will have the right to (a) permit any affiliate to transfer (direct or indirect) control of, or all of its direct or indirect equity interests in, Seller, including by merger, consolidation or sale of all or substantially all of its assets, and (b) transfer the Facility, in each case to an affiliate of Seller, provided that (i) at least sixty (60) days prior to such transfer, Seller provides notice to Buyer thereof, (ii) the proposed transferee is a qualified operator, (iii) the proposed transferee has a creditworthiness equal to or better than that of the transferor, (iv) any credit support provided by Seller prior to such sale or transfer remains in effect (and continues to be drawable against all obligations of "Seller" hereunder, whether relating to the period before, on or after the date of the transfer) or is substituted with credit support acceptable to Buyer in its sole and absolute discretion, and (v) in the case of a transfer of the Facility (including an undivided interest therein) or portion thereof,</p>

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		<p>Seller concurrently assigns its rights and obligations under the Definitive Agreement to the proposed transferee according to the assignment provisions thereof on terms acceptable to Buyer in its sole and absolute discretion.</p> <p>“<b>Adverse Litigation</b>” will mean litigation or arbitration that is adverse to Buyer or any affiliate thereof that involves or involved, as the case may be, (i) the potential imposition of criminal liability on Buyer or any affiliate thereof (or their respective directors, officers, partners, members, trustees, employees, agents, or representatives), (ii) the potential imposition on Buyer or any regulated affiliate thereof of new or additional adverse regulation, (iii) claims against Buyer or any affiliate thereof (or their respective directors, officers, partners, members, trustees, employees, agents, or representatives) for slander, libel, defamation, damage to reputation, or other similar legal claims, or (iv) an amount in controversy exceeding (a) \$1,500,000, if the time such litigation or arbitration is being evaluated for purposes of determining qualification under the definition hereof occurs prior to the seventh (7<sup>th</sup>) anniversary of the Delivery Term commencement date set forth in item 7 and (b) an amount escalating by \$1,000,000 on every seventh (7<sup>th</sup>) anniversary of the Delivery Term commencement date set forth in item 7.</p>
36	<b>Credit Support:</b>	<p>Seller will be expected to meet the credit support requirements detailed in the RFP, including Appendix F, and other credit-related terms, all of which will be more fully developed in the Definitive Agreement.</p>
37	<b>Accounting:</b>	<p>Seller will be required to make representations, warranties, and covenants that fully protect Buyer against the accounting treatment described in clause (98) of item 26 above. In connection therewith, each contract year Seller will provide a bring-down certification from Seller’s Principal Accounting Officer affirming the statements made in the certification described in clause (98) of item 26 above as of the time such bring-down certification is provided. Without limiting the foregoing, Seller will be required to provide to Buyer any information requested by Buyer in order to assess those risks and, if any such risks materialize, for Buyer or Seller (or, in each case, any of its affiliates) to comply with the associated accounting requirements. Further, if any such risk materializes prior to the inception or during the term of the Definitive Agreement, Seller must promptly notify Buyer and Buyer will have the right, but not the obligation, (i) to require Seller to modify or amend the Definitive Agreement or enter into alternative arrangements as necessary or advisable for Buyer to avoid, minimize or mitigate such risk (in which event the Parties will make such modifications or amendments or enter into such arrangements as expeditiously as practicable) and/or (ii) to terminate the Definitive Agreement upon notice to Seller, with a termination payment due to Buyer if the termination is due to the materialization of a risk that, under terms to be negotiated and specified in the Definitive Agreement, constitute an event of default of Seller.</p>

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<b>38</b>	<b>Confidentiality:</b>	Each Party will be required to keep the terms and provisions of the Definitive Agreement confidential and prohibited from disclosing such terms to any third party, subject to certain limited exceptions specified in the Definitive Agreement.
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## Term Sheet for PPA Product

### Attachment A

#### Financial Schedule Examples

The following examples illustrate the operation of the Financial Schedule provisions of this Term Sheet under different scenarios. For purposes of the following examples, unless otherwise expressly stated, (i) the Capacity Allocated to Buyer is 30 MW, (ii) Seller's generation forecast indicates that 25 MWh of energy are expected to be delivered during the applicable hour, (iii) Buyer communicates a Minimum Settlement Price of \$0, (iv) the applicable settlement interval is one (1) hour, and (v) the Financial Schedule will meet the requirements set forth in item 15, including, without limitation, by designating the Physical Delivery Point as Source Point and the Financial Settlement Point as both the Internal Delivery Point and the Sink Point.

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#### Example 1.

The LMP at the Financial Settlement Point for the settlement interval in the MISO Day-Ahead Energy Market and the MISO Real-Time Energy Market is \$10. 25 MWh of energy are delivered to the Physical Delivery Point for the settlement interval. The Financial Schedule will be a day-ahead Financial Schedule for 25 MWh.

#### Example 2.

Same facts as Example 1 above, except that 27 MWh of energy are delivered to the Physical Delivery Point for the settlement interval. The Financial Schedule will be a day-ahead Financial Schedule for 27 MWh.

#### Example 3.

Same facts as Example 1 above, except that 22 MWh of energy are delivered to the Physical Delivery Point for the settlement interval. The Financial Schedule will be a day-ahead Financial Schedule for 22 MWh.

#### Example 4.

The LMP at the Financial Settlement Point for the settlement interval is -\$10 in the MISO Day-Ahead Energy Market and \$10 in the MISO Real-Time Energy Market. 25 MWh of energy are delivered to the Physical Delivery Point for the settlement interval. The Financial Schedule will be a real-time Financial Schedule for 25 MWh.

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### Example 5.

The LMP at the Financial Settlement Point for the settlement interval is \$10 in the MISO Day-Ahead Energy Market and -\$10 in the MISO Real-Time Energy Market. 25 MWh of energy are delivered to the Physical Delivery Point for the settlement interval. The Financial Schedule will be a day-ahead Financial Schedule for 25 MWh.

### Example 6.

The LMP at the Financial Settlement Point for the settlement interval in the MISO Day-Ahead Energy Market and the MISO Real-Time Energy Market is -\$10. In accordance with the third paragraph of item 18, the Facility would have been capable of generating 25 MWh of energy and delivering it to the Physical Delivery Point for the settlement interval. Buyer is deemed to have curtailed the energy capable of being generated and delivered to the Physical Delivery Point. Buyer will pay Seller for 25 MWh of Buyer-Curtailed Energy in accordance with item 18. As a result of Buyer's curtailment, there will not be any Financial Schedule submitted with respect to the settlement interval.

### Example 7.

The LMP at the Financial Settlement Point and the Physical Delivery Point for the settlement interval is \$10 in the MISO Day-Ahead Energy Market and the LMP at the Physical Delivery Point for the settlement interval is -\$10 in the MISO Real-Time Energy Market. In accordance with the third paragraph of item 18, the Facility would have been capable of generating 25 MWh of energy and delivering it to the Physical Delivery Point for the settlement interval. 15 MWh of energy were actually generated by the Facility and delivered to the Physical Delivery Point for the settlement interval and 10 MWh are MISO Curtailed Energy. The settlement for the settlement interval will be pursuant to (i) a day-ahead Financial Schedule for 25 MWh and (ii) a real-time Financial Schedule structured such that Buyer receives the credit or payment from MISO for the 10 MWh of MISO Curtailed Energy.

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