

PROHIBITED FOREIGN ENTITIES AND MATERIAL ASSISTANCE

Defined Terms.

(i) **“2025 Tax Act”** means the One Big Beautiful Bill Act, PL 119-21, July 4, 2025, 139 Stat 72, as amended from time to time, and including all Treasury regulations, IRS notices (including Notice 2025-08), revenue procedures, and other published guidance issued thereunder, in each case as in effect from time to time.

(ii) **“Federal Tax Credits”** means the federal production tax credit available under Section 45 and Section 45Y of the Code and the federal investment tax credit available under Section 48 and Section 48E of the Code.

(iii) **“FEOC Auditor”** means any independent auditor (including any nationally respected accounting firm) selected by Buyer and subject to an appropriate non-disclosure agreement.

(iv) **“FEOC Laws”** means Section 7701(a)(51) of the Code and the restrictions on Prohibited Foreign Entities and “material assistance from a prohibited foreign entity” set forth in the 2025 Tax Act, together with all Treasury regulations, IRS notices (including Notice 2025-08), revenue procedures, and other published guidance issued thereunder, in each case as in effect from time to time.

(v) **“Manufactured Product”** and **“Manufactured Product Component”** or **“MPC”** have the meanings given in the FEOC Laws.

(vi) **“PFE”** or **“Prohibited Foreign Entity”** has the meaning given in Section 7701(a)(51) of the Code, including any “specified foreign entity” and “foreign-influenced entity” as defined therein.

(vii) **“Upstream Supplier”** means any Person, other than Seller, performing or providing any portion of the Modules or any Manufactured Products, MPCs, components, subcomponents, or critical minerals incorporated therein, whether retained by Seller, any Affiliate of Seller, or any Person hired by Seller or any of its Affiliates, and including every tier of upstream suppliers and subcontractors.

Section [__]. Prohibited Foreign Entities and Material Assistance. Seller acknowledges that Buyer (or its designee) intends to qualify for the federal investment tax credit available under Section 48 and Section 48E of the Code (and/or the federal production tax credit available under Section 45 and Section 45Y of the Code). Seller shall, and shall cause its Upstream Suppliers to, comply with this Section [__], Exhibit [__] (the form of FEOC Certificate), and the FEOC Laws (collectively, the “FEOC Commitments”). In connection with the FEOC Commitments, Seller further attests to the following:

(a) Prohibited Foreign Entity.

Seller represents and warrants that (i) neither Seller nor any of its Affiliates is or will be (including in connection with the performance of any work under any warranty) a Prohibited Foreign Entity, and (ii) Seller does not know (or have reason to know) that any Upstream Supplier of Modules or MPCs is or will be a Prohibited Foreign Entity. Seller further represents and warrants that no PFE has, or is expected to have, any direct or indirect ownership interest in, or control over, Seller in excess of the thresholds specified in the FEOC Laws.

(b) Material Assistance.

(i) Seller represents and warrants that none of the Modules delivered hereunder, including any Manufactured Products, MPCs, components, subcomponents, or critical minerals incorporated therein (including any photovoltaic cells, wafers, polysilicon, encapsulant, backsheet, frame, junction box, glass, or other components incorporated into the Modules), were mined, produced, or manufactured by a Prohibited Foreign Entity.

(ii) Seller shall provide Buyer an executed certificate in the form attached hereto as Exhibit [___] (including all supporting documentation specified therein) (each, a “FEOC Certificate”) no later than thirty (30) days prior to the scheduled delivery date of each shipment of Modules hereunder. If Seller fails to provide any FEOC Certificate when required, Buyer may withhold payment of any invoice under this Agreement until such FEOC Certificate is provided to Buyer, without such withholding constituting a breach by Buyer or excusing any performance obligation of Seller.

(iii) Until the date that is sixty (60) days after expiration of the relevant statute of limitations (including all extensions thereof) applicable to recapture or denial of any Federal Tax Credit claimed in connection with the projects into which the Modules are incorporated, Seller agrees to reasonably cooperate with any governmental inquiry or request, and any inquiry or request from Buyer, any financing party, any tax equity investor, or any FEOC Auditor, with respect to the FEOC Commitments, including by the provision of records and making available of employees, in each case to the extent reasonably available. Seller shall promptly provide copies of all FEOC Certificates and supporting documentation to any FEOC Auditor upon request.

(c) Audit and Inspection Rights.

Upon not less than ten (10) Business Days’ prior written notice, Buyer, any financing party, any tax equity investor, and any FEOC Auditor shall have the right, during normal business hours and subject to reasonable confidentiality and safety requirements, to (i) audit and inspect the books, records, and supply chain documentation of Seller and, to the extent contractually available to Seller, of its Upstream Suppliers, in each case to the extent related to the FEOC Commitments, and (ii) inspect any facility at which Modules or MPCs are being manufactured, assembled, or stored. Seller shall use commercially reasonable efforts to obtain such audit and inspection rights from each Upstream Supplier of Modules and MPCs and to enforce such rights at Buyer’s reasonable request. The exercise (or non-exercise) of audit and inspection rights shall not limit, waive, or otherwise affect any representation, warranty, covenant, or indemnity of Seller under this Agreement.

(d) Flow-Down.

Seller shall include the provisions of this Section [___] (or substantially equivalent provisions, including the audit and inspection rights set forth in subsection (c) and the certification, cooperation, and survival obligations set forth herein) in all of Seller’s agreements and purchase orders with its Upstream Suppliers of Modules and MPCs entered into in connection with this Agreement, and shall make such upstream certifications and supporting documentation available to Buyer upon reasonable request.

(e) Records Retention.

Seller shall retain, and shall use commercially reasonable efforts to cause its Upstream Suppliers of Modules and MPCs to retain, all FEOC Certificates and supporting documentation for a period of not less

than eight (8) years following the date of each such FEOC Certificate, or such longer period as may be required by the FEOC Laws or requested by Buyer in writing.

(f) Prohibited Foreign Entities Damages; Indemnification.

(i) The Parties acknowledge and agree that if Seller breaches any of the representations, warranties, or covenants set forth in this Section [] or in any FEOC Certificate, Buyer will be irreparably harmed. In case of any such breach whereby Buyer suffers actual economic damages, Buyer will be entitled to the full amount of its actual damages (including any lost, denied, recaptured, or disallowed Federal Tax Credits, together with any related interest, penalties, additions to tax, gross-up amounts, and reasonable costs of defense, as a result of such breach by Seller) up to the full amount of the Contract Price (the “Prohibited Foreign Entities Damages”).

(ii) Without duplication of clause (i), Seller shall defend, indemnify, and hold harmless Buyer, its Affiliates, and their respective financing parties, tax equity investors, members, partners, managers, officers, directors, employees, agents, and representatives (collectively, the “Buyer Indemnified Parties”) from and against any and all third-party claims, demands, suits, proceedings, examinations, audits, assessments, losses, liabilities, damages, judgments, settlements, fines, penalties, interest, additions to tax, and reasonable costs and expenses (including reasonable attorneys’ and accountants’ fees) arising out of or relating to any breach by Seller of this Section [] or any FEOC Certificate, including any claim asserted by the Internal Revenue Service, any other Governmental Authority, or any tax equity investor or financing party of any Buyer Indemnified Party. The aggregate liability of Seller under this Section [] (including under clause (i) and this clause (ii), taken together) shall not exceed the Contract Price.

(iii) In the event of any change in the 2025 Tax Act or other FEOC Laws after the Effective Date such that the FEOC Commitments (as defined on the Effective Date) no longer comply with the applicable requirements of the FEOC Laws as so changed, Seller and Buyer shall cooperate in good faith and use commercially reasonable efforts to comply with such change. Upon reaching a mutually agreed resolution, the Parties shall amend this Agreement to reflect such resolution. If, within thirty (30) days of first commencing such discussions, the Parties are unable to reach agreement as to modifications to this Agreement so as to comply with such change, either Party shall have the right to terminate this Agreement on notice to the other Party; provided, that if such non-compliance results, in whole or in part, from any breach by Seller of this Section [] or any FEOC Certificate occurring prior to such change, Buyer shall have the right to terminate this Agreement for cause and Seller shall not be entitled to any termination for convenience payment. Otherwise, such termination shall be treated as a termination for convenience in accordance with Section [].

(g) Rejection and Replacement of Non-Compliant Modules.

Without limiting any other remedy available to Buyer under this Agreement, at law, or in equity, if Seller breaches this Section [] with respect to any Module, Buyer may reject the affected Module, and Seller shall, at its sole cost and expense, replace such Module with a compliant Module on an expedited basis. If Seller fails to deliver a compliant replacement Module within a reasonable period following such rejection, Buyer may procure replacement modules from a third party and Seller shall reimburse Buyer for all reasonable incremental costs incurred in connection therewith, including the cost differential and any related transportation, storage, and installation costs.

(h) Survival.

The representations, warranties, covenants, indemnities, and other obligations of Seller under this Section [] and each FEOC Certificate shall survive expiration or termination of this Agreement until the date that is sixty (60) days after expiration of the relevant statute of limitations (including all extensions thereof) applicable to recapture or denial of any Federal Tax Credit claimed in connection with the projects into which the Modules are incorporated.