

**COMMONWEALTH OF KENTUCKY**  
**BEFORE THE PUBLIC SERVICE COMMISSION**

**In the Matter of:**

**ELECTRONIC APPLICATION OF EAST )  
KENTUCKY POWER COOPERATIVE, INC. FOR )  
A CERTIFICATES OF PUBLIC CONVENIENCE )  
AND NECESSITY AND SITE COMPATIBILITY )  
CERTIFICATES FOR THE CONSTRUCTION OF )  
A 96MW (NOMINAL) SOLAR FACILITY IN )  
MARION COUNTY, KENTUCKY AND A 40MW )  
(NOMINAL) SOLAR FACILITY IN FAYETTE )  
COUNTY, KENTUCKY AND APPROVAL OF )  
CERTAIN ASSUMPTIONS OF EVIDENCE OF )  
INDEBTEDNESS RELATED TO THE SOLAR )  
FACILITIES AND OTHER RELIEF )**

**CASE NO.  
2024-00129**

**REDACTED RESPONSE TO LFUCG'S FIRST INFORMATION REQUEST TO EAST  
KENTUCKY POWER COOPERATIVE, INC.**

**DATED May 31, 2024**

**EAST KENTUCKY POWER COOPERATIVE, INC.**  
**CASE NO. 2024-00129**  
**INITIAL REQUEST FOR INFORMATION RESPONSE**

**LFUCG'S REQUEST DATED MAY 31, 2024**

**REQUEST 43**

**RESPONSIBLE PARTY: Patrick Bischoff**

**Request 43. Reference Exhibit 4, Pre-filed Direct testimony of Thomas J. Stachnik, page 4, lines 10-12. Please provide the Asset Purchase Agreement for Bluegrass Plains Solar Project as referenced by the witness.**

**Response 43. Please see the attached file Redacted - Bluegrass Plains APA**

**FINAL EXECUTION VERSION**

**ASSET PURCHASE AGREEMENT**

**by and between**

**BLUEGRASS PLAINS SOLAR PROJECT, LLC (“SELLER”)**

**and**

**EAST KENTUCKY POWER COOPERATIVE, INC. (“BUYER”)**

Dated as of November 21, 2023

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## **EXHIBITS AND SCHEDULES**

### **EXHIBITS**

Exhibit A	Form of Bill of Sale and Assignment and Assumption Agreement
Exhibit B	Real Property Rights Assignment and Assumption Agreement
Exhibit C	Project Assets

## ASSET PURCHASE AGREEMENT

This ASSET PURCHASE AGREEMENT (together with all Exhibits and Schedules attached hereto and incorporated herein by reference, this “**Agreement**”), dated November 21, 2023 (the “**Execution Date**”), by and between Bluegrass Plains Solar Project, LLC, a Delaware limited liability company (“**Seller**”), Savion, LLC, a Delaware limited liability company (“**Savion**”), and East Kentucky Power Cooperative, Inc., a Kentucky corporation (“**Buyer**”). Seller and Buyer shall each individually be referred to herein as a “**Party**” and collectively as the “**Parties**”. Savion joins in this Agreement solely with respect to its obligations expressly stated in Section 7.7.

### RECITALS

**WHEREAS**, Seller wishes to sell, and Buyer wishes to purchase, the Project Assets (as defined below) on the terms and subject to the conditions of this Agreement.

**NOW, THEREFORE**, in consideration of the foregoing recitals, which are incorporated by reference herein, and the mutual promises, representations, warranties, and covenants hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, hereby agree as follows:

### ARTICLE 1. DEFINITIONS AND CONSTRUCTION

1.1 Specific Definitions. As used in this Agreement, the following terms shall have the meanings ascribed to them below:

“**Access Agreements**” means (i) that certain Access Agreement, dated August 7, 2023, by and between Seller, Fayette Partners, LLC (f/k/a Gay Land Company, LLC), and Buyer, and (ii) that certain Access Agreement, dated August 7, 2023, by and between Seller, Fayette Partners, LLC, and Buyer.

“**Affiliate**” of a specified Person shall mean any other Person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, the Person specified. The term “control” means (a) the possession, directly or indirectly, of the power to vote 50% or more of the securities or other equity interests of a Person having ordinary voting power, or (b) the possession, directly or indirectly, of the power to direct or cause the direction of the management policies of a Person, by contract or otherwise.

“**Agreement**” shall have the meaning given to it in the introduction to this Agreement.

“**Allocation Schedule**” shall have the meaning given to it in Section 2.7.

“**Ancillary Documents**” shall mean the Assignment Agreement, the other documents identified in Sections 2.4 and 2.5, and any additional documents necessary to record any transfer to or from Seller as contemplated by this Agreement or any of the foregoing documents.

“**Applicable Law**” shall mean all laws, statutes, codes, acts, treaties, ordinances, orders, judgments, writs, decrees, injunctions, rules, regulations, governmental approvals, directives, and requirements of all Governmental Authorities having jurisdiction over a Person, this Agreement or the Project Assets, as applicable.

“**Assignment Agreement**” shall mean the Bill of Sale and Assignment and Assumption Agreement in substantially the form of Exhibit A hereto.

“**Assumed Liabilities**” shall mean all Liabilities that relate to the Project Assets, but only to the extent that such Liabilities arise after, or are required to be performed after, the Closing Date, and excluding any such Liabilities that relate to any breach, failure to perform, improper performance, or other default or violation by Seller on or prior to the Closing, and also excluding the Excluded Liabilities.

“**Base Purchase Price**” shall have the meaning given to it in Section 2.2.

“**Basket**” shall have the meaning given to it in Section 7.6(a).

“**Books and Records**” shall mean electronic copies of all files, papers, correspondence (excluding email correspondence), documents, and records, in each of the foregoing cases to the extent material and applicable to any of the Project Assets.

“**Business Day**” shall mean any day other than a Saturday, Sunday, or a day on which commercial banks are closed in the State of New York.

“**Buyer**” shall have the meaning given to it in the introduction to this Agreement.

“**Buyer Approval**” shall have the meaning given to it in Section 5.4.

“**Buyer Declination**” shall have the meaning given to it in Section 5.4.

“**Buyer Indemnified Party**” shall have the meaning given to it in Section 7.2.

“**Buyer’s Payment Notice**” shall have the meaning given to it in Section 5.4.

“**Cap**” shall have the meaning given to it in Section 7.6(b).

“**Closing**” shall have the meaning given to it in Section 2.3.

“**Closing Date**” shall have the meaning given to it in Section 2.3.

“**Code**” shall mean the United States Internal Revenue Code of 1986, as amended.

“**Consents**” shall have the meaning given to it in Section 3.10.



“**Contract**” shall mean each of the contracts to which Seller is party in respect of the Project Assets, as set forth in Schedule 3.5, excluding Real Property Documents.

“**CPCN**” shall have the meaning given to it in Section 6.1(b).

“**CPCN Approval**” shall have the meaning given to it in Section 6.1(b).

“**CPCN Denial**” shall have the meaning given to it in Section 6.3(a)(i).

“**CPCN Denial Notice**” shall have the meaning given to it in Section 6.3(a)(i).

“**Data Site**” means the Firmex electronic documentation sites of Seller in connection with the transactions contemplated by this Agreement and located at <https://savion.firmex.com/projects/20/documents>. For purposes hereof, items placed in Data Site by Seller will be deemed made available, delivered and provided to Buyer. Further, Seller’s obligation to maintain the Data Site will cease thirty (30) days after the earlier of the Closing or the termination of this Agreement.

“**Dollar**” or “**\$**” shall mean United States dollars.

“**Excluded Liability**” shall mean any Liability of Seller or otherwise related to the Project Assets that is not an Assumed Liability, and shall include any Taxes for any period ending on or before the Closing Date, and any Liabilities set forth on Schedule 3.14.

“**Execution Date Interconnection Cost Reimbursement**” shall have the meaning given to it in Section 2.2(a).

“**Execution Payment**” shall have the meaning given to it in Section 2.2(a).

“**Fraud**” shall mean (a) when used with respect to Seller, intentional or willful misrepresentation of a material fact included within Seller’s representations and warranties set forth in Article 3, which constitutes actual fraud, including common law fraud under applicable Law (and in any event, shall not include implied or constructive fraud), and (b) when used with respect to Buyer, intentional or willful misrepresentation of a material fact included within Buyer’s representations and warranties set forth in Article 4, which constitutes actual fraud, including common law fraud under applicable Law (and in any event, shall not include implied or constructive fraud).

“**Governmental Authority**” shall mean any (a) national, state, county, municipal or other local government and any political subdivision thereof, (b) any court or administrative tribunal, (c) any other governmental, quasi-governmental, judicial, public or statutory instrumentality, authority, body, agency, bureau or entity of competent jurisdiction or (d) any non-governmental agency, tribunal, or entity that is vested by a governmental agency with applicable jurisdiction.

“**Indemnified Parties**” shall mean the Seller Indemnified Parties and the Buyer Indemnified Parties.

“**Indemnifying Party**” shall have the meaning given to it in Section 7.4.

**“Interconnection Cost Reimbursement”** shall mean all interconnection related costs and expenses incurred or paid by Seller or its Affiliates through the Closing Date for the Project.

**“Knowledge”** means with respect to Seller, the actual knowledge, after reasonable inquiry, of the individuals listed on Schedule 1.1-K.

**“LC Replacement”** shall have the meaning given to that term in Section 2.2.

**“Liabilities”** shall mean, with respect to a Person, any and all debts, liabilities and obligations, of any kind whatsoever, whether absolute, accrued, contingent, fixed, known or unknown, or whether due or to become due.

**“Lien”** shall mean any mortgage, deed of trust, lien (choate or inchoate), pledge, charge, security interest, assessment, reservation, absolute assignment, collateral assignment, hypothecation, option, purchase right, defects in title, encroachment or other burden, or encumbrance of any kind, whether arising by contract or under any Applicable Law and whether or not filed, recorded or otherwise perfected or effective under any Applicable Law, or any preference, priority or preferential arrangement of any kind or nature whatsoever including the interest of a vendor or lessor under any conditional sale agreement, capital lease or other title retention agreement.

**“Losses”** shall mean any and all losses, Liabilities, claims, damages (including any governmental penalty or punitive damages), deficiencies, actions, interest, costs and expenses, including reasonable attorneys’ fees and all other reasonable expenses incurred in investigating, preparing or defending any litigation or proceeding commenced in connection with this Agreement.

**“Option Agreement”** shall have the meaning given to it in Section 5.4.

**“Order”** shall mean any order, writ, injunction, judgment, decree, ruling, assessment, settlement, determination, or arbitration award of any Governmental Authority or arbitrator.

**“Party”** or **“Parties”** shall have the meaning given to them in the introduction to this Agreement.

**“Permit”** shall mean those permits set forth in Schedule 3.6, with respect to the Project Assets.

**“Permitted Lien”** means (a) any Lien for Taxes not yet due and payable or that may thereafter be paid without penalty or that is being contested in good faith by appropriate proceedings; (b) any Lien arising in the ordinary course of business by operation of Law with respect to a Liability that is not yet due or delinquent or that is being contested in good faith by Seller; (c) purchase money Liens arising in the ordinary course of business; (d) all matters, including imperfections or irregularities of title and other Liens, that are disclosed on any survey, in the title policies insuring the Real Property Interests, or any commitments or title proformas therefor, or in any title reports, to the extent such surveys, title policies, commitments, title reports, or title proformas have been made available to Buyer prior to the Execution Date; (e) standard

exceptions and coverage exclusions under title policies to insure the Real Property Interests or any commitments or title proformas therefor; (f) Liens for severed mineral rights or interests; (g) zoning, planning, and other similar limitations and restrictions of record existing as of the Execution Date, and all rights of any Governmental Authority to regulate the Real Property Interests; (h) the terms and conditions of the Contracts, Real Property Documents and Permits; and (i) and the Liens or matters described on Schedule 1.1-PL.

**“Person”** shall mean any natural person, corporation, company, voluntary association, limited liability company, partnership, firm, association, joint venture, trust, unincorporated organization, Governmental Authority, or any other entity whether acting in an individual, fiduciary or other capacity.

**“PJM Queue Position”** shall mean queue position AE2-339, issued by PJM Interconnection, L.L.C. to Seller.

**“Proceeding”** shall mean any action, suit, litigation, arbitration, proceeding (including any civil, criminal, administrative, investigative or appellate proceeding), prosecution, contest, hearing, inquiry, inquest, audit, examination or investigation before any Governmental Authority.

**“Project”** shall mean the development of a 40 MWac solar power project in Fayette County, Kentucky.

**“Project Assets”** shall mean all of the right, title and interest of Seller in and to the assets set forth in Exhibit C, attached hereto.

**“Purchase and Sale”** shall have the meaning given to it in Section 2.1.

**“Purchase Price”** shall have the meaning given to it in Section 2.2.

**“Queue Reform”** shall have the meaning given to it in Section 8.16.

**“Real Property Rights Assignment and Assumption Agreement”** means the document substantially in the form of Exhibit B.

**“Real Property Documents”** shall have the meaning set forth in Section 3.15(a).

**“Real Property Interests”** has the meaning Section 3.15(c).

**“Reliance Letter”** shall mean a reliance letter or similar agreement from a vendor who prepared a Report prior to, and in effect on Closing, permitting Buyer’s reliance on such Report or any applicable portion of such Report relating to the Project upon such vendor’s customary terms.

**“Reports”** shall mean the reports, studies analyses and tests (and all amendments and supplements thereto) set forth on Schedule 3.7.

**“Representatives”** means, as to any Person, its officers, directors, partners, members, and employees, counsel, accountants, financial advisors and consultants.

**“Required Payment”** shall have the meaning given to it in Section 5.4.

**“RUS”** shall have the meaning given to it in Section 6.1(c).

**“RUS Approval”** shall have the meaning given to it in Section 6.1(c).

**“RUS Denial”** shall have the meaning given to it in Section 6.3(a)(ii).

**“RUS Denial Notice”** shall have the meaning given to it in Section 6.3(a)(ii).

**“Savior”** has the meaning set forth in the introduction to this Agreement.

**“Schedule”** shall mean the disclosure schedules to this Agreement.

**“Schedule Update”** shall have the meaning given to it in Section 8.14.

**“Seller”** shall have the meaning given to it in the introduction to this Agreement.

**“Seller Indemnified Party”** shall have the meaning given to it in Section 7.3.

**“Tax”** or **“Taxes”** shall mean any U.S. federal, state, or local income, gross receipts, license, payroll, employment, unemployment, disability, social security, excise, severance, stamp, occupation, premium, windfall profit, environmental, customs, duty, capital stock, franchise, profit, withholding, real property, personal property, sales, use, transfer, registration, value added, alternative or add-on minimum, estimated, or other tax, impost, levy or duty of any kind whatsoever, including any interest, penalty, or addition thereto, whether any such Tax is disputed or not.

**“Tax Return”** shall mean any return, declaration, report, statement or information statement and other document required to be filed with respect to Taxes.

**“Third-Party Claim”** shall have the meaning given to it in Section 7.4.

**“Title Commitments”** shall mean Commitment for Title Insurance, dated November 1, 2023, File Number 19000331707-01 Amd 1 issued by Stewart Title Guaranty Company, and Commitment for Title Insurance, dated November 1, 2023, File Number 19000331708-01 Amd 1, issued by Stewart Title Guaranty Company.

**“Transfer Tax”** shall mean any sales tax, conveyance tax, recording tax, value added tax, transaction privilege tax, transaction tax, use tax, stamp tax, stock transfer tax or other similar tax, including any related penalties, interest and additions thereto.

1.2 Construction. A reference to an annex, article or section or other provision shall be, unless otherwise specified, to annexes, articles, sections or other provisions of this Agreement which are incorporated herein by reference; any reference in this Agreement to another agreement, document, Applicable Law or Permit shall be construed as a reference to that other agreement, document, Applicable Law or Permit as the same may have been, or may from time to time be, varied, amended, supplemented, substituted, novated, assigned or otherwise transferred from time

to time; any reference in this Agreement to "this Agreement", "herein", "hereof", or "hereunder" shall be deemed to be a reference to this Agreement as a whole and not limited to the particular article, section, schedule, exhibit or provision in which the relevant reference appears; references to any Party shall, where appropriate, include any successors, transferees and permitted assigns of such Party; references to the term "includes" or "including" shall be deemed to mean "includes, without limitation" or "including, without limitation"; references to "or" shall be deemed to be disjunctive but not necessarily exclusive (i.e., unless the context dictates otherwise, "or" shall be interpreted to mean "and/or" rather than "either/or"); and terms defined in this Article 1 shall include the singular as well as the plural, where applicable.

## ARTICLE 2. PURCHASE AND SALE; CLOSING

2.1 **Purchase and Sale.** At Closing, and subject to and upon the terms and conditions of this Agreement, Seller shall sell, assign, transfer, convey and deliver to Buyer, and Buyer shall purchase, acquire and accept from Seller, the Project Assets, free and clear of all Liens other than Permitted Liens, and Buyer shall assume and agree to pay for, perform and discharge the Assumed Liabilities (the "**Purchase and Sale**").

2.2 **Purchase Price.** In full consideration for the Purchase and Sale, Buyer shall (a) pay to Seller (i) \$ [REDACTED] (the "**Base Purchase Price**") and (ii) the Interconnection Cost Reimbursement (the Base Purchase Price and the Interconnection Cost Reimbursement shall together be the "**Purchase Price**"), (b) replace the letter of credit posted by Seller with PJM Interconnection, L.L.C. in the amount of \$ [REDACTED] ("**LC Replacement**"), and (c) assume the Assumed Liabilities, which shall be payable or assumed at the times and subject to the conditions set forth below:

(a) Upon the execution of this Agreement by the Parties on the Execution Date, Buyer shall pay to Seller an amount equal to the sum of \$ [REDACTED] (the "**Execution Payment**") plus the sum of \$ [REDACTED] ("**Execution Date Interconnection Cost Reimbursement**") in immediately available funds by wire transfer to the bank account designated by Seller. The Execution Payment and the Execution Date Interconnection Cost Reimbursement paid by Buyer to Seller shall be retained by Seller, and shall not be refundable to Buyer, if Closing does not occur; provided, however, that if this Agreement is terminated by Buyer pursuant to Sections 6.3(a)(iv), Seller shall immediately repay to Buyer the Execution Payment and the Execution Date Interconnection Cost Reimbursement.

(b) Upon the occurrence of the Closing, Buyer shall (i) pay to Seller an amount equal to the sum of \$ [REDACTED] (representing the remaining balance of the Base Purchase Price) plus the Interconnection Cost Reimbursement minus the Execution Date Interconnection Cost Reimbursement, in immediately available funds by wire transfer to the bank account designated by Seller, (ii) assume the Assumed Liabilities, and (iii) provide the LC Replacement.

2.3 **Closing.** The consummation of the Purchase and Sale (the "**Closing**") shall take place virtually via the electronic exchange of documents and signatures on such mutually agreeable date as soon as practical and no later than five (5) Business Days after the conditions to the Closing

set forth in Section 6.1 and Section 6.2 have been satisfied or waived (the date upon which Closing occurs, the "**Closing Date**").

2.4 Seller Closing Deliverables. At or prior to the Closing, Seller shall deliver to Buyer the following:

- (a) an executed counterpart from Seller of the Bill of Sale and Assignment Agreement, dated as of the Closing Date, in substantially the form of Exhibit A;
- (b) an executed counterpart from Seller of the Real Property Rights Assignment and Assumption Agreement in the form of Exhibit B;
- (c) a good standing certificate of Seller issued by the Secretary of State of the State of Delaware, dated within thirty (30) days of the Closing Date, certifying that Seller is in good standing and is qualified to do business in such State;
- (d) any Consents required from third parties set forth on Schedule 3.10; and
- (e) all other certificates, instruments or documents required by the provisions of this Agreement or otherwise necessary or appropriate to transfer the Project Assets in accordance with the terms of this Agreement and the Ancillary Documents and to vest in Buyer or its Affiliates full, complete, absolute, legal and equitable title to the Project Assets, free and clear of all Liens other than Permitted Liens.

2.5 Buyer Closing Deliverables. At or prior to the Closing, Buyer shall deliver to Seller the following:

- (a) an executed counterpart from Buyer of the Bill of Sale and Assignment Agreement, dated as of the Closing Date, in substantially the form of Exhibit A;
- (b) an executed counterpart from Buyer of the Real Property Rights Assignment and Assumption Agreement in the form of Exhibit B;
- (c) a good standing certificate of Buyer issued by the Secretary of State of the State of Kentucky dated within thirty (30) days of the Closing Date, certifying that Buyer is in good standing and is qualified to do business in such state; and
- (d) a payment equal to the amount owed to Seller under Section 2.2(b) above by wire transfer in immediately available funds.
- (e) evidence of delivery of a replacement letter of credit to PJM Interconnection, L.L.C. in connection with the LC Replacement.

2.6 Transfer Taxes and Filings Fees. Seller and Buyer shall each be responsible for and will timely pay [REDACTED] and filing fees associated with the Purchase and Sale. To the extent a Party does not timely pay any such amounts, the other Party may pay such amounts directly, and the delinquent Party agrees to promptly reimburse the paying Party for its [REDACTED]

2.7 Allocation of Purchase Price. Seller and Buyer agree that the Purchase Price and the Assumed Liabilities (plus other relevant items) shall be allocated for all purposes (including Tax and financial accounting) as shown on the allocation schedule (as finally determined pursuant to this Section 2.7) (the “**Allocation Schedule**”). A draft of the Allocation Schedule shall be prepared by Buyer and delivered to Seller within ninety (90) days following the Closing Date. If Seller notifies Buyer in writing that Seller objects to one or more items reflected in the Allocation Schedule, Seller and Buyer shall negotiate in good faith to resolve such dispute; *provided, however,* that if Seller and Buyer are unable to resolve any dispute with respect to the Allocation Schedule within ninety (90) days following the Buyer’s receipt of objections by Seller, each Party shall be permitted to adopt its own position regarding the Allocation Schedule as reasonably determined by such Party. If the Parties agree on the Allocation Schedule, Buyer and Seller shall file all Tax Returns (including amended returns and claims for refund) and information reports in a manner consistent with the Allocation Schedule in accordance with applicable Law; provided, however, that no Party shall be unreasonably impeded in its ability and discretion to negotiate, compromise, or settle any Tax audit, claim or similar proceeding in connection with the Allocation Schedule.

### **ARTICLE 3. REPRESENTATIONS AND WARRANTIES OF SELLER**

Seller hereby represents and warrants to Buyer as of the Execution Date and Closing Date (other than representations that speak to a different date, in which case as of such different date) in each case except as disclosed in the Schedules to this Agreement, the following:

3.1 Organization. Seller (a) has been duly organized, is validly existing and is in good standing under its jurisdiction of formation and (b) has been duly qualified to do business in and is in good standing in all jurisdictions in which the Project Assets are located except where failure to be so qualified would not have a material adverse effect to the Project Assets.

3.2 Authority. Seller has the requisite power and authority to execute and deliver this Agreement and the Ancillary Documents to which it is or will be a party, and to perform fully its obligations hereunder and thereunder, including transferring, or causing the transfer of, the Project Assets to Buyer.

3.3 Binding Effect. Seller has taken all necessary limited liability company action to authorize, effect and approve the transactions set forth in this Agreement and the Ancillary Documents. This Agreement and each Ancillary Document to which Seller is or will be a party have been duly executed and delivered by Seller and constitute a legal, valid and binding obligation of Seller, enforceable against Seller in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, fraudulent conveyance or transfer moratorium or similar laws affecting the enforcement of creditors’ rights generally or by general principles of equity relating to enforceability (regardless of whether considered in a proceeding at law or in equity).

3.4 No Violations. Seller’s execution and delivery of this Agreement and the Ancillary Documents to which it is or will be a party, together with the consummation and performance of its obligations hereunder and thereunder, do not (a) conflict with or violate the organizational

documents of Seller, (b) subject to obtaining the Consents identified on Schedule 3.7, conflict with, violate or constitute a default under, or impose or create any Lien, acceleration of remedies, any buy-out right or any rights of first offer or refusal or of termination under any Contract, or (c) materially conflict with or violate any Applicable Law or Order applicable to Seller or any of the Project Assets.

### 3.5 Contracts.

(a) Schedule 3.5 contains a true, correct and complete list of the Contracts. Except as set forth on Schedule 3.5, Seller has good and marketable title to such Contracts free and clear of any and all Liens other than Permitted Liens.

(b) True, correct and complete copies of each Contract and any amendments thereto have been made available to Buyer.

(c) Each Contract has been duly authorized, executed, and delivered as applicable by Seller, and constitutes a legal, valid, binding and enforceable agreement of Seller and, to Seller's Knowledge, the respective counterparties thereto, and will not be rendered invalid or unenforceable as a result of the transactions contemplated by this Agreement, except, in each case, as such enforceability may be limited by applicable bankruptcy, insolvency, moratorium, reorganization or other similar laws affecting the enforcement of creditors' rights and subject to general equitable principles.

(d) (i) each of the Contracts is in full force and effect, (ii) no material defaults of Seller or to Seller's Knowledge, of any other parties thereto have occurred and are continuing thereunder, (iii) (A) to Seller's Knowledge, no event has occurred which, with or without notice or lapse of time or both, would constitute a breach or default thereunder by other parties to any such Contract or permit termination, modification or acceleration by Seller under any such Contract, and (B) no event has occurred which, with or without notice or lapse of time or both, would constitute a breach or default thereunder by Seller or permit termination, modification or acceleration by other parties under any such Contract and (iv) Seller has not received from, or given to, any counterparty thereto any written notification that any event has occurred which (whether with or without notice, lapse of time or both) would constitute a material breach or default thereunder.

(e) All amounts due and payable by the Seller as of the Closing Date under any Contract have been fully paid on or prior to the Closing Date, and no counterparty to any such Contract has any right to offsets or defenses in connection therewith.

3.6 Permits. Schedule 3.6 sets forth a true, correct and complete list of the Permits obtained by Seller or its Affiliates that are valid and in full force and effect to be transferred to Buyer at the Closing. Seller is in material compliance with the terms and conditions of each Permit and no event has occurred and continuing which, with notice or lapse of time or both, would constitute non-compliance with or default under or violation of the terms or provisions of any such Permit. Seller has not received a written notice from any Governmental Authority revoking any Permit or materially modifying the requirements pertaining to any Permit. No Permit will be rendered invalid or unenforceable as a result of the transactions contemplated by this Agreement,



except, in each case, as such enforceability may be limited by applicable bankruptcy, insolvency, moratorium, reorganization or other similar laws affecting the enforcement of creditors' rights and subject to general equitable principles.

3.7 Reports. Schedule 3.7 contains a true, correct, and complete list of the Reports to be transferred to Buyer at the Closing or for which a Reliance Letter will be provided to Buyer at Closing. Seller has delivered true and complete copies of the Reports to Buyer.

3.8 Books and Records. Seller has delivered to Buyer true, correct and complete copies of the Books and Records.

3.9 Taxes.

(a) All Tax Returns of Seller required to have been filed by or with respect to the Project Assets as of the Closing Date, if any, have been timely filed, and each such Tax Return was or is true, correct and complete in all material respects. All Taxes required to be paid by Seller as of the Closing Date, if any, in respect of the Project Assets (whether or not shown or required to be shown on any Tax Return) have been timely paid.

(b) There is no action or audit now pending or, to Seller's Knowledge, threatened or proposed against or with respect to any of the Project Assets in respect of any Taxes.

(c) Seller has withheld and paid all Taxes in a timely manner required to have been withheld and paid by or with respect to it, if any, and has complied with all information reporting and backup withholding requirements, including maintenance of required records with respect thereto, to the extent applicable.

(d) There is no dispute or claim concerning any liability for Taxes with respect to the Project Assets for which written notice has been provided by or to Seller, or, to Seller's Knowledge, threatened or asserted by or against Seller. Seller has not waived any statute of limitations in respect of Taxes or agreed to any extension of time with respect to a Tax assessment or deficiency with respect to the Project Assets.

(e) Seller has not received any written ruling from any Governmental Authority or entered into any agreement with a Governmental Authority with respect to Taxes related to the Project Assets.

3.10 Consents and Approvals. Except as set forth on Schedule 3.10, Seller is not required to give any notice to or obtain any consent, approval, order or authorization of or registration, declaration or filing with or exemption from (collectively, the "Consents") any Governmental Authority or any other Person in connection with the execution and delivery of this Agreement or the Ancillary Documents or the consummation of the Purchase and Sale.

3.11 Compliance with Law. Seller has complied materially with all Applicable Laws and Orders related to the Project Assets.

3.12 Litigation. In connection with any Project Assets, this Agreement or the Ancillary Documents (a) Seller has not received written notice of any Proceeding, and (b) there is no pending or, to Seller's Knowledge, threatened, Proceeding against Seller.

3.13 [Reserved].

3.14 Liabilities. With respect to the Project Assets, Seller has no Liabilities other than (a) the Liabilities evidenced by the Contracts, (b) the Excluded Liabilities and (c) the Liabilities set forth on Schedule 3.14.

3.15 Real Property.

(a) Schedule 3.15 sets forth all fully executed agreements and other instruments creating or evidencing a fee simple estate, leasehold estate, easement estate, license or other right to use real property to which Seller is a party (collectively, the "**Real Property Documents**"). Schedule 3.15 sets forth (i) the name of each Real Property Document; (ii) the parties to each Real Property Document; and all amendments with respect to each Real Property Document. Except as set forth on Schedule 3.15(a), there are no improvements located on the real property covered by the Real Property Documents.

(b) Except for title defects, Liens, easements, rights of way, and encumbrances, if any, set forth in Schedule B-II of the Title Commitments delivered to Buyer, each of the Real Property Documents (i) is in full force and effect, has been duly authorized, executed and delivered by Seller, (ii) constitutes a legal, valid and binding obligation of Seller and, to the Knowledge of Seller, each other party thereto and is enforceable against Seller and, to the Knowledge of Seller, each other party thereto, in accordance with its terms; and (iii) is unamended (other than as disclosed on Schedule 3.15(a)).

(c) Seller does not own any real property in fee, or have options for or leasehold interests in real property (including options to acquire real property in fee, leasehold or easement estates) other than the interests in real property evidenced by the Real Property Documents ("**Real Property Interests**").

(d) There exists no default under the Real Property Documents by Seller or any other Person that is a party thereto.

(e) To Seller's Knowledge, except as set forth in Schedule 3.15(e), there are no oral or unrecorded agricultural leases or hunting leases encumbering the Real Property Interests that cannot be terminated at will.

(f) The representations and warranties set forth in this Section 3.15 are Seller's sole and exclusive representations and warranties concerning the Real Property Documents and Real Property Interests.

3.16 No Other Warranties. **EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES SET FORTH BY SELLER IN THIS AGREEMENT, THE PROJECT ASSETS ARE BEING SOLD HEREUNDER ON AN "AS IS", "WHERE IS" BASIS.**

**SELLER PROVIDES NO OTHER REPRESENTATIONS OR WARRANTIES, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WARRANTIES ARISING FROM COURSE OF DEALING OR USAGE OF TRADE, OR ANY OTHER REPRESENTATIONS OR WARRANTIES, WHETHER STATUTORY, EXPRESS OR IMPLIED, ALL OF WHICH ARE EXPRESSLY DISCLAIMED. SELLER MAKES NO REPRESENTATION OR WARRANTY TO BUYER WITH RESPECT TO ANY FINANCIAL PROJECTIONS, FORECASTS OR FORWARD LOOKING STATEMENTS OF ANY KIND OR NATURE WHATSOEVER RELATING TO THE PROJECT ASSETS.**

3.17 Interconnection Cost Reimbursement. As of the Execution Date, the amount of the Interconnection Cost Reimbursement is [REDACTED]

3.18 PJM Queue. Buyer has the right to convey the Project Assets consistent with, and to satisfy, the PJM Independent System Operator rules and requirements regarding site control contained in its Open Access Transmission Tariff.

#### **ARTICLE 4. REPRESENTATIONS AND WARRANTIES OF BUYER**

Buyer hereby represents and warrants to Seller as of the Execution Date and Closing Date (other than representations that speak to a different date, in which case as of such different date) in each case except as disclosed in the Schedules to this Agreement, the following:

4.1 Organization. Buyer (a) has been duly formed, is validly existing and is in good standing under its jurisdiction of formation and (b) has been duly qualified to do business in and is in good standing in all jurisdictions in which its properties (or the character of its business) requires such qualification.

4.2 Authority. Buyer has the requisite corporate power and authority to execute and deliver this Agreement and the Ancillary Documents to which it is or will be a party, and to perform fully its obligations hereunder and thereunder, and to consummate the transactions contemplated hereby and thereby.

4.3 Binding Effect. Buyer has taken all necessary corporate action to authorize, effect and approve the transactions set forth in this Agreement and the Ancillary Documents. This Agreement and each Ancillary Document to which it is or will be a party have been duly executed and delivered by Buyer and constitute a legal, valid and binding obligation of Buyer, enforceable against it in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, fraudulent conveyance or transfer, moratorium or similar laws affecting the enforcement of creditors' rights generally or by general principles of equity relating to enforceability (regardless of whether considered in a proceeding at law or in equity).

4.4 No Violations. Buyer's execution and delivery of this Agreement and the Ancillary Documents to which it is or will be a party, together with the consummation and performance of its obligations hereunder and thereunder, do not (a) materially conflict with or violate the organizational documents of Buyer, (b) conflict with, violate or constitute a default under, or

impose or create any Lien, acceleration of remedies, any buy-out right or any rights of first offer or refusal or of termination under any material agreement or instrument to which Buyer is a party or by which Buyer may be bound, (c) conflict with or violate any Applicable Law or Order applicable to Buyer or any of its properties or assets, or (d) except as set forth on Schedule 4.4, require the consent or approval of any Person, which has not already been obtained or which, if not obtained, could reasonably be expected to have a material adverse effect on Buyer's ability to perform its obligations hereunder.

4.5 Litigation. There is no Proceeding pending or, to Buyer's knowledge, threatened against or affecting Buyer or its properties or assets, which relates to or challenges the legality, validity or enforceability of this Agreement or which (individually or in the aggregate) reasonably could be expected to materially impair the ability of Buyer to perform fully its obligations under this Agreement or any of the Ancillary Documents to which it is or will be a party.

4.6 Consents and Waivers. Except as set forth on Schedule 4.4, no authorization, consent, approval, waiver, license, qualification or written exemption from, nor any filing, declaration, qualification or registration with, any Governmental Authority or any other Person is required to be obtained by Buyer in connection with the execution and delivery of this Agreement or any of the Ancillary Documents to which Buyer is a party or the consummation of the transactions contemplated hereunder and thereunder.

4.7 Brokers or Finders. Buyer has not engaged any broker, finder, or other agent with respect to the transactions contemplated by this Agreement and the Ancillary Documents or any purchase or financing of the Project Assets, or any purchase or transfer of any credits or other items or attributes that may be generated by the Project upon operation, including Tax credits or benefits or pollution or emission credits or benefits, for which Seller could become, or is, liable or obligated.

4.8 Opportunity for Independent Investigation. Prior to its execution of this Agreement and as of Closing, Buyer has conducted to its satisfaction an independent investigation and verification of the current condition (financial or otherwise), development activities, affairs and prospects of the Project. In making its decision to execute this Agreement and to purchase the Project Assets, Buyer has relied upon the results of such independent investigation and verification and the terms and conditions of this Agreement. Buyer acknowledges that: (a) it has had the opportunity to visit with Seller and meet with Seller's Representatives to discuss the Project Assets and their condition (financial or otherwise), development activities, affairs and prospects, (b) it has had access to the Data Site, and (c) all materials and information requested by Buyer have been provided to Buyer to Buyer's reasonable satisfaction. Provided nothing in this Section 4.8 shall be interpreted as limiting the obligation of Seller to perform any covenant set forth in this Agreement or limiting the ability of Buyer to make a claim for Fraud.

4.9 Acknowledgement. Buyer acknowledges that, except with respect to the representations and warranties expressly made by Seller in this Agreement and in the Ancillary Documents, Seller has not made any representation or warranty, either express or implied, under this Agreement or any of the other Ancillary Documents or otherwise, nor has Buyer relied on any representation or warranty not expressly made in this Agreement or the Ancillary Documents.

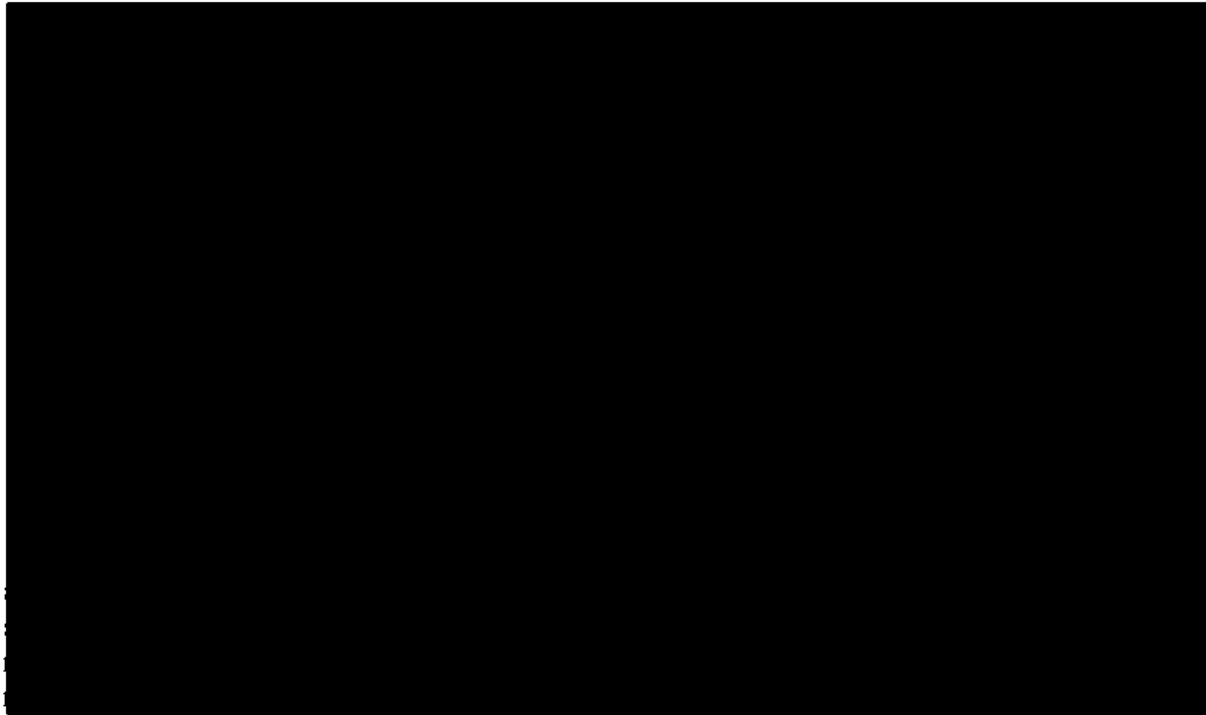
**ARTICLE 5.  
COVENANTS**

5.1 Satisfaction of Conditions Subject to all other provisions of this Agreement, after the Execution Date and until the Closing Date or the earlier termination of this Agreement pursuant to Section 6.3, each Party shall take such commercially reasonable steps as are necessary and shall proceed in good faith and consistent with such commercially reasonable steps to satisfy each condition precedent to be satisfied by it, and shall not take actions as shall be reasonably likely to result in a nonfulfillment of any condition; provided that a Party shall not be responsible for the acts or omissions of the other Party or of any third party or for any circumstances or events beyond its reasonable control.

5.2 Access to Management, Properties and Records Through the Closing Date, upon reasonable Notice, Seller shall afford to Buyer and its Affiliates and each of their respective Representatives reasonable access to (a) the Project Assets and (b) records and files relating to the Project Assets (including the right to inspect and copy such records and files). Buyer shall hold any such information furnished to it by Seller in confidence in accordance with Section 8.3. Notwithstanding the foregoing, Buyer's access to the Data Site may be terminated by Seller sixty (60) days after the earlier of the termination or Closing of this Agreement.

5.3 Commercially Reasonable Efforts. From time to time prior to the Closing Date, each Party shall exercise commercially reasonable efforts to deliver, cause to be delivered or otherwise make available to the other Party supplemental information concerning events subsequent to the Execution Date which would (or would reasonably be expected to) constitute a pre-Closing breach by such Party or a failure of a condition to Closing; provided that none of such supplemental information shall constitute an amendment of any provision of this Agreement, exhibit or document furnished pursuant hereto.

5.4 Further Assurances and Cooperation. Upon the reasonable request of the other Party, each Party agrees to execute and deliver, or cause its respective Affiliates to execute and deliver, such further documents and instruments and to take such further actions after the Closing Date as may be necessary and reasonably requested by the other Party to give effect to the transactions contemplated by this Agreement, at the cost and expense of the requesting Party; provided, however, no Party shall be required to take any action that, in the opinion of its counsel, could constitute a violation of any Applicable Law. In addition, from and after the Execution Date and until the Closing Date, Seller agrees that it shall not take any action to terminate the PJM Queue Position; provided, however, that the Parties agree that Seller shall not be required to make any payments to maintain the PJM Queue Position after the Execution Date except as hereinafter provided in this Section 5.4. [REDACTED]



5.5 Public Announcements. Seller and Buyer shall consult with each other before issuing, and provide each other the opportunity to review and comment upon, any press release or other public statement with respect to the terms, conditions or existence of this Agreement or the transactions contemplated hereby, and neither Party shall issue any such press release or make any such public statement without the prior written consent of the other Party, except as may be agreed upon in writing by the Parties or required by Applicable Laws.

5.6 Covenant of Buyer to Seek CPCN and RUS Approval. On or before March 31, 2024, Buyer shall have made application for CPCN Approval and for RUS Approval.

5.7 Covenant of Buyer to Provide Notice of CPCN Approval or Denial. Within two (2) Business Days of receipt by Buyer of CPCN Approval or CPCN Denial, as applicable, Buyer shall provide written notice to Seller of the same.

5.8 Covenant of Buyer to Provide Notice of RUS Approval or Denial. Within two (2) Business Days of receipt by Buyer of RUS Approval or RUS Denial, as applicable, Buyer shall provide written notice to Seller of the same.

5.9 Interconnection Cost Reimbursement. From the Execution Date until the Closing or the earlier termination of this Agreement pursuant to Section 6.3, Seller shall not expend any amounts that would be included in the Interconnection Cost Reimbursement without the prior written consent of Buyer, such consent not to be unreasonably withheld.

5.10 Option Exercise. Unless this Agreement has been terminated pursuant to Section 6.3, Seller shall not exercise a purchase option under a Real Property Document without the prior written consent of Buyer (which may be withheld in Buyer's sole discretion).

5.11 Access Agreements. Unless this Agreement has been terminated pursuant to Section 6.3, Seller shall not terminate either of the Access Agreements without the prior written consent of Buyer (which may be withheld in Buyer's sole discretion).

5.12 Cooperation. Prior to the Closing, Buyer and Seller shall deliver to Stewart Title Guaranty Company such affidavits, certificates, and other instruments as are reasonably and customarily requested by such title company and are customarily furnished in connection with the issuance of ALTA owner's policies of title insurance, to the extent title insurance is required and paid for by Buyer.

## ARTICLE 6. CLOSING CONDITIONS

6.1 Conditions Precedent to the Obligations of Buyer. The obligation of Buyer to consummate the Closing is subject to the fulfillment, on or prior to the Closing Date, of each of the following conditions (any or all of which may be waived by Buyer):

(a) Buyer shall have received or Seller shall have made available each of the Seller deliverables described in Article 2.

(b) Buyer shall have obtained approval of its application for a Certificate of Public Convenience and Necessity ("CPCN") from the Kentucky Public Service Commission which includes the approval of the Project by Buyer or an Affiliate of Buyer ("CPCN Approval").

(c) Buyer shall have obtained final approval by the Rural Utility Service of the United States Department of Agriculture ("RUS") required to provide financing (through loans, grants or otherwise) for purposes of the acquisition, development, ownership or operation of the Project in an amount of at least One Hundred Million Dollars (\$100,000,000) ("RUS Approval").

(d) The PJM Queue Position as of the Execution Date has not been terminated by Seller without the prior written consent of Buyer.

(e) No proceeding shall have been instituted or threatened in writing by any Governmental Entity that seeks to impair, restrain, prohibit or invalidate the transactions contemplated by this Agreement.

(f) All representations and warranties made by Seller in this Agreement shall be true and correct in all material respects as of the Execution Date and the Closing Date, except to the extent such representations and warranties are by their express terms made on or as of another specific date (in which case, such representations and warranties shall be true and correct as of such date).

(g) Seller shall have materially performed and complied with all obligations, agreements and covenants required by this Agreement to be performed and complied with by Seller as of the Closing Date.

(h) The Consents described in Schedule 3.10 and Schedule 4.4 shall have been obtained, given or made, as applicable, without conditions and remain in full force and effect,

*provided, however*, that delivery by Seller to Buyer of a Reliance Letter will be deemed to satisfy any consent required relating thereto.

(i) Except as otherwise expressly provided or limited in the representations and warranties set forth in Article 3 above, the Project Assets are not subject to any Liens, other than Permitted Liens.

6.2 Conditions Precedent to the Obligations of Seller. The obligation of Seller to consummate the Closing is subject to the fulfillment, on or prior to the Closing Date, of each of the following conditions (any or all of which may be waived by Seller):

(a) Seller shall have received each of the Buyer deliverables described in Article 2.

(b) No Proceeding shall have been instituted or threatened in writing by any Governmental Entity that seeks to impair, restrain, prohibit or invalidate the transactions contemplated by this Agreement.

(c) The representations and warranties made by Buyer in this Agreement shall be true and correct in all material respects as of the Execution Date and the Closing Date, except to the extent such representations and warranties are by their express terms made or another specific date (in which case, such representations and warranties shall be true and correct in all material respects as of such date).

(d) Buyer shall have materially performed and complied with all obligations, agreements and covenants required by this Agreement to be performed and complied with by Buyer as of the Closing Date.

(e) No Proceeding shall have been instituted or threatened in writing by any Governmental Entity that seeks to impair, restrain, prohibit or invalidate the transactions contemplated by this Agreement.

6.3 Termination.

(a) Notwithstanding anything contained in this Agreement to the contrary, this Agreement may be terminated at any time prior to the Closing as follows:

(i) Automatically upon receipt by Seller of written notice from Buyer (the "**CPCN Denial Notice**") that Buyer received written notice from the Kentucky Public Service Commission that Buyer's CPCN application is denied ("**CPCN Denial**"), evidence of which shall be included in the CPCN Denial Notice;

(ii) Automatically upon receipt by Seller of written notice from Buyer (the "**RUS Denial Notice**") that Buyer received written notice from RUS that RUS will not grant RUS Approval ("**RUS Denial**"), evidence of which shall be included in the RUS Denial Notice;



(iii) By Seller, if there has been a breach by Buyer of any material representation, warranty, covenant or agreement contained in this Agreement, which is not cured within thirty (30) days after written notice of such breach is received;

(iv) By Buyer, if there has been a breach by Seller of any material representation, warranty, covenant or agreement contained in this Agreement, which is not cured within thirty (30) days after written notice of such breach is received;

(v) By the mutual written consent of the Parties;

(vi) By Buyer, pursuant to Section 8.14 in connection with a Schedule Update; or

(vii) By Buyer or Seller, if the Closing has not occurred on or before March 24, 2025 and if such Party desiring to terminate pursuant to this Section 6.3(a)(vii) has utilized commercially reasonable efforts to satisfy conditions to Closing prior to such date.

(viii) Automatically if Buyer issues a Buyer Declination in response to a Buyer's Payment Notice or fails to timely respond to a Buyer's Payment Notice under Section 5.4.

(b) Any Party desiring to terminate this Agreement pursuant to Section 6.3(a)(iii), Section 6.3(a)(iv), Section 6.3(a)(vi), or Section 6.3(a)(vii) shall give written notice of such termination to the other Party to this Agreement.

(c) Termination of this Agreement pursuant to this Section 6.3 will terminate all obligations of the Parties hereto, provided, however, that termination pursuant to Section 6.3(a)(iii) or Section 6.3(a)(iv) will not relieve any defaulting or breaching Party from any liability to the other Party and the non-defaulting or non-breaching party shall have the right to bring any action at law or in equity arising out of such breach or default.

## ARTICLE 7. SURVIVAL; INDEMNIFICATION

7.1 Survival of Representations and Agreements. The representations and warranties of Seller and Buyer contained in this Agreement, any Ancillary Document or any certificate delivered pursuant to this Agreement shall survive the Closing for a period of eighteen (18) months; *provided, however*, that the representations and warranties contained in Sections 3.1, 3.2, 4.1, 4.2 and 4.7 shall survive for the period of the applicable statute of limitations, ("**Fundamental Representations**"). All covenants and agreements of the Parties to be performed after the Closing shall survive until they have been performed in full or waived in writing.

7.2 Indemnification by Seller. Seller hereby agrees to indemnify and hold harmless Buyer and its officers, managers, members, shareholders, directors, and employees (each, a "**Buyer Indemnified Party**") from and against any and all Losses to any Buyer Indemnified Party arising out of or resulting from (a) any breach of any representations and warranties made by Seller in this Agreement or any Ancillary Document, (b) any breach of any covenant or agreement made by Seller in this Agreement or any Ancillary Document, (c) any Excluded Liability, (d) any Third-

Party Claim (defined below) brought against Buyer arising from or related to ownership of the Project Assets prior to the Closing Date, (e) any Transfer Taxes or filing fees for which Seller is liable hereunder, (f) any Fraud by Seller in connection with this Agreement or the transactions contemplated by this Agreement, or (g) any commissions, fees, or similar amounts payable to any broker, finder or other agent as a result of any agreement by Seller or any other party to a Real Estate Document with respect to the transactions contemplated by this Agreement and the Ancillary Documents (including any exercise of an option under a Real Property Document) or any sale or transfer of any credits or other items or attributes that may be generated by the Project Assets upon operation, including Tax credits or benefits or pollution or emission credits or benefits, for which Buyer or the Project Assets are liable or obligated.

7.3 Indemnification by Buyer. Buyer hereby agrees to indemnify and hold harmless Seller and its officers, managers, members, directors, and employees (each, a “**Seller Indemnified Party**”) from and against any and all Losses to any Seller Indemnified Party arising out of or resulting from (a) any breach of any representations and warranties made by Buyer in this Agreement or any Ancillary Document, (b) any breach of any covenant or agreement by Buyer contained in this Agreement or any Ancillary Document, (c) any Assumed Liabilities, (d) any Third-Party Claim (defined below) brought against Seller arising from or related to ownership of the Project Assets as of and after the Closing Date, (e) any Transfer Taxes or filing fees for which Buyer is liable hereunder, or (f) any Fraud by Buyer in connection with this Agreement or the transactions contemplated by this Agreement.

7.4 Procedures.

(a) In order for a Buyer Indemnified Party or Seller Indemnified Party (as applicable, the “**Indemnified Party**”) to be entitled to any indemnification provided for under this Agreement as a result of a Loss or a claim or demand made by any Person against the Indemnified Party (a “**Third-Party Claim**”), such Indemnified Party shall promptly deliver written notice thereof to the Party against whom indemnity is sought (the “**Indemnifying Party**”), describing in reasonable detail the facts giving rise to such Third-Party Claim, the amount or method of computation of the amount of such claim (if known) and such other information with respect thereto as the Indemnifying Party may reasonably request. The failure to provide such notice, however, shall not release the Indemnifying Party from any of its obligations under this Article 7 except to the extent that the Indemnifying Party is prejudiced by such failure.

(b) The Indemnifying Party shall have the right, upon written notice to the Indemnified Party within thirty (30) days after receipt of notice from the Indemnified Party of such Third-Party Claim, to assume the defense thereof at the expense of the Indemnifying Party with counsel selected by the Indemnifying Party and reasonably satisfactory to the Indemnified Party. If the Indemnifying Party assumes the defense of such Third-Party Claim, the Indemnified Party shall, at its own expense, have the right to employ separate counsel and to participate in the defense thereof. If the Indemnifying Party assumes the defense of any Third-Party Claim, the Indemnified Party shall cooperate with the Indemnifying Party in such defense and make available to the Indemnifying Party all witnesses, pertinent records, materials and information in the Indemnified Party’s possession or under the Indemnified Party’s control relating thereto, as is reasonably required by the Indemnifying Party. Whether or not the Indemnifying Party assumes the defense of a Third-Party Claim, the Indemnified Party shall not admit any liability with respect to, or settle,

compromise or discharge, or offer to settle, compromise or discharge, such Third-Party Claim without the Indemnifying Party's prior written consent, which consent shall not be unreasonably withheld.

(c) In the event any Indemnified Party should have a claim against any Indemnifying Party that does not involve a Third-Party Claim, the Indemnified Party shall deliver notice of such claim promptly to the Indemnifying Party, describing in reasonable detail the facts giving rise to such claim, the amount of such claim (if known), and such other information with respect thereto as the Indemnifying Party may reasonably request. The failure to provide such notice, however, shall not release the Indemnifying Party from any of its obligations under this Article 7 except to the extent that the Indemnifying Party is prejudiced by such failure. The Indemnified Party shall reasonably cooperate and assist the Indemnifying Party in determining the validity of any claim for indemnity by the Indemnified Party and in otherwise resolving such matters.

7.5 Exclusive Remedy. Except as otherwise provided in this Article 7, the indemnification obligations of the Parties contained in this Agreement shall be the sole and exclusive remedy of the Parties hereto and their Affiliates, successors and assigns with respect to any and all claims for Losses sustained or incurred arising out of or relating to any breach of representation, warranty, covenant or agreement contained in this Agreement, provided, however, that the Parties may seek to enforce the provisions of this Agreement by injunction or other equitable relief. Each Party hereby expressly waives and disclaims, and agrees that it shall not assert, any right, remedy (including the remedy of rescission) or claim in respect of any such breach or Losses, except as and to the extent permitted in this Article 7. This provision shall not limit any available remedy of the Party seeking indemnification for any Losses resulting from, or related to the Fraud of another Party. Nothing in this Section is intended to constitute a waiver or limitation of any rights that either Party (or their respective Affiliates) may have to assert claims against third parties.

#### 7.6 Limits on Indemnity.

(a) Seller will not be liable for any Loss under Section 7.2(a) unless and until the Buyer Indemnified Parties have suffered, incurred, sustained or otherwise become subject to such Losses that exceed, in the aggregate, one percent (1%) of the Purchase Price (the "**Basket**"), in which event Seller shall pay or be liable for all such Losses in excess of the Basket; *provided, however,* that the limitation set forth in this Section 7.6(a) will not apply to (and any Losses incurred as a result of any of the following will not count toward the limitation set forth in this Section 7.6(a)) claims of, or causes of action arising from, any breach of a Fundamental Representation by Seller.

(b) The maximum amount that Seller will be required to pay in the aggregate in respect of all Losses (after application of the Basket) by all Buyer Indemnified Parties pursuant to Section 7.2(a) will not exceed fifteen percent (15%) of the Purchase Price actually paid by Buyer to Seller hereunder (the "**Cap**"), and Seller will have no obligation to indemnify Buyer Indemnified Parties from and against any such Losses in excess of the Cap; *provided, however,* that the limitations set forth in this Section 7.6(b) will not apply to claims of, or causes of action arising from, any breach of a Fundamental Representation by Seller. Notwithstanding the

foregoing, in no event will Seller be obligated to pay for any Losses arising out of any breach of a Fundamental Representation in excess of the Purchase Price paid by Buyer to Seller.

(c) The maximum amount that Buyer will be required to pay in the aggregate in respect of all Losses by all Seller Indemnified Parties pursuant to Section 7.3(a) will not exceed the Cap, and Buyer will have no obligation to indemnify Seller Indemnified Parties from and against any such Losses in excess of the Cap; *provided, however*, that (x) the limitations set forth in this Section 7.6(c) will not apply to (i) claims of, or causes of action arising from, any breach of a Fundamental Representation by Buyer, or (ii) for the avoidance of doubt, claims or causes of action in connection with the failure to pay the Purchase Price when due and owing, and, in each case, (y) any Losses incurred as a result of any such claims or causes of action will not count toward the limitations set forth in this Section 7.6(c).

**(d) NO PARTY TO THIS AGREEMENT (OR ITS AFFILIATES) WILL BE LIABLE TO THE OTHER PARTY FOR SPECIAL, PUNITIVE, EXEMPLARY, INCIDENTAL, CONSEQUENTIAL OR INDIRECT DAMAGES, OR LOST PROFITS, LOSS OF OPPORTUNITY, OR LOSSES CALCULATED BY REFERENCE TO ANY MULTIPLE OF EARNINGS OR EARNINGS BEFORE INTEREST, TAX, DEPRECIATION OR AMORTIZATION (OR ANY OTHER VALUATION METHODOLOGY), WHETHER BASED ON CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE, AND WHETHER OR NOT ARISING FROM THE OTHER PARTY'S SOLE, JOINT OR CONCURRENT NEGLIGENCE, STRICT LIABILITY OR OTHER FAULT FOR ANY MATTER RELATING TO THIS AGREEMENT AND THE TRANSACTIONS CONTEMPLATED HEREBY.**

(e) For all purposes of this Article 7, any Losses shall be net of: (a) any insurance or other recoveries actually received by the Indemnified Party within one hundred and twenty (120) days of submission of such insurance claim (giving effect to deductibles or self-insured or co-insurance payments paid by the Indemnified Party) in connection with the facts giving rise to the right of indemnification; and (b) any Tax benefit available to such Indemnified Party or its Affiliates as a result of such Losses in the taxable year in which such Losses occur.

(f) Buyer and Seller shall reasonably cooperate with each other with respect to resolving any claim or Loss for which indemnification may be required hereunder, including by making, or causing the applicable Indemnified Party to make, all reasonable efforts to mitigate any such claim or Loss at the expense of the Indemnifying Party. In the event that Buyer or Seller shall fail to make such reasonable efforts, then notwithstanding anything else to the contrary contained herein, the other Party shall not be required to indemnify any Person for any claim or Loss that could reasonably be expected to have been avoided if such efforts had been made. Without limiting the generality of the foregoing, Buyer and Seller shall, or shall cause the applicable Indemnified Party to, use reasonable efforts to seek full recovery under all insurance policies covering any Loss to the same extent as they would if such Loss were not subject to indemnification hereunder.

**7.7 Savion Obligation.** Savion agrees to join with Seller in indemnifying and holding Buyer Indemnified Parties harmless pursuant to Section 7.2 above. Such indemnification shall be subject to the provisions of Sections 7.1, 7.4, and 7.5 of this Agreement. Further, provisions of

Section 7.6, including, without limitation, the Basket, Cap and waivers shall apply to Savion in the same manner as Seller, and any payments made by Seller and/or Savion under this Article 7 shall be aggregated together to determine whether the Cap applies so that there is no duplicative right of recovery by the Buyer Indemnified Parties. Notwithstanding any other term or provision of this Agreement, however, in no event will Savion's indemnity obligations (inclusive of amounts paid by Seller) exceed the total amount of Purchase Price paid by Buyer to Seller hereunder. Savion has no other obligation under this Agreement except as set forth in this Section 7.7.

## **ARTICLE 8. MISCELLANEOUS**

8.1 Notices. All notices and other communications hereunder shall be in writing and shall be given by personal delivery, reputable overnight courier, or registered or certified U.S. mail, postage prepaid, and shall be deemed delivered (a) on the date of delivery if delivered personally, or (b) on the first Business Day following the date of dispatch if delivered utilizing a next-day service by a reputable next-day courier. All notices hereunder shall be delivered to the addresses set forth below, or pursuant to such other instructions as may be designated in writing by the Party to receive such notice:

To Buyer: East Kentucky Power Cooperative, Inc.  
4775 Lexington Road  
P.O. Box 707  
Winchester, KY 40392-0707  
Attn: Brad Young  
Telephone: 859.745.9287  
Email: [brad.young@ekpc.coop](mailto:brad.young@ekpc.coop)

With a copy to:

Frost Brown Todd LLP  
250 W. Main Street, Suite 2800  
Lexington, Kentucky 40507  
Attn: Jeff Jefferson  
Email: [jjefferson@fbtlaw.com](mailto:jjefferson@fbtlaw.com)

To Seller: Bluegrass Plains Solar Project, LLC  
422 Admiral Blvd.  
Kansas City, MO 64106  
Attn: Jeff James  
Telephone: 816.668.3497  
E-mail: [jjames@savionenergy.com](mailto:jjames@savionenergy.com)

With a copy to:

Rouse Frets White Goss Gentile Rhodes, P.C.  
5250 W. 116th Place, Ste. 400  
Leawood, Kansas 66211  
Attn: Steven C. Willman  
Email: swillman@rousepc.com

8.2 Expenses. Each Party shall pay its own costs and expenses incurred by it in connection with the negotiation, execution and delivery of this Agreement and the transactions contemplated hereby, including the fees and expenses of legal counsel, accountants, consultants and advisors employed by the respective Parties in connection with the transactions contemplated by this Agreement.

8.3 Confidentiality. With respect to the treatment of confidential information, the Parties shall remain subject to that certain Mutual Non-Disclosure Agreement by and between the Parties dated as of September 6, 2022.

8.4 Governing Law; Venue. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF KENTUCKY (WITHOUT GIVING EFFECT TO CONFLICTS OF LAW PRINCIPLES THEREOF).

8.5 Jury Trial Waiver. EACH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES TRIAL BY JURY IN ANY ACTION OR PROCEEDING RELATING TO A DISPUTE AND FOR ANY COUNTERCLAIM WITH RESPECT THERETO.

8.6 Assignment; Successors. Neither this Agreement nor any of the rights, interests or obligations under this Agreement may be assigned or delegated, in whole or in part, by operation of law or otherwise, by either Party without the prior written consent of the other Party, and any assignment without such prior written consent shall be null and void. Subject to the preceding sentence, this Agreement will be binding upon, inure to the benefit of, and be enforceable by, the Parties and their respective successors and assigns.

8.7 Entire Agreement. This Agreement (including the Exhibits and Schedules hereto) and the Ancillary Documents constitute the entire agreement of the Parties, and supersede all prior written agreements, arrangements, communications and understandings and all prior and contemporaneous oral agreements, arrangements, communications and understandings between the Parties with respect to the subject matter hereof and thereof.

8.8 Amendment. Buyer and Seller may only amend, supplement or modify this Agreement by a written instrument duly executed by or on behalf of each Party.

8.9 Severability. Any provision of this Agreement which is invalid, illegal or unenforceable shall be ineffective to the extent of such invalidity, illegality or unenforceability, without affecting in any way the remaining provisions hereof or rendering that or any other provision of this Agreement invalid, illegal or unenforceable. Upon such determination that any

provision is invalid, illegal or unenforceable, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in an acceptable manner to the end that the transactions contemplated hereby are fulfilled to the fullest extent possible.

8.10 Section Headings. The section headings are for the convenience of the Parties only and in no way alter, modify, amend, limit, or restrict the contractual obligations of the Parties.

8.11 Counterparts. This Agreement may be executed in counterparts, all of which shall be considered one and the same instrument and shall become effective when one or more counterparts have been signed by each Party and delivered to the other Parties. A signed counterpart of this Agreement delivered by e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed counterpart of this Agreement.

8.12 No Third-Party Beneficiaries. This Agreement is entered into for the sole benefit of the Parties, and except as specifically provided in this Agreement (including with respect to Indemnified Parties), no other Person shall be a direct or indirect beneficiary of, or shall have any direct or indirect cause of action or claim in connection with, this Agreement.

8.13 Waiver. No failure or delay of either Party in exercising any right or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such right or power, or any course of conduct, preclude any other or further exercise thereof or the exercise of any other right or power. Any agreement on the part of either Party to any such waiver shall be valid only if set forth in a written instrument executed and delivered by a duly authorized officer on behalf of such Party.

8.14 Disclosure. Seller may, at its option, include in the Schedules items that are not material in order to avoid any misunderstanding, and any such inclusion, or any references to dollar amounts, will not be deemed to be an acknowledgment or representation that such items are material, to establish any standard of materiality or to define further the meaning of such terms for purposes of this Agreement. Information disclosed in any Schedule will constitute a disclosure for purposes of all other Schedules notwithstanding the lack of specific cross-reference thereto, but only to the extent the applicability of such disclosure to such other Schedule is reasonably apparent. In no event will the inclusion of any matter in the Schedules be deemed or interpreted to broaden Seller's representations, warranties, covenants or agreements contained in this Agreement. The mere inclusion of an item in the Schedules will not be deemed an admission by Seller that such item represents a material exception or fact, event, or circumstance or that such item is reasonably likely to result in a material adverse effect. Seller shall have the right to amend its Schedules to reflect events or matters first occurring after the Execution Date ("**Schedule Update**"). In the event Seller provides Buyer with written notice of a Schedule Update on or before the Closing Date and such item(s) would be likely to result in a material adverse effect, Buyer shall have the right to terminate this Agreement pursuant to Section 6.3(a)(vi).

8.15 Anti-Corruption. For the purposes of this Agreement, "Anti-Corruption Laws" shall mean (a) the United States Foreign Corrupt Practices Act of 1977; (b) the United Kingdom

Bribery Act 2010; and (c) all applicable national, regional, provincial, state, municipal or local Laws that prohibit tax evasion, money laundering or otherwise dealing in the proceeds of crime or the bribery of, or the providing of unlawful gratuities, facilitation payments, or other benefits to, any government official or any other person. Each Party represents, warrants, and covenants that in connection with this Agreement and the business resulting therefrom: (i) it is aware of and will comply with Anti-Corruption Laws; (ii) whether directly or indirectly, it has not made, offered, authorized, or accepted and will not make, offer, authorize, or accept any payment, gift, promise, or other advantage, to or for the use or benefit of any government official or any other person where that payment, gift, promise, or other advantage would comprise a facilitation payment or otherwise violate the Anti-Corruption Laws; (iii) it has maintained and will maintain adequate written policies and procedures to comply with Anti-Corruption Laws or, alternatively, has made itself aware of and shall adhere to the Shell General Business Principles and the Shell Code of Conduct ([www.shell.com/about-us/our-values](http://www.shell.com/about-us/our-values)); (iv) it has maintained and will maintain adequate internal controls, including but not limited to using reasonable efforts to ensure that all transactions are accurately recorded and reported in its books and records to reflect truly the activities to which they pertain, such as the purpose of each transaction, with whom it was entered into, for whom it was undertaken, or what was exchanged; (v) it will, to its knowledge, retain such books and records for the period required by applicable Law or a Party's own retention policies, whichever is longer; (vi) in the event a Party becomes aware it has breached an obligation in this paragraph, it will promptly notify the other Party, subject to the preservation of legal privilege; (vii) it has used and will use reasonable efforts to require any subcontractors, agents, or any other third parties to also comply with the foregoing requirements in this paragraph; and (viii) only a Party (and not its Affiliates or a third party) shall make payments to the other Party, except with that other Party's prior written consent. Nothing in this Agreement shall require a Party to perform any part of this Agreement or take any actions if, by doing so, the Party would not comply with the Anti-Corruption Laws. The obligations in this Section 8.15 shall survive the Closing as described above.

8.16 Queue Reform. It is expressly understood and agreed that matters relating to, and the impact of, queue reform implemented or that may be implemented by PJM Interconnection, L.L.C. before or after the Execution Date ("**Queue Reform**") may impact the representations and warranties, covenants and/or conditions to Closing of this Agreement. Notwithstanding any other term or provisions of this Agreement, the Buyer acknowledges and agrees that Buyer is aware of the existence of the potential for Queue Reform and that in no event is it intended that Seller be subject to any claim by Buyer or be responsible for any liability or damage to Buyer, the Project or the Project Assets that directly results from such Queue Reform and not the actions or inactions of Seller; provided, however, despite such Queue Reform, Seller shall nevertheless continue to honor its covenants in Section 5.4, and the closing condition set forth in Section 6.1(d) shall continue to be applicable.

*[SIGNATURE PAGE TO FOLLOW]*



**IN WITNESS WHEREOF**, this Agreement has been duly executed by the Parties as of the date first written above.

**SELLER:**

**BLUEGRASS PLAINS SOLAR PROJECT, LLC,**  
a Delaware limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**BUYER:**

**EAST KENTUCKY POWER COOPERATIVE, INC.,**  
a Kentucky corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**SOLELY FOR PURPOSES OF OBLIGATIONS OF  
SECTION 7.7 ABOVE:**

**SAVION:**

**SAVION, LLC,**  
a Delaware limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT A**  
**Form of Bill of Sale and Assignment and Assumption Agreement**

**BILL OF SALE AND ASSIGNMENT AND ASSUMPTION AGREEMENT**

This BILL OF SALE AND ASSIGNMENT AND ASSUMPTION AGREEMENT (this "**Bill of Sale**"), dated as of \_\_\_\_\_, 20\_\_\_, is made between Bluegrass Plains Solar Project, LLC, a Delaware limited liability company ("**Seller**"), and East Kentucky Power Cooperative, Inc., a Kentucky corporation ("**Buyer**").

RECITALS

A. Seller and Buyer have entered into an Asset Purchase Agreement, dated as of the date hereof, (the "**Agreement**"), pursuant to which, upon the terms and subject to the conditions set forth therein, among other things, at the Closing, Seller has agreed to sell, convey, assign, transfer and deliver to Buyer, and Buyer has agreed to purchase and acquire from Seller, all of Seller's rights, titles and interests in, to and under the Project Assets (excluding the Real Property Interests that are assigned pursuant to the Real Property Rights Assignment and Assumption Agreement).

B. The Parties now desire to carry out the intent and purpose of the Agreement by the Parties' execution and delivery of this Bill of Sale evidencing the sale, conveyance, assignment, transfer and delivery to Buyer of the Project Assets described on Exhibit A attached hereto.

For and in consideration of the payment of certain consideration payable to Seller at the Closing pursuant to the Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. Definitions. All capitalized terms used, but not defined herein, have the meanings given to such terms in the Agreement.

2. Conveyance. Subject to the terms and conditions of this Bill of Sale and the Agreement, Seller does hereby irrevocably and unconditionally sell, convey, assign, transfer and deliver to Buyer and its successors and assigns, all of its rights, titles and interests in, to and under the Project Assets (excluding Real Property Interests), and Buyer hereby accepts such sale, conveyance, assignment, transfer and delivery.

3. Acceptance and Assumption. Subject to the terms and conditions of this Bill of Sale and the Agreement, Seller hereby assigns to Buyer and the Buyer hereby assumes and agrees to pay, perform and discharge, as the case may be, when due, the Assumed Liabilities.

4. Liabilities Not Being Assumed. Notwithstanding anything to the contrary in this Bill of Sale, Buyer shall not assume, pay, bear, perform or discharge any of the Excluded Liabilities.

5. Further Assurances. Each party hereto shall reasonably cooperate with the other party hereto, and shall execute and deliver, or cause to be executed and delivered, all such other instruments and take all such other actions as such party hereto may reasonably be requested to take by any other party hereto at any time from time to time after the date of this Bill of Sale, consistent with the terms of this Bill of Sale and the Agreement, in each case in order to effectuate the provisions and purposes of this Bill of Sale and the Agreement and the transactions contemplated hereby and thereby.

6. Effective Time. The conveyance by Seller to Buyer of the Project Assets, all pursuant to this Bill of Sale and the Agreement, shall be effective as of the Closing on the date hereof.

7. Facsimile Signature; Counterparts. This Bill of Sale may be executed in one or more counterparts, each of which shall be deemed an original copy of this Bill of Sale and all of which, when taken together, will be deemed to constitute one and the same agreement. The exchange of copies of this Bill of Sale and of signature pages by facsimile or electronic transmission shall constitute effective execution and delivery of this Bill of Sale as to the Parties.

8. Section Headings. The descriptive headings herein are inserted for convenience only and are not intended to be part of or to affect the meaning or interpretation of this Bill of Sale.

9. Governing Law. This Bill of Sale is governed by and construed in accordance with the laws of the Commonwealth of Kentucky, without regard to conflicts of law principles.

*[Signature Pages Follow]*

IN WITNESS WHEREOF, the parties hereto have caused this Bill of Sale and Assignment and Assumption Agreement to be duly executed by their respective authorized representatives as of the day and year first set forth above.

BLUEGRASS PLAINS SOLAR PROJECT, LLC

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

*Signature Page for Bill of Sale and Assignment and Assumption Agreement (Bluegrass Plains)*

EAST KENTUCKY POWER COOPERATIVE, INC.

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

*Signature Page for Bill of Sale and Assignment and Assumption Agreement (EKPC)*

**EXHIBIT A TO BILL OF SALE AND ASSIGNMENT AND ASSUMPTION AGREEMENT**

**PJM Interconnection Queue Position Number AE2-339**

**Generation Interconnection Feasibility Study Agreement, dated March 31, 2019, by and between Bluegrass Plains Solar Project, I.I.C, and PJM Interconnection, L.L.C.**

**System Impact Study Agreement, dated July 26, 2019, by and between Bluegrass Plains Solar Project, LLC, and PJM Interconnection, L.L.C.**

**Facilities Study Agreement, dated March 24, 2020, by and between Bluegrass Plains Solar Project, LLC, and PJM Interconnection, L.L.C.**

**Generation Interconnection Feasibility Study Report for Queue Project AE2-339 AVON 138 KV 26.8 MW Capacity / 40 MW Energy, dated July, 2019, prepared by PJM Interconnection, L.L.C. for Bluegrass Plains Solar Project, LLC.**

**Revised Generation Interconnection System Impact Study Report for Queue Project AE2-339 AVON 138 KV 26.8 MW Capacity / 40 MW Energy, dated August, 2022, prepared by PJM Interconnection, L.L.C. for Bluegrass Plains Solar Project, LLC.**

**Commitment for Title Insurance, dated November 1, 2023, File Number 19000331707-01 Amd 1 issued by Stewart Title Guaranty Company.**

**Commitment for Title Insurance, dated November 1, 2023, File Number 19000331708-01 Amd 1, issued by Stewart Title Guaranty Company.**

**Light Detection and Ranging Survey of Project Site conducted by Survey and Mapping, LLC.**

**Access Agreement, dated August 7, 2023, by and between Seller, Fayette Partners, LLC (f/k/a Gay Land Company, LLC), and Buyer.**

**Access Agreement, dated August 7, 2023, by and between Seller, Fayette Partners, LLC, and Buyer.**

**EXHIBIT B**  
**Real Property Rights Assignment and Assumption Agreement**

**REAL PROPERTY RIGHTS ASSIGNMENT AND ASSUMPTION AGREEMENT**

This REAL PROPERTY RIGHTS ASSIGNMENT AND ASSUMPTION AGREEMENT (this “**Agreement**”), dated as of \_\_\_\_\_, 20\_\_\_\_ (the “**Effective Date**”), is entered into by and between BLUEGRASS PLAINS SOLAR PROJECT, LLC, a Delaware limited liability company, whose address is 422 Admiral Boulevard, Kansas City, Missouri 64106 (“**Assignor**”), and EAST KENTUCKY POWER COOPERATIVE, INC., a Kentucky corporation, whose address, as it relates to all real property rights, is \_\_\_\_\_ (“**Assignee**”).

WHEREAS, Assignor is the “**Grantee**” pursuant to those certain Real Estate Option Agreements described on Exhibit A attached hereto and made a part hereof (collectively, the “**Options**”) which encumber that certain real property legally described in Exhibit A and made a part hereof (the “**Property**”); and

WHEREAS, Assignor agreed to assign all of its interests in the Options to Assignee, and Assignee agreed to assume all of Assignor’s obligations under the Options.

NOW, THEREFORE, in consideration of the mutual covenants contained in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. **Assignment**

Assignor hereby sells, assigns, transfers, and sets over onto Assignee all of Assignor’s right, title, and interest in the Options, together with all right, title, and interest it has to any personal property located on the Property, to have and to hold for and during the residue of the term of the Options and any extensions or renewals thereto, subject, however, to all the conditions, covenants, agreements, restrictions, provisions, terms, and rentals contained in the Options or in the Agreement.

2. **Acceptance -Assignee**

Assignee does hereby accept the foregoing assignment, and with reference to the time period occurring and acts required after the Effective Date, does hereby assume and agree to perform each and every obligation, covenant, and duty to be performed by the Assignor under the Options.

3. **Assumption - Assignee**

As of the Effective Date, Assignee hereby assumes the obligations for the performance of all covenants, agreements, and obligations of Assignor with respect to said Options, and Assignor covenants that prior to the Effective Date, it has met and satisfied any and all such agreements and obligations now being assumed by Assignee.

4. **Recordation**

Assignee may, at its sole option, record this Agreement or a memorandum of the same, with the real property clerk's office of Fayette County, Kentucky.

5. **Counterparts**

This Agreement may be signed in multiple counterparts, each of which when so executed and delivered shall be an original, and all of which together shall constitute one instrument.

***[REMAINDER OF PAGE LEFT BLANK; SIGNATURES ON SEPARATE SHEETS]***



IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed, delivered, and effective as of the Effective Date.

**ASSIGNOR:** BLUEGRASS PLAINS SOLAR PROJECT, LLC,  
a Delaware limited liability company

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

*Signature Page to Real Property Rights Assignment and Assumption Agreement (BGPS)*

STATE OF \_\_\_\_\_ )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

Be it remembered that on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came \_\_\_\_\_, to me personally known, who being by me duly sworn did say that he/she is the \_\_\_\_\_ of Bluegrass Plains Solar Project, LLC, a Delaware limited liability company, and that the within instrument was signed and delivered on behalf of said limited liability company by authority thereof, and acknowledged said instrument to be the free act and deed of said limited liability company for the purposes therein expressed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial seal in the date herein last above written.

My Commission Expires:

\_\_\_\_\_  
Notary Public in and for said County and State

\_\_\_\_\_  
[SEAL]

Print Name: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

Be it remembered that on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came \_\_\_\_\_, to me personally known, who being by me duly sworn did say that he/she is the \_\_\_\_\_ of Bluegrass Plains Solar Project, LLC, a Delaware limited liability company, and that the within instrument was signed and delivered on behalf of said limited liability company by authority thereof, and acknowledged said instrument to be the free act and deed of said limited liability company for the purposes therein expressed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial seal in the date herein last above written.

My Commission Expires:

\_\_\_\_\_  
Notary Public in and for said County and State

\_\_\_\_\_  
[SEAL]

Print Name: \_\_\_\_\_

*Signature Page to Real Property Rights Assignment and Assumption Agreement (BGPS)*

**ASSIGNEE:**

**EAST KENTUCKY POWER  
COOPERATIVE, INC.,  
a Kentucky corporation**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

*Signature Page to Real Property Rights Assignment and Assumption Agreement (EKPC)*

**ACKNOWLEDGMENT**

STATE OF \_\_\_\_\_ )  
  ) ss.  
COUNTY OF \_\_\_\_\_ )

Be it remembered that on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came \_\_\_\_\_, to me personally known, who being by me duly sworn did say that he/she is the \_\_\_\_\_ of East Kentucky Power Cooperative, Inc., a Kentucky corporation, and that the within instrument was signed and delivered on behalf of said corporation by corporation liability company for the purposes therein expressed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial seal in the date herein last above written.

My Commission Expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public in and for said County and State

[SEAL] \_\_\_\_\_

Print Name: \_\_\_\_\_

## **EXHIBIT A**

### **DESCRIPTION OF OPTIONS AND THE PROJECT**

Real Estate Option Agreement, dated September 28, 2018, by and between Gay Land Company, a Kentucky limited liability company, as Grantor, and Bluegrass Plains Solar Project, LLC, a Delaware limited liability company, as Grantee, notice of which is imparted by that certain Memorandum of Option, dated September 28, 2019, and recorded October 24, 2018 as Instrument No. 201810240069, in Book 3624, Page 402 in the Office of County Court Clerk of Fayette County, Kentucky, with respect to the following real property located in the County of Fayette, Commonwealth of Kentucky:

All of Tract 4 as shown on the Final Record Plat of the Augustus Gay Property of record in Plat Cabinet I, Slide 241, in the Fayette County Clerk's Office;

As amended by a First Amendment to Real Estate Option Agreement between Bluegrass Plains Solar Project, LLC, and Fayette Partners, LLC, dated September 7, 2023, and as further amended by a Second Amendment to Real Estate Option Agreement by and between Bluegrass Plains Solar Project, LLC and Fayette Partners, LLC, dated October 6, 2023, and as further amended by a Third Amendment to Real Estate Option Agreement by and between Bluegrass Plains Solar Project, LLC and Fayette Partners, LLC, dated October 20, 2023, and as further amended by a Fourth Amendment to Real Estate Option Agreement by and between Bluegrass Plains Solar Project, LLC and Fayette Partners, LLC, dated October 25, 2023, and as further amended by a Fifth Amendment to Real Estate Option Agreement by and between Bluegrass Plains Solar Project, LLC and Fayette Partners, LLC, dated November 17, 2023, and as further amended and restated by that Amended, Restated, and Consolidated Real Estate Option Agreement, dated for reference purposes as of November 21, 2023 (but for all other purposes, the "Effective Date" shall be September 28, 2018), by and between Bluegrass Plains Solar Project, LLC and Fayette Partners, LLC.

Real Estate Option Agreement, dated October 22, 2018, by and between James E. Bassett III, Executor of the Estate of Lucy Gay Bassett, as Grantor, and Bluegrass Plains Solar Project, LLC, a Delaware limited liability company, as Grantee, notice of which is imparted by that certain Memorandum of Option, dated October 22, 2018, and recorded November 26, 2018 as Instrument No. 201811260208, in Book 3630, Page 594 in the Office of County Court Clerk of Fayette County, Kentucky, , with respect to the following real property located in the County of Fayette, Commonwealth of Kentucky:

All of Tracts 2 and 3 as shown on the Final Record Plat of the Augustus Gay Property of record in Plat Cabinet I, Slide 241, in Fayette County Clerk's Office;

As amended by a First Amendment to Real Estate Option Agreement between Bluegrass Plains Solar Project, LLC, and Fayette Partners, LLC, dated September 7, 2023, and as further amended by a Second Amendment to Real Estate Option Agreement by and between Bluegrass Plains Solar Project, LLC and Fayette Partners, LLC, dated October 6, 2023, and as further amended by a Third

Amendment to Real Estate Option Agreement by and between Bluegrass Plains Solar Project, LLC and Fayette Partners, LLC, dated October 20, 2023, and as further amended by a Fourth Amendment to Real Estate Option Agreement by and between Bluegrass Plains Solar Project, LLC and Fayette Partners, LLC, dated October 25, 2023, and as further amended by a Fifth Amendment to Real Estate Option Agreement by and between Bluegrass Plains Solar Project, LLC and Fayette Partners, LLC, dated November 17, 2023, and as further amended and restated by that Amended, Restated, and Consolidated Real Estate Option Agreement, dated for reference purposes as of November 21, 2023 (but for all other purposes, the “Effective Date” shall be September 28, 2018), by and between Bluegrass Plains Solar Project, LLC and Fayette Partners, LLC.

**EXHIBIT C**  
**Project Assets**

PJM Interconnection Queue Position Number AE2-339

Real Estate Option Agreement, dated September 28, 2018, by and between Gay Land Company, a Kentucky limited liability company, as Grantor, and Bluegrass Plains Solar Project, LLC, a Delaware limited liability company, as Grantee, notice of which is imparted by that certain Memorandum of Option, dated September 28, 2019, and recorded October 24, 2018 as Instrument No. 201810240069, in Book 3624, Page 402 in the Office of County Court Clerk of Fayette County, Kentucky, as amended by a First Amendment to Real Estate Option Agreement between Bluegrass Plains Solar Project, LLC, and Fayette Partners, LLC, dated September 7, 2023, and as further amended by a Second Amendment to Real Estate Option Agreement by and between Bluegrass Plains Solar Project, LLC and Fayette Partners, LLC, dated October 6, 2023, and as further amended by a Third Amendment to Real Estate Option Agreement by and between Bluegrass Plains Solar Project, LLC and Fayette Partners, LLC, dated October 20, 2023, and as further amended by a Fourth Amendment to Real Estate Option Agreement by and between Bluegrass Plains Solar Project, LLC and Fayette Partners, LLC, dated October 25, 2023, and as further amended by a Fifth Amendment to Real Estate Option Agreement by and between Bluegrass Plains Solar Project, LLC and Fayette Partners, LLC, dated November 17, 2023, and as further amended and restated by that Amended, Restated, and Consolidated Real Estate Option Agreement, dated for reference purposes as of November 21, 2023 (but for all other purposes, the “Effective Date” shall be September 28, 2018), by and between Bluegrass Plains Solar Project, LLC and Fayette Partners, LLC.

Real Estate Option Agreement, dated October 22, 2018, by and between James E. Bassett III, Executor of the Estate of Lucy Gay Bassett, as Grantor, and Bluegrass Plains Solar Project, LLC, a Delaware limited liability company, as Grantee, notice of which is imparted by that certain Memorandum of Option, dated October 22, 2018, and recorded November 26, 2018 as Instrument No. 201811260208, in Book 3630, Page 594 in the Office of County Court Clerk of Fayette County, Kentucky, as amended by a First Amendment to Real Estate Option Agreement between Bluegrass Plains Solar Project, LLC, and Fayette Partners, LLC, dated September 7, 2023, and as further amended by a Second Amendment to Real Estate Option Agreement by and between Bluegrass Plains Solar Project, LLC and Fayette Partners, LLC, dated October 6, 2023, and as further amended by a Third Amendment to Real Estate Option Agreement by and between Bluegrass Plains Solar Project, LLC and Fayette Partners, LLC, dated October 20, 2023, and as further amended by a Fourth Amendment to Real Estate Option Agreement by and between Bluegrass Plains Solar Project, LLC and Fayette Partners, LLC, dated October 25, 2023, and as further amended by a Fifth Amendment to Real Estate Option Agreement by and between Bluegrass Plains Solar Project, LLC and Fayette Partners, LLC, dated November 17, 2023, and as further amended and restated by that Amended, Restated, and Consolidated Real Estate Option Agreement, dated for reference purposes as of November 21, 2023 (but for all other purposes, the “Effective Date” shall be September 28, 2018), by and between Bluegrass Plains Solar Project, LLC and Fayette Partners, LLC.

Generation Interconnection Feasibility Study Agreement, dated March 31, 2019, by and between Bluegrass Plains Solar Project, LLC, and PJM Interconnection, L.L.C.

System Impact Study Agreement, dated July 26, 2019, by and between Bluegrass Plains Solar Project, LLC, and PJM Interconnection, L.L.C.

Facilities Study Agreement, dated March 24, 2020, by and between Bluegrass Plains Solar Project, LLC, and PJM Interconnection, L.L.C.

Generation Interconnection Feasibility Study Report for Queue Project AE2-339 AVON 138 KV 26.8 MW Capacity / 40 MW Energy, dated July, 2019, prepared by PJM Interconnection, L.L.C. for Bluegrass Plains Solar Project, LLC.

Revised Generation Interconnection System Impact Study Report for Queue Project AE2-339 AVON 138 KV 26.8 MW Capacity / 40 MW Energy, dated August, 2022, prepared by PJM Interconnection, L.L.C. for Bluegrass Plains Solar Project, LLC.

Commitment for Title Insurance, dated November 1, 2023, File Number 19000331707-01 Amd 1 issued by Stewart Title Guaranty Company.

Commitment for Title Insurance, dated November 1, 2023, File Number 19000331708-01 Amd 1, issued by Stewart Title Guaranty Company.

Light Detection and Ranging Survey of Project Site conducted by Survey and Mapping, LLC.



## DISCLOSURE SCHEDULES

These Seller Disclosure Schedules (these “*Schedules*”) are delivered pursuant to the Asset Purchase Agreement, dated November 21, 2023 (the “*Agreement*”), by and between Bluegrass Plains Solar Project, LLC, a Delaware limited liability company (“*Seller*”), Savion, LLC, a Delaware limited liability company (“*Savion*”), and East Kentucky Power Cooperative, Inc., a Kentucky corporation (“*Buyer*”). Savion joined in the Agreement solely with respect to its obligations expressly stated in Section 7.7 of the Agreement.

The specific disclosures set forth in these Schedules are organized to correspond to a specific section reference in the Agreement to which the qualifying and correspondingly numbered Schedule relates. Capitalized terms used but not otherwise defined in the Schedules have the meanings set forth in the Agreement.

The Schedules are subject to the following terms and conditions:

1. Except as otherwise limited herein or as expressly stated in the Agreement, all information and disclosures contained in the Schedules are made as of the Closing Date.
2. Disclosure of information included on any one Schedule (or portion of any such Schedule) shall be considered disclosures for each of the other Schedules (or other portions of such Schedules), if the relevance of such disclosure to any such other Schedule(s) (or portion of any such other Schedule(s)) is readily apparent on the face of such disclosure.
3. Certain Contracts, documents or other matters may be referenced or disclosed on these Schedules notwithstanding the fact that such items may not be required to be referenced or disclosed herein pursuant to the applicable terms of the Agreement because they do not rise above applicable materiality thresholds. In addition, (a) the fact that any disclosure on any Schedule may not be required to be disclosed in order to render the applicable representation or warranty to which it relates true, or that the absence of such disclosure on any Schedule may not constitute a breach of such representation or warranty, shall not be deemed or construed to expand the scope of any representation or warranty under the Agreement or, except as otherwise set forth in the Agreement, to establish a standard of disclosure in respect of any representation or warranty, and (b) any disclosure of a particular matter on any Schedule shall not, in and of itself, be construed to mean that such matter is material.
4. Headings have been inserted for each Schedule for convenience of reference only, and shall not have, to any extent, the effect of amending or changing the express description of any Schedule as set forth in the Agreement and shall not be considered in construing or interpreting any Schedule.
5. Except as otherwise expressly set forth herein, no disclosure in the Schedules relating to any possible breach or violation of any Contract or applicable Law shall be construed, in and of itself, as an admission or indication that any such breach or violation exists or has actually occurred, and nothing in the Schedules shall constitute an admission of any liability or obligation

of a Party to any third party or shall confer or give to any third party any remedy, claim, liability, reimbursement, cause of action or other right.

**SCHEDULE 1.1-K**  
**KNOWLEDGE**

Jeff James

Erich Miarka

**SCHEDULE 1.1-PL**  
**PERMITTED LIENS**

Oral Agricultural Lease by and between Fayette Partners, LLC and Brad Carmickle.

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**SCHEDULE 3.5**  
**CONTRACTS**

1.

[REDACTED]

2.

[REDACTED]

3.

[REDACTED]

4.

[REDACTED]

5.

[REDACTED]

**SCHEDULE 3.6**  
**PERMITS**

None.

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**SCHEDULE 3.7**  
**REPORTS**

1.

2.

3.

4.

5.

**SCHEDULE 3.10**  
**SELLER CONSENTS AND APPROVALS**

Provide notice to PJM Interconnection, L.L.C. in connection with the transfer of the PJM Queue Position.

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**SCHEDULE 3.14**  
**LIABILITIES**

None.

**SCHEDULE 3.15(a)**  
**REAL PROPERTY DOCUMENTS**

1. Real Estate Option Agreement, dated September 28, 2018, by and between Gay Land Company, LLC, a Kentucky limited liability company, as Grantor, and Bluegrass Plains Solar Project, LLC, a Delaware limited liability company, as Grantee, notice of which is imparted by that certain Memorandum of Option, dated September 28, 2019, and recorded October 24, 2018 as Instrument No. 201810240069, in Book 3624, Page 402 in the Office of County Court Clerk of Fayette County, Kentucky.
2. Real Estate Option Agreement, dated October 22, 2018, by and between James E. Bassett III, Executor of the Estate of Lucy Gay Bassett, as Grantor, and Bluegrass Plains Solar Project, LLC, a Delaware limited liability company, as Grantee, notice of which is imparted by that certain Memorandum of Option, dated October 22, 2018, and recorded November 26, 2018 as Instrument No. 201811260208, in Book 3630, Page 594 in the Office of County Court Clerk of Fayette County, Kentucky.
3. Oral Agricultural Lease by and between Fayette Partners, LLC and Brad Carmickle.
4. Barn located on the real property covered by that certain Real Estate Option Agreement, dated October 22, 2018, by and between James E. Bassett III, Executor of the Estate of Lucy Gay Bassett, as Grantor, and Bluegrass Plains Solar Project, LLC, a Delaware limited liability company, as Grantee.
5. Access Agreement, dated August 7, 2023, by and between Bluegrass Plains Solar Project, LLC, Fayette Partners, LLC (f/k/a Gay Land Company, LLC), and East Kentucky Power Cooperative, Inc.
6. Access Agreement, dated August 7, 2023, by and between Bluegrass Plains Solar Project, LLC Fayette Partners, LLC, and East Kentucky Power Cooperative, Inc
7. First Amendment to Real Estate Option Agreement, dated September 7, 2023, by and between Bluegrass Plains Solar Project, LLC and Fayette Partners, LLC.
8. Second Amendment to Real Estate Option Agreement, dated October 6, 2023, by and between Bluegrass Plains Solar Project, LLC and Fayette Partners, LLC.
9. Third Amendment to Real Estate Option Agreement, dated October 20, 2023, by and between Bluegrass Plains Solar Project, LLC and Fayette Partners, LLC.
10. Fourth Amendment to Real Estate Option Agreement, dated October 25, 2023, by and between Bluegrass Plains Solar Project, LLC and Fayette Partners, LLC.
11. Fifth Amendment to Real Estate Option Agreement, dated November 17, 2023, by and between Bluegrass Plains Solar Project, LLC and Fayette Partners, LLC.

12. Amended, Restated, and Consolidated Real Estate Option Agreement, dated for reference purposes as of November 21, 2023 (but for all other purposes, the “Effective Date” shall be September 28, 2018), by and between Bluegrass Plains Solar Project, LLC and Fayette Partners, LLC.

**SCHEDULE 3.15(e)**  
**REAL PROPERTY ENCUMBRANCES**

Oral Agricultural Lease by and between Fayette Partners, LLC and Brad Carmickle.

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**SCHEDULE 4.4**  
**BUYER CONSENTS AND APPROVALS**

CPCN Approval

RUS Approval

**AMENDED, RESTATED, AND CONSOLIDATED REAL ESTATE OPTION AGREEMENT**

THIS AMENDED, RESTATED, AND CONSOLIDATED REAL ESTATE OPTION AGREEMENT (this “**Agreement**”), dated for reference purposes as November 21, 2023 (but for all other purposes, the “**Effective Date**” shall be September 28, 2018), is by and between Bluegrass Plains Solar Project, LLC, a Delaware limited liability company, its successors and assigns (“**Grantee**”), and Fayette Partners, LLC, a Kentucky limited liability company (“**Grantor**”).

**RECITALS:**

A. Grantor is the owner of approximately three hundred eighty-seven (387 acres) of that certain real property located in Fayette County, Kentucky, including all improvements thereon, as described in Exhibit “A” attached hereto, and as generally depicted on the map attached hereto as Exhibit “A-1” (the “**Property**”);

B. Grantor (f/k/a Gay Land Company, LLC) and Grantee entered into that certain Real Estate Option Agreement dated effective as of September 28, 2018, notice of which is imparted by that certain Memorandum of Option recorded October 24, 2018 in Book 3624, Page 402 in the official public records of Fayette County, Kentucky, as amended by that certain First Amendment to Real Estate Option Agreement dated effective as of September 7, 2023, as further amended by that certain Second Amendment to Real Estate Option Agreement dated effective as of October 6, 2023, as further amended by that certain Third Amendment to Real Estate Option Agreement dated effective as of October 20, 2023, as further amended by that certain Fourth Amendment to Real Estate Option Agreement dated effective as of October 25, 2023, and as further amended by that certain Fourth Amendment to Real Estate Option Agreement dated effective as of November 17, 2023 (as amended collectively, the “**Fayette Option**”) wherein Grantor granted to Grantee an option to purchase a portion of the Property in connection with the development of a solar energy power generation facility (the “**Project**”);

C. Grantor’s predecessor in interest, James E. Bassett, executor of the Estate of Lucy Gay Bassett, and Grantee entered into that certain Real Estate Option Agreement dated effective as of October 22, 2018, notice of which is imparted by that certain Memorandum of Option, recorded November 26, 2018 in Book 3630, Page 594, in the official public records of Fayette County, Kentucky, as amended by that certain First Amendment to Real Estate Option Agreement dated effective as of September 7, 2023, as further amended by that certain Second Amendment to Real Estate Option Agreement dated effective as of October 6, 2023, as further amended by that certain Third Amendment to Real Estate Option Agreement dated effective as of October 20, 2023, as further amended by that certain Fourth Amendment to Real Estate Option Agreement dated effective as of October 25, 2023, and as further amended by that certain Fourth Amendment to Real Estate Option Agreement dated effective as of November 17, 2023 (as amended collectively, the “**Bassett Option**” and together with the Fayette Option, the “**Original Option Agreements**”) wherein Grantor’s predecessor in interest granted to Grantee an option to purchase that portion of the Property that is not the subject of the Fayette Option in connection with the Project;

D. Grantor and Grantee desire to amend, restate, supersede, and consolidate the Original Option Agreements into one agreement, such that this Agreement is the single real estate option between Grantor and Grantee concerning the Property;

E. Grantor and Grantee intend for the Term (as defined below) to continue in this Agreement from the Effective Date, and to extend the Term pursuant to the terms hereinafter provided; and

F. The Grantor and Grantee desire to otherwise amend and modify the Original Option Agreements as provided herein.

NOW THEREFORE, in consideration of the foregoing, the mutual promises and covenants contained hereinafter, and other good and valuable consideration, the parties agree that all of the terms and conditions of the Original Option Agreements are deleted in their entirety and replaced with the following:

1. Grant of Option. Grantor hereby bargains, gives and grants to Grantee, the sole, exclusive, and irrevocable right and option (the "**Option**") to purchase all of the Property, in consideration of the annual payments previously paid by Grantee to Grantor pursuant to the Original Option Agreements for the first [REDACTED] of the Term (defined below) (the "**Original Option Fees**"), plus an additional payment from Grantee to Grantor in the amount of [REDACTED] to be paid in accordance with Section 2 below.

2. Payment of Option Fees and Grantor's Attorneys' Fees.

A. Grantee shall pay the Extension Fee within two (2) business days after full execution of this Agreement by both Grantor and Grantee (the "**Extension Fee Due Date**"). The Option Fee shall be nonrefundable to Grantee except as expressly provided in this Agreement and shall not be credited against the Purchase Price (defined below).

B. Grantee shall pay Grantor for Grantor's attorneys' fees incurred by Grantor in the negotiation, preparation, review and revision of this Agreement and all exhibits attached hereto, in the amount of [REDACTED]. Grantee shall submit a single, lump sum payment in the amount of [REDACTED] after the execution of this Agreement by both Grantor and Grantee.

3. Term. The Option shall be for a period commencing on the Effective Date and terminating on September 30, 2024 (the "**Term**"). Grantee may terminate the Option at any time without refund of any portion of the Option Fee already paid. Notwithstanding the foregoing, Grantee may extend the Term twice, each extension being for a period of three (3) additional months (the first extension running through December 31, 2024 and the second extension running through March 31, 2025), by (a) providing written notice of the applicable extension to Grantor no later than the date on which the Term (as it may have been extended) expires, and (b) making an additional payment to Grantor for the applicable extension being exercised in the amount of [REDACTED] no later than the date on which the Term (as it may have been extended) expires (the "**Additional Extension Fees**"). The Additional

Extension Fees shall be nonrefundable to Grantee and shall not be credited against the Purchase Price.

4. Purchase Price. The purchase price for the Property shall be an amount equal to the greater of [REDACTED] and [REDACTED]. The Purchase Price, less the Earnest Deposit paid by Grantee pursuant to Section 7 shall be paid by Grantee to Grantor on the Closing Date as provided in Section 12.

5. Grantor Cooperation; Diligent Pursuit of Approvals.

A. Subject to the terms herein, during the Term Grantor agrees to reasonably cooperate with Grantee in obtaining all federal, state and local governmental, regulatory or private utility approvals ("**Approvals**") necessary for development of the Project, including, without limitation, any zoning and site development approvals (including, without limitation, permits, entitlements, approvals, licenses, variances, or other rights) from Fayette County, Kentucky or other required city or county approvals for development of the Property for the Project (the "**Zoning Approvals**"). Specifically, Grantor agrees to execute all necessary documents required for such Approvals, including Zoning Approvals. Grantee covenants and represents that it will not proffer, offer, or accept any conditions in the Zoning Approvals that would obligate Grantor to dedicate any portion of the Property for public purposes or cause Grantor to directly pay monies to the applicable governmental authority should Grantee fail to exercise its Option and acquire the Property. Grantee shall pay all costs associated with seeking and obtaining any such Approvals. Should Grantee obtain a Zoning Approval from Fayette County, Grantee and Grantor shall take reasonable steps to ensure that the Property assessment is not increased due to such Approval, which steps may include filing and prosecuting an application to revoke such Zoning Approval, at Grantee's sole expense, if Grantee does not exercise its Option. Grantee's obligation to file and prosecute such application at its expense shall survive the expiration or earlier termination of this Agreement.

B. If this Agreement is terminated for any reason other than a Grantor default or otherwise expires by its terms, Grantee shall, within thirty (30) days after termination or expiration, as applicable, assign, transfer and convey to Grantor, free and clear of all security interests, liens, encumbrances, debts, financial obligations and any other third party rights and by Bill of Sale executed by Grantee the following data, reports, equipment, agreement and assets: (i) any meteorological tower(s) or semi-automatic meteorological stations placed on the Property by Grantee and all energy assessment reports and raw data collected from devices; (ii) all data and reports relating to environmental conditions and/or threatened and endangered species collected by Grantee relative to the Project (defined below) (or any other studies performed by Grantee on the Property); (iii) all third party data, studies and reports relating to power transmission related to the Property location; and (iv) any transfer rights, interconnection rights, Zoning Approvals and any other permits obtained by Grantee for the Project related to the Property location (collectively, the "**Grantee Data and Assets**"). Grantee shall provide Grantor with a list of all Grantee Data and Assets within fifteen (15) days after termination or expiration of this Agreement.



Grantee's obligation to assign, transfer and convey the Grantee Data and Assets shall be only to the extent Grantee is legally permitted to do so (contractually or otherwise); provided, however, that Grantee shall make reasonable efforts to obtain any third party consents required for such permission. The purchase price for the Grantee Data and Assets shall be [REDACTED] which Grantor shall pay to Grantee immediately upon receipt of the Bill of Sale for the Grantee Data and Assets by Grantor. Grantee shall cooperate with Grantor and execute any other documents reasonably requested to effectuate the transfer and conveyance of legal title and ownership of the Grantee Data and Assets to Grantor if for any reason any such Grantee Data and Assets cannot be legally transferred and conveyed via Bill of Sale. If Grantee intends to terminate this Agreement or allow the Agreement to expire without exercising the Option, Grantee shall use commercially reasonable efforts to assign any then-active interconnection rights to Grantor pursuant to this Section 5(B) prior to any such termination or expiration. This Section 5(B) shall survive expiration or earlier termination of this Agreement.

6. Title/Survey. During the Term, Grantee shall have the right to obtain a preliminary title commitment (the "**Title Commitment**") from the Title Company (defined below) and an ALTA survey with respect to the Property (the "**Survey**"), each at Grantee's expense, and Grantee shall provide a copy thereof to Grantor. Further, Grantor shall, within five (5) days after the Effective Date, disclose and, to the extent written, provide copies to Grantee of any and all unrecorded interests in the Property or a portion thereof, including without limitation leases, easements, mortgages, deeds of trust, severances of mineral rights or other encumbrances of which Grantor has knowledge. Notwithstanding the foregoing, Grantee acknowledges, without any further notice from Grantor being required, that Grantor has entered into a lease for farming activities on the Property with Farm Tenant (as provided and in compliance with Section 10) for the 2024 crop year (the "**Farm Lease**"). Not less than sixty (60) days prior to closing, Grantee shall notify Grantor in writing (the "**Objection Notice**") of Grantee's objections, if any, to any of the encumbrances on title described in the Title Commitment (except for real estate taxes assessed but not yet due and the Farm Lease) and Survey or disclosed to Grantee (the "**Objections**"). If Grantee reasonably objects to any such encumbrances on title or Survey, and if, within ten (10) days after notice of the Objection Notice, Grantor is unwilling or unable to remove the same before the Closing Date (defined below), Grantee may, by notice to Grantor, either (i) terminate the transaction, and all rights and obligations hereunder shall terminate without further liability to either party (except for the return of the Earnest Deposit to Grantee), or (ii) accept title to the Property subject to such encumbrances, in which event the encumbrances shall become "**Permitted Exceptions**". Notwithstanding the foregoing, Grantor shall be obligated to satisfy or remove, on or before the Closing Date, the lien of any real property taxes applicable to periods before closing and any encumbrances created, or suffered to be created by Grantor that are security for payment of a sum of money (including mortgages, trust deeds, tax liens, contractor's liens and judgment liens). Grantor shall not create or suffer to be created any lien or encumbrance on the Property after the Effective Date without the prior written consent of Grantee, not to be unreasonably withheld. For purposes of this Agreement, the term "**Grantor's Knowledge**" or "**Grantor has Knowledge**" shall mean the actual knowledge of Elizabeth Freeman, Charlotte Gay Stites, James Edward Gay, and/or Anne Gay Donworth, with no duty to conduct any further independent investigations, and Grantor hereby warrants that the above-named persons are all of the proper persons necessary and with knowledge to accurately make such representations and warranties set forth in this Agreement.

7. Exercise of Option. Grantee may exercise the Option by written notice to Grantor given at any time, or from time to time, before the expiration of the Term. Upon Grantee's exercise of the Option as provided herein, Grantee shall deliver within two (2) business days after Grantee's exercise of the Option, to an agent of the Title Company, in escrow, [REDACTED] (the "Earnest Deposit"), which such Earnest Deposit shall be a credit towards the Purchase Price of the Property at Closing.

8. Right of Entry. Subject to the terms herein, Grantee, its employees, agents, consultants, contractors and other representatives (collectively, the "Grantee Parties") may, at its expense, enter onto the Property during the Term for any purpose whatsoever related to evaluation of the Property for solar energy development, including conducting tests, surveys, studies and other acts which it deems reasonably necessary for its development of the Property. Without limiting the generality of the foregoing, Grantor specifically grants the Grantee Parties the right to perform tests on the Property and install and maintain equipment on the Property during the Term for purpose of measuring the solar energy resource on the Property, including, without limitation, performing and completing certain interconnection and environmental studies, such as a Phase I Environmental Survey, performing and completing a site survey, conducting geotechnical work (including, without limitation, soil borings) and installing MET Towers ("Investigations"). During the conduct of such Investigations, the Grantee Parties shall cooperate with Grantor to minimize disruption of the operations of Grantor at the Property, inclusive of any farm tenant that cultivates crops on the Property. Such cooperation shall include, but not be limited to, providing Grantor prior notice of entry onto the Property for the conduct of Investigations. If this Agreement is terminated or otherwise expires by its terms, Grantee shall be obligated to repair and restore any material damage to the Property resulting from the Investigations. Further, if Grantee damages any crops on the Property in the conduct of its Investigations, Grantee shall compensate Grantor for such damages, and the failure of Grantee to compensate Grantor shall be deemed a default under this Agreement. Grantee shall promptly pay all contractors providing services to Grantee on the Property for its Investigations in order to prevent the filing of mechanics liens thereon. Grantee agrees to hold Grantor harmless from and against any and all claims, costs, expenses, and liabilities, including reasonable attorneys' fees, for physical damage to the Property (inclusive of a farm tenant's crops) or personal injuries or deaths arising out of or by reason of the Investigations, provided that such claims, costs, expenses and liabilities did not arise out of the gross negligence or willful misconduct of Grantor or its employees, agents, consultants, contractors and other representatives. With respect to any crop damages to be paid by Grantee pursuant to this Section 8, the amount of such damages shall be determined by multiplying the amount of acres damaged times the expected yield for the specific crop damaged based upon the Farm Tenant's records of the average crop yields for the previous three (3) years or other records as mutually agreeable to Grantor and Grantee, and multiplied by the price of the crop damaged on the approximate date of damage as reasonably determined by Grantor and Grantee. Notwithstanding the foregoing, nothing in this Section 8 shall be construed as a contingency to closing if Grantee exercises the Option, in which case Grantee shall be deemed to have accepted the Property in the condition as provided in Section 9. The obligations contained in this Section 8 shall survive expiration or earlier termination of this Agreement.

9. AS-IS Condition of Property. EXCEPT FOR THOSE REPRESENTATIONS AND WARRANTIES SET FORTH IN SECTION 10 BELOW, GRANTEE ACKNOWLEDGES THAT IT IS NOT RELYING ON ANY REPRESENTATIONS OR WARRANTIES

WHATSOEVER BY GRANTOR OR ANY AGENT OR EMPLOYEE THEREOF REGARDING THE PROPERTY (INCLUDING, WITHOUT LIMITATION, ITS PHYSICAL CONDITION, ITS SUITABILITY FOR ANY PARTICULAR PURPOSE, ITS COMPLIANCE WITH LAWS INCLUDING, WITHOUT LIMITATION, ENVIRONMENTAL LAWS, OR THE ABSENCE OF HAZARDOUS SUBSTANCES THEREUPON, AND GRANTOR EXPRESSLY DISCLAIMS ANY AND ALL SUCH REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, EXCEPT FOR ANY REPRESENTATIONS AND WARRANTIES CONTAINED IN SECTION 10 BELOW. EXCEPT AS EXPRESSLY OTHERWISE PROVIDED HEREIN, GRANTEE SHALL ACCEPT THE PROPERTY IN ITS "AS IS", "WHERE IS", "WITH ALL FAULTS" CONDITION, AND GRANTOR HEREBY DISCLAIMS ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, EXPRESS OR IMPLIED.

EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS AGREEMENT, GRANTOR MAKES NO REPRESENTATION OR WARRANTY AS TO THE ACCURACY OR COMPLETENESS OF ANY MATERIALS, DATA OR OTHER INFORMATION DELIVERED BY GRANTOR TO GRANTEE IN CONNECTION WITH THE TRANSACTION CONTEMPLATED HEREBY, INCLUDING, WITHOUT LIMITATION, THE DUE DILIGENCE MATERIALS.

GRANTEE ACKNOWLEDGES THAT IT IS A SOPHISTICATED REAL ESTATE BUYER WHO HAS HERETOFORE HAD AND/OR SHALL DURING THE TERM HAVE OPEN ACCESS TO, AND SUFFICIENT TIME TO REVIEW, ALL INFORMATION, DOCUMENTS, AGREEMENTS, STUDIES AND TESTS RELATING TO THE PROPERTY THAT GRANTEE DEEMED OR DEEMS NECESSARY TO REVIEW IN ITS SOLE DISCRETION, AND HAS OR HEREAFTER SHALL HAVE CONDUCTED A COMPLETE AND THOROUGH INSPECTION, ANALYSIS AND EVALUATION OF THE PROPERTY, INCLUDING BUT NOT LIMITED TO ENVIRONMENTAL TESTING.

GRANTEE HAS UNDERTAKEN OR HEREAFTER SHALL UNDERTAKE SUCH INVESTIGATIONS AS GRANTEE DEEMED OR DEEMS NECESSARY TO MAKE GRANTEE FULLY AWARE OF THE CONDITION OF THE PROPERTY AS WELL AS ALL FACTS, CIRCUMSTANCES AND INFORMATION WHICH MAY AFFECT THE USE AND OPERATION OF THE PROPERTY, AND GRANTEE COVENANTS AND WARRANTS TO GRANTOR THAT GRANTEE HAS RELIED AND SHALL RELY, EXCEPT TO THE EXTENT OF GRANTOR'S REPRESENTATIONS AND WARRANTIES CONTAINED IN SECTION 10 BELOW, SOLELY ON GRANTEE'S OWN DUE DILIGENCE INVESTIGATION IN DETERMINING TO PURCHASE THE PROPERTY. THE PROVISIONS OF THIS SECTION SHALL SURVIVE THE CLOSING OR EARLIER TERMINATION OF THIS AGREEMENT AND SHALL BE DEEMED INCORPORATED INTO THE CLOSING DOCUMENTS TO BE DELIVERED AT CLOSING.

10. Representations and Warranties. Grantor represents and warrants to Grantee that both as of the Effective Date and as of the Closing Date (as qualified herein), as follows:

a. The person(s) signing this Agreement on behalf of Grantor have the full right and authority to do so, and no other persons or entities (including spouses) need to sign this Agreement for it to be fully enforceable against Grantor and the Property.

b. Grantor has received no written notice from any governmental agency of any violation of any statute, law, ordinance, deed restriction, rule or regulation with respect to the Property.

c. There is no pending or, to Grantor's Knowledge, any threatened litigation, condemnation proceeding, or annexation proceeding affecting the Property and there are no governmental assessments not disclosed herein or not disclosed in the Title Commitment or any agreements to convey any portion of the Property, or any rights thereto, to any party other than Grantec, including, without limitation, any government or governmental agency.

d. Grantor is not a "foreign person" as that term is defined in Section 1445 of the Internal Revenue Code. At closing, Grantor shall execute and deliver a certification of non-foreign status on a form required by the Internal Revenue Service.

e. To Grantor's Knowledge, from and after the date that Grantor and Grantor's predecessor in interest to the Property acquired title to the Property in 1983 (the "Ownership Date"), the Property has not been used for the storage or disposal of any hazardous material or waste, and the Property has not been identified by any governmental agency as a site upon which environmentally hazardous materials have been or may have been located or deposited. To Grantor's Knowledge, prior to the Ownership Date, the Property was not used for the storage or disposal of any hazardous material or waste, there were no environmentally hazardous materials or wastes contained on or under the Property and there are no potentially hazardous environmental conditions on the Property. If, subsequent to the closing, it should be determined that as of the Closing Date environmentally hazardous materials or wastes were contained on or under the Property and such hazardous materials or wastes were stored or disposed on or after the Ownership Date but prior to the Closing Date, Grantor shall hold Grantee fully harmless from, indemnify Grantee for and defend Grantee against any and all claims, actions, liabilities, judgments and expenses, including, but not limited to, costs of abatement, removal and cleanup, penalties, fines and reasonable attorney fees, arising out of or in connection with any such contamination.

f. To Grantor's Knowledge, no third party has any rights to use or occupy the Property other than as disclosed in the Title Commitment or otherwise disclosed by Grantor to Grantee pursuant to Section 6.

g. Grantor has not sold, leased transferred and/or conveyed all or any part of its interests in any oil, gas, mineral, and other subsurface rights, or rights to explore, extract, or develop oil, gas, or minerals or other subsurface rights with respect to the Property to any third party. To Grantor's Knowledge, Grantor is the owner of all oil, gas, mineral, and other subsurface rights with respect to the Property.

h. Except as specified in Section 25 herein, so long as this Option remains in effect, Grantor shall not do any of the following, without the written consent of Grantee:

(I) Sell, grant, convey or dispose of, or negotiate or contract to sell, grant, convey or dispose of the Property or any part thereof;

(II) Grant any easement, license or right-of-way in, to or through the Property or any part thereof, or any leases with respect to the Property; or

(III) Create, nor allow to be created, any use restriction or covenant of any kind, character or nature whatsoever with respect to the Property.

Notwithstanding anything to the contrary contained in the foregoing Section 10(h) above, Grantor may, without the consent of Grantee: (i) grant, convey, or transfer the interest in the Property, so long as such transferee thereto is notified of, and takes subject to, this Agreement, and delivers to Grantee a written acknowledgement of this Agreement by said transferee; and (ii) lease the surface of the Property for farming activities to a farm tenant (the "Farm Tenant") in the same manner as it presently operates the Property, provided the Farm Tenant's lease is terminable upon the earlier of (i) ninety (90) days written notice from the Grantee, or (ii) the Closing Date. In no event shall the Farm Tenant's lease be extended beyond the 2024 spring and summer growing season.

If after the Effective Date, there are facts that are disclosed to Grantor by any person or entity other than Grantee that are not known by Grantor as of the Effective Date, that make any of the representations or warranties in the above Section 10 no longer true and correct, Grantor shall advise Grantee of such facts in writing and Grantee shall, prior to the Closing Date, provide written notice to Grantor that Grantee desires to either (i) terminate the transaction, and all rights and obligations hereunder shall terminate without further liability to either party, or (ii) accept title to the Property subject to such newly disclosed facts. If Grantee discovers any facts that make any of Grantor's representations or warranties contained in the above Section 10 no longer true or correct, Grantee shall be obligated to provide Grantor with written notice of such facts within a reasonable time after discovery of those facts, and if Grantor, prior to the Closing Date, has not taken corrective actions to make the representations or warranties contained in the above Section 10 to be true and correct, Grantee shall provide Grantor with written notice that Grantee desires to either (i) terminate the transaction, and (except for liabilities that survive the termination of this Agreement under Section 5(B), Section 8, Section 13, Section 14, Section 16 and Section 23) all rights and obligations hereunder shall terminate without further liability to either party, or (ii) accept title to the Property subject to such newly disclosed facts.

11. Representations and Warranties of Grantee. Grantee represents and warrants to Grantor as follows, both as of the Effective Date and as of the Closing Date:

a. The person(s) signing this Agreement on behalf of Grantee have the full right and authority to do so, and no other persons or entities (including spouses) need to sign this Agreement for it to be fully enforceable against Grantee.

b. Neither the execution, delivery or performance by Grantee of this Agreement, nor the consummation of the transaction contemplated hereby will: (i) violate or conflict with any provision of Grantee's organizational documents; or (ii) violate any

order, judgment, injunction, award or decree of any court or arbitration body, or any other body, by or to which Grantee is or may be bound or subject.

c. No voluntary, and to Grantee's knowledge no involuntary attachments, execution proceedings, assignments for the benefit of creditors, insolvency, bankruptcy, reorganization or other insolvency-related proceedings are pending against Grantee.

12. **Closing.** If Grantee exercises the Option in the manner and at the time herein set forth, the sale shall close, in escrow, at the offices of a title company selected by Grantee (the "**Title Company**") on the date designated in the notice of exercise of Option, which such date shall be no later than the sixtieth (60<sup>th</sup>) day following the date of Grantee's notice of exercise of Option as may be adjusted as provided in Section 25 (the "**Closing Date**"). On or prior to the Closing Date, the parties shall deliver the deed and all funds due on the Closing Date to the Title Company to be held in escrow for facilitating the closing of the transaction contemplated hereby. The escrow instructions for the deed and money escrow shall be in the form customarily used by the Title Company with such special provisions added thereto as may be required to conform to the provisions of this Agreement. The Earnest Deposit escrow instructions shall be substantially in the form of Exhibit "D" attached hereto (the "**Earnest Deposit Escrow Instructions**"). On the Closing Date:

a. Grantor shall convey the Property to Grantee or Grantee's nominee by warranty deed in the form attached hereto as Exhibit "B" (the "**Deed**") or its nearest equivalent in the Commonwealth of Kentucky, free and clear of all liens and encumbrances except the Permitted Exceptions. The exact legal description used in the Deed will be determined by the Survey.

b. Grantor shall fully cooperate in the delivery and issuance to Grantee, at Grantee's expense (to be ordered and pursued by Grantee), an ALTA extended coverage title insurance policy in the amount of the Purchase Price, issued by the Title Company, insuring Grantee as the owner of the Property free and clear of all liens, encumbrances, claims and exceptions, except the Permitted Exceptions. Such ALTA extended coverage title insurance policy will be paid for by Grantee.

c. Grantee shall pay to the Title Company (as closing agent) the balance due on the Purchase Price [REDACTED]

[REDACTED] The balance of the [REDACTED]  
Payment will be paid to Grantor by Title Company upon recording of the Deed.

d. Real property taxes and other usual items shall be prorated as of the Closing Date.

e. Each party shall pay one-half of the escrow fee charged by the Title Company in connection with this transaction. Grantee shall pay the cost of recording the Deed and any transfer, excise or documentary stamp taxes. All other costs, including the cost of Grantee's title insurance for the Property, shall be paid by the Grantee.

f. Each party shall execute such settlement statements, real estate transfer declarations, ALTA Statements and Affidavits of Title required by Title Company, and

any and all other documents reasonably necessary to complete the closing of the transaction contemplated in this Agreement, including, without limitation, an agreement between Grantor, Grantee, and the Title Company agreeing to the Earnest Deposit Escrow Instructions.

13. Failure to Exercise. If Grantee fails to provide written notice to Grantor of Grantee's election to exercise the Option on or before the last day of the Term, the Option shall automatically expire without any further notice to Grantee required, Grantee shall be deemed to have waived the Option and shall have no further right or option to purchase the Property and Grantor shall have no obligation to sell the Property to Grantee, and Grantor shall retain the entire Option Fee paid by Grantee and Grantee shall have no right to the refund of any portion thereof. In such instance, Grantee shall execute (a) a Quit Claim Deed conveying any interest it may have in the Property to Grantor, and (b) a Bill of Sale conveying the Grantee Data and Assets to Grantor as provided in Section 5(B), and this Agreement shall automatically terminate and neither party shall owe any obligations to the other hereunder other than Grantee's obligation to execute the Quit Claim Deed and the Bill of Sale. This Section 13 shall survive expiration or earlier termination of this Agreement.

14. Remedies.

A. Grantee. In the event Grantor breaches any term or provision of this Agreement and fails to cure such breach within twenty (20) days after written notice of the breach from Grantee, then Grantee, may, in addition to any other remedies available under state law, (i) terminate this Agreement and, in the event of a material uncured default either caused by, or within the control of, Grantor, obtain the return of all Option consideration previously paid to Grantor, including all Option Fees, or (ii) tender performance of the obligations of Grantee and specifically enforce all obligations of Grantor.

B. Grantor. In the event Grantee breaches any term or provision of this Agreement and fails to cure such breach within twenty (20) days after written notice of the breach from Grantor, and regardless of whether the breach occurs before or after Grantee notifies Grantor of the exercise of the Option, the Grantor, as its exclusive remedy and in lieu of any other relief, may terminate this Agreement by giving Grantee written notice of termination and retain all Option Fee consideration paid by Grantee; provided, however, the immediately foregoing sentence shall not apply to Grantee's indemnification obligations under Section 8. Grantor acknowledges (i) the adequacy of this exclusive remedy and (ii) that this limitation of remedies is an essential part of this Agreement from the perspective of Grantee. Grantor expressly waives the right to pursue any other right or remedy in law or equity other than the remedy specified above, including the right of specific performance and the right to sue for damages, in the event of a default by Grantee. Notwithstanding the foregoing, in the event Grantee fails to satisfy its indemnification obligation under Section 8, then Grantor will be entitled to any remedies available under applicable law. In addition to Grantor's remedies set forth herein, if Grantee exercises its Option to purchase the Property and fails to close on the purchase of the Property for any reason other than a breach, default or misrepresentation by Grantor hereunder or the exercise by Grantee of a right to terminate this Agreement as otherwise provided in this Agreement, then the Earnest Deposit shall be paid to Grantor as liquidated damages (due

to the difficulty and inconvenience of measuring actual damages and the fact that the Earnest Deposit represents as fair an approximation of actual damages as the parties can now determine) and in full satisfaction of all of Grantor's purchase obligations hereunder. Notwithstanding the foregoing, in the event of any termination of this Agreement (other than due to a material uncured default either caused by, or within the control of, Grantor) or failure by Grantee to close on the purchase of the Property pursuant to this Section 14, Grantee shall execute a Bill of Sale conveying the Grantee Data and Assets to Grantor as provided in Section 5(B). This Section 14 shall survive expiration or earlier termination of this Agreement.

15. Binding Effect. This Agreement and the Option shall run with the land and be binding upon the successors and assigns of the parties.

16. Assignment. This Agreement, and Grantee's rights and obligations hereunder, are freely assignable, in whole or in part, by Grantee without Grantor's consent: (i) for security purposes; or (ii) to any entity who currently operates (or combined with such entity's parent company and/or affiliates collectively currently operate) utility scale energy generation facilities, that, in the aggregate, total 50 MW or greater, or (iii) to East Kentucky Power Cooperative and its subsidiaries and affiliates. Upon any such assignment, the original Grantee will have no further liability or obligations hereunder. Grantor may assign this Agreement, and Grantor's rights and obligations hereunder, to (a) any member(s) of Grantor, or (b) any trust or entity which controls, is controlled by or under common control with, Grantor, any member(s) of Grantor or any immediate family members of any such member of Grantor; provided, however, that any such assignment takes place as part of a conveyance of the Property to the assignee(s). This Section 16 shall survive expiration or earlier termination of this Agreement.

17. Confidentiality. Grantor shall maintain in the strictest confidence, for the benefit of Grantee: (a) all the terms and conditions of this Agreement; (b) all information provided by Grantee pursuant to this Agreement; and (c) all information obtained by or about Grantee's site or product design, methods of operation, and methods of construction, regardless of its source; unless such information either: (i) is in the public domain by reason of prior publication through no act or omission of Grantor or its employees or agents; or (ii) was already known to Grantor at the time of disclosure and which Grantor is free to use or disclose without breach of any obligation to any person or entity (collectively, the "**Confidential Information**"). Grantor shall not use Confidential Information for its own benefit, publish or otherwise disclose it to others, or permit its use by others for their benefit or to the detriment of Grantee. Notwithstanding the foregoing, Grantor may disclose Confidential Information to Grantor's lenders, attorneys, accountants and other personal financial advisors solely for use in connection with their representation of Grantor regarding this Agreement or to any prospective purchaser of the Property; provided that in making such disclosure, Grantor shall advise the party receiving the information of the confidentiality of the information. Grantor may also disclose Confidential Information pursuant to lawful process, subpoena or court order requiring such disclosure, provided that Grantor shall give Grantee reasonable advance notice of the required disclosure and will cooperate with Grantee in limiting such disclosure and in obtaining protective orders where appropriate. Grantor shall get Grantee's written consent before issuing a press release or having any contact with or responding to the news media with any operational, sensitive or confidential information with respect to this Agreement. The provisions of this Section 17 shall survive the termination or expiration of this Agreement.



18. Governing Law. This Agreement shall be construed in accordance with the laws of the Commonwealth of Kentucky without reference to the choice of law principles of the Commonwealth of Kentucky or any other state.

19. Notice. Any notice to be given to a party hereunder, including notice of exercise or extension of the Option, shall be in writing and shall be effective when delivered personally or mailed by nationally recognized overnight delivery service, certified mail, return receipt requested, postage prepaid, addressed to the recipient at the appropriate address first set forth below or by facsimile upon receipt of a confirmation of delivery or electronic mail. Either party may change its address for notice by written notice thereof to the other party.

Grantor: Fayette Partners, LLC  
236 Holiday Road  
Lexington, Kentucky 40502

With a copy to: Harold N. Adams  
Meyer Capel  
306 W. Church St.  
Champaign, IL 61820

Grantee: Bluegrass Plains Solar Project, LLC  
c/o Savion, LLC  
422 Admiral Boulevard  
Kansas City, Missouri 64106

20. Attorney Fees. If any suit or action is brought to enforce or interpret any of the terms of this Agreement or to recover any payment to be made hereunder or to recover damages for the breach hereof, the prevailing party in such suit or action, and in appeal therefrom, shall be entitled to recover its reasonable attorney fees and costs as fixed by the court hearing the same.

21. Section Captions. The section captions are for the convenience of the parties and shall not affect the meaning of this Agreement.

22. Entire Agreement. This Agreement contains the entire agreement between the parties with respect to the subject matter hereof, superseding all negotiations, prior discussions, and preliminary agreements. In particular, this Agreement supersedes the terms of the Original Option Agreements. This Agreement may not be changed except in writing, executed by both parties.

23. Real Estate Commissions. Grantor and Grantee represent to each other that no broker or finder has been engaged by Grantor or Grantee in connection with any of the transactions contemplated by this Agreement, and each shall indemnify the other from and against any claims that a brokerage commission is owed by the indemnitor arising out of or related to this Agreement. The indemnity contained in this Section 23 shall survive expiration or earlier termination of this Agreement.

24. Recording. This Agreement shall not be recorded. At the request of Grantee, Grantor shall execute an Amended, Restated, and Consolidated Memorandum of this Agreement substantially in the form attached as Exhibit "C" (the "**Memorandum**"), which Grantee may then record. At closing, the Deed shall be recorded. The recording costs for the Memorandum and the Deed, along with any documentary or transfer tax, shall be paid by Grantee.

25. Grantor 1031 Exchange. Grantee agrees that if Grantor wishes to use the proceeds from closing on the Property in connection with a tax deferred exchange under IRC Section 1031, it will reasonably cooperate to enable Grantor to engage in such transaction, provided that doing so shall not delay the closing or cause additional expense to Grantee. Grantor's rights under this Agreement may be assigned to a Qualified Intermediary of Grantor's choice for the purpose of completion of such an exchange. Grantee agrees to reasonably cooperate with Grantor and the Qualified Intermediary in a manner necessary to complete the exchange, at no additional cost to Grantee, including adjusting the Closing Date to a later date but no later than the seventieth (70<sup>th</sup>) day following the date of Grantee's notice of exercise of Option as provided herein.

26. Counterparts. This Agreement may be executed in counterparts, each of which, when executed, shall be deemed to be an original, all of which shall be deemed to be one and the same instrument. Facsimile and electronic signatures shall be deemed original signatures.

27. Post-Closing Obligation. In the event (i) Grantee exercises the Option after Farm Tenant has completed planting crops on the cultivated acreage of the Property for the 2024 growing season, ending November 15, 2024, and (ii) after the Closing Date but before November 15, 2024, Grantee's activities on the Property result in damage to at least ten (10) acres of growing crops in any manner or prevent Farm Tenant from harvesting at least ten (10) acres of planted crops, Grantee shall pay to Grantor a one-time, lump-sum payment in the amount of [REDACTED] (the "**Crop Damage Payment**"). If Grantee is obligated to pay the Crop Damage Payment pursuant to this Section, Grantee shall pay the Crop Damage Payment to Grantor within sixty (60) days after commencing construction activities on the Property. The Crop Damage Payment shall be Grantee's sole liability for the loss of any growing crops on the Property, and Grantor shall hold Grantee fully harmless from, indemnify Grantee for and defend Grantee against any and all claims, actions, liabilities, judgments and expenses, including, but not limited to, reasonable attorney fees, arising out of or in connection with damage to growing crops on the Property after the Closing Date. Such indemnity is intended to apply, without limitation, to any claims asserted or instituted by the Farm Tenant. Notwithstanding the foregoing, Grantee may elect to allow Farm Tenant to harvest crops on the Property after the Closing Date, and Grantor shall cause Farm Tenant to enter into a reasonable access agreement for such purposes. This Section 27 shall not merge with the Deed and shall survive the Closing Date.

*[Signature Page Follows]*

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

**GRANTEE**

**BLUEGRASS PLAINS SOLAR PROJECT, LLC, a Delaware limited liability company**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**GRANTOR**

**FAYETTE PARTNERS, LLC, a Kentucky limited liability company**

By: \_\_\_\_\_  
James E. Gay, Authorized Member

**EXHIBIT "A"**

**LEGAL DESCRIPTION**

THE FOLLOWING REAL PROPERTY LOCATED IN THE COUNTY OF FAYETTE,  
COMMONWEALTH OF KENTUCKY:

THE FOLLOWING REAL PROPERTY LOCATED IN THE COUNTY OF FAYETTE,  
COMMONWEALTH OF KENTUCKY:

Being all of Tracts 2 and 3 as shown on the Final Record Plat of the Augustus Gay Property of record in Plat Cabinet I, Slide 241, Fayette County Clerk's Office.

And being the same property conveyed to Elizabeth Gay Freeman, a married person, Charlotte Gay Stites, a married person, James Edward Gay, a married person, and Anne Gay Donworth, a married person, by Deed from James E. Bassett III, in his capacity as Trustee of the Marital Trust Under Section 5 of the Will of Lucy Gay Bassett, dated March 20, 2021, and recorded March 31, 2021, in Deed Book 3829, at Page 132, in the official public records of Fayette County, Kentucky, from, and subsequently conveyed to Fayette Partners, LLC, by Deed from Elizabeth Gay Freeman and George Freeman, wife and husband, Charlotte Gay Stites and John Clay Stites, wife and husband, James Edward Gay and Alyson S. Gay, husband and wife, and Anne Gay Donworth (f/k/a Anne Pinckney Gay) and Richard Donworth, wife and husband, by deed dated March 20, 2021, and recorded April 21, 2021, in Deed Book 3836, at Page 263, in the official public records of Fayette County, Kentucky.

Being all of Tract 4 as shown on the Final Record Plat of the Augustus Gay Property of record in Plat Cabinet I, Slide 241, in the Fayette County Clerk's Office.

And being the same property conveyed to Gay Land Company, LLC (now, Fayette Partners, LLC) by Deeds from (i) Lucy Gay Bassett, Trustee of the James G. Gay Irrevocable Trust for the Benefit of Anne Pinckney Gay Dated September 8, 1983, dated January 31, 2002, and recorded June 7, 2002, in Deed Book 2284, at Page 149, in the official public records of Fayette County, Kentucky; (ii) James Edward Gay, dated January 31, 2002, and recorded June 7, 2002, in Deed Book 2284, at Page 144, in the official public records of Fayette County, Kentucky; (iii) Clay Stites and Charlotte Gay Stites, husband and wife, dated January 31, 2002, and recorded June 7, 2002, in Deed Book 2284, at Page 140, in the official public records of Fayette County, Kentucky; (iv) George Freeman and Elizabeth G. Freeman, husband and wife, dated January 31, 2002, and recorded June 7, 2002, in Deed Book 2284, at Page 136, in the official public records of Fayette County, Kentucky; and (v) James G. Gay and Anne P. Gay, husband and wife, dated December 27, 2001, and recorded June 7, 2002, in Deed Book 2284, at Page 132, in the official public records of Fayette County, Kentucky

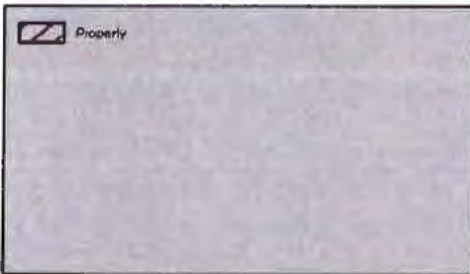
PINs: 20113980, 20113990 and 2011400

**EXHIBIT "A-1"**

**DEPICTION OF THE PROPERTY**



**EXHIBIT A-1**  
**Fayette Partners, LLC**



1/8" = 100 Feet  
0 250 500 1,000  
Scale: 1:12,000

Coordinate System: NAD 83 (2011) StatePlane Kentucky North FIPS 5003 Feet  
The following coordinates and calculations provided here shall not be used for the purposes of this site.  
Created by:  
Savion Systems, Inc. (2011) (Savion)  
U.S. Department of Agriculture  
U.S. Census Bureau  
U.S. Geological Survey (USGS)  
Wildlife Conservation  
United States Geological Survey  
Copyright © 2011 Savion Systems, Inc.



**FAYETTE COUNTY, KENTUCKY**



Site Location

**EXHIBIT "B"**

Form of Warranty Deed

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**SPECIAL WARRANTY DEED**

THIS INDENTURE, made effective as of the \_\_\_\_ day of \_\_\_\_\_ 20\_\_, by and between \_\_\_\_\_ (“Grantor”) and \_\_\_\_\_, having an address of 422 Admiral Boulevard, Kansas City, Missouri 64106 (“Grantee”).

WITNESSETH, THAT in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration to Grantor duly paid, the receipt of which is hereby acknowledged, Grantor does by these presents, CONVEY WITH SPECIAL WARRANTY unto Grantee and Grantee’s successors and assigns, the property in \_\_\_\_\_ County, Kentucky, described in Exhibit “A” attached hereto and incorporated herein by this reference, together with all improvements thereon (collectively, the “Property”);

Subject to the following (collectively, the Permitted Exceptions):<sup>1</sup>

Grantor, for itself, and its successors and assigns, does covenant, promise and agree, to and with the Grantee, its heirs/successor and assigns, that during the period that Grantor has owned title to the subject real estate, that Grantor has not done or suffered to be done anything whereby the subject real estate hereby granted is, or may be, in any manner encumbered or charged, except for and subject to the exceptions set forth herein, and that Grantor will warrant and forever defend the subject real estate against all persons lawfully claiming by, through or under Grantor, but not otherwise;

***[SIGNATURE PAGE FOLLOWS]***

---

<sup>1</sup> Note to Draft: To be completed, prior to Closing, with Permitted Exceptions, if any, as contemplated by Section 6 of the Real Estate Option Agreement.

IN WITNESS WHEREOF, Grantor has caused this Deed to be executed as of the day and year first above written.

**GRANTOR:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

STATE OF \_\_\_\_\_ )  
  )  
COUNTY OF \_\_\_\_\_ )

BE IT REMEMBERED, that on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, the undersigned, a Notary Public in and for said County and State aforesaid, came \_\_\_\_\_, \_\_\_\_\_, to me known to be the person(s) who executed the foregoing instrument, and acknowledged that he/she/they executed the same as her/his/their free act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

My Commission Expires:

\_\_\_\_\_  
Notary Public in and for said County and State

\_\_\_\_\_  
[SEAL]

Print Name: \_\_\_\_\_



**EXHIBIT "C"**

**Form of Amended, Restated, and Consolidated Memorandum of Option**

**AFTER RECORDING, RETURN TO:**

**Bluegrass Plains Solar Project, LLC,  
422 Admiral Boulevard  
Kansas City, Missouri 64106**

**AMENDED, RESTATED, AND CONSOLIDATED MEMORANDUM OF OPTION**

THIS AMENDED, RESTATED, AND CONSOLIDATED MEMORANDUM OF OPTION (“**Memorandum**”) dated for reference purposes as of November 21, 2023 (but for all other purposes, the “**Effective Date**” shall be September 28, 2018), is by and between Fayette Partners, LLC, a Kentucky limited liability company, whose address is 236 Holiday Road, Lexington, Kentucky 40502 (“**Grantor**”) and Bluegrass Plains Solar Project, LLC, a Delaware limited liability company, its successors and assigns, whose address is 422 Admiral Boulevard, Kansas City, Missouri 64106 (“**Grantee**”).

1. Grantor is the owner of that certain real property located in Fayette County, Commonwealth of Kentucky more particularly described in the attached Exhibit A attached hereto and as generally depicted on the map attached hereto as Exhibit A-1 (the “**Property**”).

2. Grantor (f/k/a Gay Land Company, LLC) and Grantee entered into that certain Real Estate Option Agreement dated effective as of September 28, 2018, as amended by that certain First Amendment to Real Estate Option Agreement dated effective as of September 7, 2023, as further amended by that certain Second Amendment to Real Estate Option Agreement dated effective as of October 6, 2023, as further amended by that certain Third Amendment to Real Estate Option Agreement dated effective as of October 20, 2023, as further amended by that certain Fourth Amendment to Real Estate Option Agreement dated effective as of October 25, 2023, and as further amended by that certain Fourth Amendment to Real Estate Option Agreement dated effective as of November 17, 2023 (as amended collectively, the “**Fayette Option**”), notice of which is imparted by that certain Memorandum of Option recorded October 24, 2018 in Book 3624, Page 402 in the official public records of Fayette County, Kentucky (the “**Fayette Option Memo**”) wherein Grantor granted to Grantee an option to purchase a portion of the Property.

3. Grantor’s predecessor in interest, James E. Bassett, executor of the Estate of Lucy Gay Bassett, and Grantee entered into that certain Real Estate Option Agreement dated effective

as of October 22, 2018, as amended by that certain First Amendment to Real Estate Option Agreement dated effective as of September 7, 2023, as further amended by that certain Second Amendment to Real Estate Option Agreement dated effective as of October 6, 2023, as further amended by that certain Third Amendment to Real Estate Option Agreement dated effective as of October 20, 2023, as further amended by that certain Fourth Amendment to Real Estate Option Agreement dated effective as of October 25, 2023, and as further amended by that certain Fourth Amendment to Real Estate Option Agreement dated effective as of November 17, 2023 (as amended collectively, the “**Bassett Option**” and together with the Fayette Option, the “**Original Option Agreements**”), notice of which is imparted by that certain Memorandum of Option, recorded November 26, 2018 in Book 3630, Page 594, in the official public records of Fayette County, Kentucky (the “**Bassett Option Memo**” and together with the Fayette Option Memo, the “**Original Option Memos**”) wherein Grantor’s predecessor in interest granted to Grantee an option to purchase the balance of the Property.

4. Grantor and Grantee entered into that certain Amended, Restated, and Consolidated Real Estate Option Agreement (the “**Agreement**”) of even date herewith which amends, restates, supersedes, and consolidates the Original Option Agreements into one agreement, such that the Agreement is the single real estate option between Grantor and Grantee concerning the Property.

5. Grantor and Grantee intend for the Term (as defined in the Agreement) to continue in the Agreement from the Effective Date, and to extend the Term pursuant to the terms in the Agreement.

6. Grantor and Grantee desire to amend, restate, supersede, and consolidate the Original Option Memos into one memorandum being this Memorandum.

7. Pursuant to Agreement, Grantee holds an option to purchase all of the Property on the terms therein stated (the “**Option**”). The term of the Option commenced on September 28, 2018 and shall expire September 30, 2024, unless Grantee validly elects to extend the term of the Option to March 31, 2025.

8. Grantor and Grantee have executed and recorded this Memorandum to provide record notice of the existence of the Option. This Memorandum of Option may be executed in counterparts.

*[Signature Pages Follow]*

IN WITNESS WHEREOF, the parties have executed this Memorandum as of November \_\_\_\_ , 2023.

**GRANTEE:**

**BLUEGRASS PLAINS SOLAR PROJECT, LLC,**  
a Delaware limited liability company

By: \_\_\_\_\_  
Aaron Lipscomb, Authorized Person

STATE OF \_\_\_\_\_ )  
   ) ss.  
COUNTY OF \_\_\_\_\_ )

Be it remembered that on this \_\_\_\_ day of \_\_\_\_\_, 2023, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Aaron Lipscomb, to me personally known, who being by me duly sworn did say that he is an Authorized Person of Bluegrass Plains Solar Project, LLC, a Delaware limited liability company, and that the within instrument was signed and delivered on behalf of said limited liability company by authority thereof, and acknowledged said instrument to be the free act and deed of said limited liability company for the purposes therein expressed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial seal in the date herein last above written.

My Commission Expires:

\_\_\_\_\_  
[SEAL]

\_\_\_\_\_  
Notary Public in and for said County and State

Print Name: \_\_\_\_\_

**BLUEGRASS PLAINS SOLAR PROJECT, LLC,**  
a Delaware limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
  ) ss.  
COUNTY OF \_\_\_\_\_ )

Be it remembered that on this \_\_\_\_ day of \_\_\_\_\_, 2023, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came \_\_\_\_\_, to me personally known, who being by me duly sworn did say that he/she is \_\_\_\_\_ of Bluegrass Plains Solar Project, LLC, a Delaware limited liability company, and that the within instrument was signed and delivered on behalf of said limited liability company by authority thereof, and acknowledged said instrument to be the free act and deed of said limited liability company for the purposes therein expressed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial seal in the date herein last above written.

My Commission Expires:

\_\_\_\_\_  
[SEAL]

\_\_\_\_\_  
Notary Public in and for said County and State

Print Name: \_\_\_\_\_

**GRANTOR:**

FAYETTE PARTNERS, LLC, a Kentucky limited liability company

By: \_\_\_\_\_  
James E. Gay, Authorized Member

STATE OF \_\_\_\_\_ )  
  )  
COUNTY OF \_\_\_\_\_ )

Be it remembered that on this \_\_\_\_ day of \_\_\_\_\_, 2023, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came James E. Gay, to me personally known, who being by me duly sworn did say that he is an Authorized Member of Fayette Partners, LLC, a Kentucky limited liability company, and that said instrument was signed and delivered on behalf of said limited liability company and that said Fayette Partners, LLC acknowledged said instrument to be the free act and deed of said limited liability company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

My Commission Expires:

\_\_\_\_\_  
Notary Public in and for said County and State

\_\_\_\_\_  
[SEAL]

Print Name: \_\_\_\_\_

## **EXHIBIT A**

### **Legal Description**

THE FOLLOWING REAL PROPERTY LOCATED IN THE COUNTY OF FAYETTE,  
COMMONWEALTH OF KENTUCKY:

Being all of Tracts 2 and 3 as shown on the Final Record Plat of the Augustus Gay Property of record in Plat Cabinet I, Slide 241, Fayette County Clerk's Office.

And being the same property conveyed to Elizabeth Gay Freeman, a married person, Charlotte Gay Stites, a married person, James Edward Gay, a married person, and Anne Gay Donworth, a married person, by Deed from James E. Bassett III, in his capacity as Trustee of the Marital Trust Under Section 5 of the Will of Lucy Gay Bassett, dated March 20, 2021, and recorded March 31, 2021, in Deed Book 3829, at Page 132, in the official public records of Fayette County, Kentucky, from, and subsequently conveyed to Fayette Partners, LLC, by Deed from Elizabeth Gay Freeman and George Freeman, wife and husband, Charlotte Gay Stites and John Clay Stites, wife and husband, James Edward Gay and Alyson S. Gay, husband and wife, and Anne Gay Donworth (f/k/a Anne Pinckney Gay) and Richard Donworth, wife and husband, by deed dated March 20, 2021, and recorded April 21, 2021, in Deed Book 3836, at Page 263, in the official public records of Fayette County, Kentucky.

Being all of Tract 4 as shown on the Final Record Plat of the Augustus Gay Property of record in Plat Cabinet I, Slide 241, in the Fayette County Clerk's Office.

And being the same property conveyed to Gay Land Company, LLC (now, Fayette Partners, LLC) by Deeds from (i) Lucy Gay Bassett, Trustee of the James G. Gay Irrevocable Trust for the Benefit of Anne Pinckney Gay Dated September 8, 1983, dated January 31, 2002, and recorded June 7, 2002, in Deed Book 2284, at Page 149, in the official public records of Fayette County, Kentucky; (ii) James Edward Gay, dated January 31, 2002, and recorded June 7, 2002, in Deed Book 2284, at Page 144, in the official public records of Fayette County, Kentucky; (iii) Clay Stites and Charlotte Gay Stites, husband and wife, dated January 31, 2002, and recorded June 7, 2002, in Deed Book 2284, at Page 140, in the official public records of Fayette County, Kentucky; (iv) George Freeman and Elizabeth G. Freeman, husband and wife, dated January 31, 2002, and recorded June 7, 2002, in Deed Book 2284, at Page 136, in the official public records of Fayette County, Kentucky; and (v) James G. Gay and Anne P. Gay, husband and wife, dated December 27, 2001, and recorded June 7, 2002, in Deed Book 2284, at Page 132, in the official public records of Fayette County, Kentucky

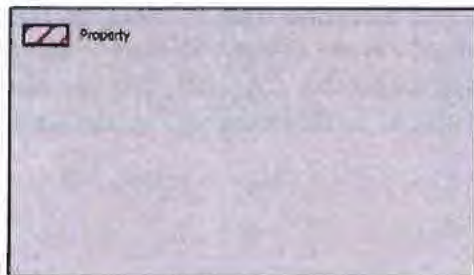
PINs: 20113980, 20113990 and 2011400

**EXHIBIT A-1**

**Depiction of the Property**



**EXHIBIT A-1**  
**Fayette Partners, LLC**



US Feet  
 0 250 500 1 000  
 Scale: 1" = 2000'  
 Contours System: 1943 1963 StatePlane  
 Kentucky North FIPS 1021 Feet  
 The following companies and organizations provided data that was used in the production of this map:  
 GeoEye, Inc.  
 Environmental Systems Research Institute (ESRI)  
 Microsoft Corporation  
 U.S. Department of Agriculture (USDA)  
 U.S. Geological Survey (USGS)  
 National Transportation  
 Kentucky, Inc. (AKS Company)  
 Project © 2012 Manager and Data Analysts



**FAYETTE COUNTY, KENTUCKY**



Site Location



## **EXHIBIT "D"**

### **Earnest Deposit Escrow Provisions**

Title Company shall hold, manage, and disburse the Earnest Deposit subject to the following:

1. Title Company undertakes to perform only such duties as are expressly set forth and are limited to the safekeeping of the Earnest Deposit in accordance with the terms of this Agreement.
2. Title Company shall place the Earnest Deposit in a non-interest-bearing and/or IOTA account.
3. Title Company may act in reliance upon any writing or instrument or signature which it, in good faith, believes to be genuine, assume the validity and accuracy of any statement or assertion contained in such a writing or instrument and assume that any person purporting to give any writing, notice, advice or instructions in connection with the provisions hereof has been fully authorized to do so. Title Company shall not be liable in any manner for the sufficiency or correctness as to the form, manner, and execution or validity of any document delivered to the Title Company, any notice received relative to this Agreement or the identity, authority, or right of any person executing the same.
4. Provided that Title Company is not guilty of willful misconduct or gross negligence or otherwise breaches this Agreement, Grantee and Grantor release Title Company, its officers, managers, directors, and agents, from any and all claims, liabilities, suits, or proceedings at law or in equity and any other expenses, fees, or charges which they may incur by reason of the subject matter of this Agreement.
5. Provided that Title Company is not guilty of willful misconduct or gross negligence or otherwise breaches this Agreement, Grantee and Grantor jointly and severally agree to indemnify Title Company, its officers, managers, directors, and agents, from any and all claims, liabilities, suits, or proceedings at law or in equity and any other expenses, fees, or charges which Title Company may incur by reason of the subject matter of this Agreement and shall promptly reimburse Title Company for the same upon written demand from Title Company.
6. Title Company shall be discharged of any responsibility hereunder at such time Title Company has disposed of the Earnest Deposit as provided for in this Agreement.
7. Title Company shall not be liable for loss or impairment of the Earnest Deposit in the course of collection or while on deposit with a bank due to bank failure, insolvency, or suspension, except as shall result from failure of the Title Company to comply with provisions of this Agreement.
8. If Title Company determines that Grantee and Grantor are in disagreement about the propriety of any action contemplated by Title Company hereunder, Title Company may

(without limitation) withhold disposition of the Earnest Deposit pending resolution of such disagreement. In the event that conflicting demands are made upon Title Company, Grantee and Grantor expressly agree and consent that Title Company shall have the absolute right to do the following:

- a. withhold and stop all disbursements for a period of thirty (30) days; and
  - b. at any time after such 30-day period, file a suit in interpleader in a court of competent jurisdiction seeking to require the parties to interplead and litigate in such court their several claims and rights among themselves. Upon the filing of such a suit and a deposit of the Earnest Deposit to such court, Title Company shall ipso facto be fully released and discharged from all obligations to further perform any and all duties imposed upon it by this Agreement. Grantee and Grantor shall reimburse Title Company for any expenses, fees, or charges that Title Company may incur by reason of the interpleader promptly upon written demand from Title Company.
9. Title Company may, in its sole discretion, elect to resign in its capacity as Title Company under this Agreement upon not less than thirty (30) days written notice to Grantee and Grantor.
10. Title Company shall pay the Earnest Deposit to Grantor at the Closing upon written instructions from Grantee and the Earnest Deposit so paid shall be applied to the Purchase Price. Except for disbursements made at the joint direction of Grantee and Grantor and any payment of the Earnest Deposit to Grantor at the direction of Grantee, Title Company shall notify Grantor and Grantee of any intended disbursement of the Earnest Deposit not less than three (3) business days prior to any actual disbursement of the Earnest Deposit. Grantee and Grantor shall be deemed to have consented to such proposed disbursement unless such party has notified Title Company and the other party to this Agreement of its objection to such proposed disbursement by the end of such period of three (3) business days.
11. All notices permitted or required under this Agreement will be in writing and will be given by (a) United States Certified Mail, return receipt requested, postage prepaid, (b) personal delivery, (c) overnight courier delivery service for next business day delivery, charges prepaid, or (b) fax transmission, and addressed to the applicable party at the address either set forth below or as set forth in this Agreement or to such other address as a party may specify from time to time by giving notice in accordance with this Section. All notices will be effective upon the date of receipt or, if applicable, refusal.

Title Company: [INSERT TITLE COMPANY  
NOTICES ADDRESS]

**IN WITNESS WHEREOF**, this Agreement has been duly executed by the Parties as of the date first written above.

**SELLER:**

**BLUEGRASS PLAINS SOLAR PROJECT, LLC,**  
a Delaware limited liability company

DocuSigned by:  
By:  \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Authorized Person

DocuSigned by:  
By:  \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**BUYER:**

**EAST KENTUCKY POWER COOPERATIVE, INC.,**  
a Kentucky corporation


By: *Don Mosier*  
Don Mosier (Nov 21, 2023 10:52 EST)  
Name: Don Mosier  
Title: COO & Executive VP

**SOLELY FOR PURPOSES OF OBLIGATIONS OF SECTION 7.7 ABOVE:**

**SAVION:**

**SAVION, LLC,**  
a Delaware limited liability company

DocuSigned by:  
By:  \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

DocuSigned by:  
By:  \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

742243

**EAST KENTUCKY POWER COOPERATIVE, INC.**  
**CASE NO. 2024-00129**  
**INITIALREQUEST FOR INFORMATION RESPONSE**  
**LFUCG’S REQUEST DATED MAY 31, 2024**

**REQUEST 46**

**RESPONSIBLE PARTY: Patrick Bischoff**

**Request 46. Reference Exhibit 3, Attachment PB-1, “East Kentucky Power Cooperative NRCO 2021- Solar Proposal Revised – May 2023,” page 9 of 70, “Bluegrass Solar has 388 acres of available land located in an agriculture rural zone. Two Memorandums of Option were signed with the landowners in 2018.” Please provide copies of the memorandums.**

**Response 46. The original purchase options were amended and restated November 21, 2023. The amended, restated, and consolidated real estate option agreement is provided. Please see the attached file, Redacted - Amended and Restated Purchase Option**

**AMENDED, RESTATED, AND CONSOLIDATED REAL ESTATE OPTION  
AGREEMENT**

THIS AMENDED, RESTATED, AND CONSOLIDATED REAL ESTATE OPTION AGREEMENT (this “**Agreement**”), dated for reference purposes as November 21, 2023 (but for all other purposes, the “**Effective Date**” shall be September 28, 2018), is by and between Bluegrass Plains Solar Project, LLC, a Delaware limited liability company, its successors and assigns (“**Grantee**”), and Fayette Partners, LLC, a Kentucky limited liability company (“**Grantor**”).

**RECITALS:**

A. Grantor is the owner of approximately three hundred eighty-seven (387 acres) of that certain real property located in Fayette County, Kentucky, including all improvements thereon, as described in Exhibit “A” attached hereto, and as generally depicted on the map attached hereto as Exhibit “A-1” (the “**Property**”);

B. Grantor (f/k/a Gay Land Company, LLC) and Grantee entered into that certain Real Estate Option Agreement dated effective as of September 28, 2018, notice of which is imparted by that certain Memorandum of Option recorded October 24, 2018 in Book 3624, Page 402 in the official public records of Fayette County, Kentucky, as amended by that certain First Amendment to Real Estate Option Agreement dated effective as of September 7, 2023, as further amended by that certain Second Amendment to Real Estate Option Agreement dated effective as of October 6, 2023, as further amended by that certain Third Amendment to Real Estate Option Agreement dated effective as of October 20, 2023, as further amended by that certain Fourth Amendment to Real Estate Option Agreement dated effective as of October 25, 2023, and as further amended by that certain Fifth Amendment to Real Estate Option Agreement dated effective as of November 17, 2023 (as amended collectively, the “**Fayette Option**”) wherein Grantor granted to Grantee an option to purchase a portion of the Property in connection with the development of a solar energy power generation facility (the “**Project**”);

C. Grantor’s predecessor in interest, James E. Bassett, executor of the Estate of Lucy Gay Bassett, and Grantee entered into that certain Real Estate Option Agreement dated effective as of October 22, 2018, notice of which is imparted by that certain Memorandum of Option, recorded November 26, 2018 in Book 3630, Page 594, in the official public records of Fayette County, Kentucky, as amended by that certain First Amendment to Real Estate Option Agreement dated effective as of September 7, 2023, as further amended by that certain Second Amendment to Real Estate Option Agreement dated effective as of October 6, 2023, as further amended by that certain Third Amendment to Real Estate Option Agreement dated effective as of October 20, 2023, as further amended by that certain Fourth Amendment to Real Estate Option Agreement dated effective as of October 25, 2023, and as further amended by that certain Fifth Amendment to Real Estate Option Agreement dated effective as of November 17, 2023 (as amended collectively, the “**Bassett Option**” and together with the Fayette Option, the “**Original Option Agreements**”) wherein Grantor’s predecessor in interest granted to Grantee an option to purchase that portion of the Property that is not the subject of the Fayette Option in connection with the Project;

D. Grantor and Grantee desire to amend, restate, supersede, and consolidate the Original Option Agreements into one agreement, such that this Agreement is the single real estate option between Grantor and Grantee concerning the Property;

E. Grantor and Grantee intend for the Term (as defined below) to continue in this Agreement from the Effective Date, and to extend the Term pursuant to the terms hereinafter provided; and

F. The Grantor and Grantee desire to otherwise amend and modify the Original Option Agreements as provided herein.

NOW THEREFORE, in consideration of the foregoing, the mutual promises and covenants contained hereinafter, and other good and valuable consideration, the parties agree that all of the terms and conditions of the Original Option Agreements are deleted in their entirety and replaced with the following:

1. Grant of Option. Grantor hereby bargains, gives and grants to Grantee, the sole, exclusive, and irrevocable right and option (the “**Option**”) to purchase all of the Property, in consideration of the annual payments previously paid by Grantee to Grantor pursuant to the Original Option Agreements for the first five (5) years of the Term (defined below) (the “**Original Option Fees**”), plus an additional payment from Grantee to Grantor in the amount of [REDACTED] to be paid in accordance with Section 2 below.

2. Payment of Option Fees and Grantor’s Attorneys’ Fees.

A. Grantee shall pay the Extension Fee within two (2) business days after full execution of this Agreement by both Grantor and Grantee (the “**Extension Fee Due Date**”). The Option Fee shall be nonrefundable to Grantee except as expressly provided in this Agreement and shall not be credited against the Purchase Price (defined below).

B. Grantee shall pay Grantor for Grantor’s attorneys’ fees incurred by Grantor in the negotiation, preparation, review and revision of this Agreement and all exhibits attached hereto, in the amount of [REDACTED] (the “**Attorney’s Fees Reimbursement**”). Grantee shall submit a single, lump sum payment in the amount of [REDACTED] to Grantor within fifteen (15) days after the execution of this Agreement by both Grantor and Grantee.

3. Term. The Option shall be for a period commencing on the Effective Date and terminating on September 30, 2024 (the “**Term**”). Grantee may terminate the Option at any time without refund of any portion of the Option Fee already paid. Notwithstanding the foregoing, Grantee may extend the Term twice, each extension being for a period of three (3) additional months (the first extension running through December 31, 2024 and the second extension running through March 31, 2025), by (a) providing written notice of the applicable extension to Grantor no later than the date on which the Term (as it may have been extended) expires, and (b) making an additional payment to Grantor for the applicable extension being exercised in the amount of [REDACTED] no later than the date on which the Term (as it may have been extended) expires (the “**Additional Extension Fees**”). The Additional

Extension Fees shall be nonrefundable to Grantee and shall not be credited against the Purchase Price.

4. Purchase Price. The purchase price for the Property shall be an amount equal to the greater of (a) the total number of acres of the Property multiplied by

shall be paid by Grantee to Grantor on the Closing Date as provided in Section 12.

5. Grantor Cooperation; Diligent Pursuit of Approvals.

A. Subject to the terms herein, during the Term Grantor agrees to reasonably cooperate with Grantee in obtaining all federal, state and local governmental, regulatory or private utility approvals (“**Approvals**”) necessary for development of the Project, including, without limitation, any zoning and site development approvals (including, without limitation, permits, entitlements, approvals, licenses, variances, or other rights) from Fayette County, Kentucky or other required city or county approvals for development of the Property for the Project (the “**Zoning Approvals**”). Specifically, Grantor agrees to execute all necessary documents required for such Approvals, including Zoning Approvals. Grantee covenants and represents that it will not proffer, offer, or accept any conditions in the Zoning Approvals that would obligate Grantor to dedicate any portion of the Property for public purposes or cause Grantor to directly pay monies to the applicable governmental authority should Grantee fail to exercise its Option and acquire the Property. Grantee shall pay all costs associated with seeking and obtaining any such Approvals. Should Grantee obtain a Zoning Approval from Fayette County, Grantee and Grantor shall take reasonable steps to ensure that the Property assessment is not increased due to such Approval, which steps may include filing and prosecuting an application to revoke such Zoning Approval, at Grantee’s sole expense, if Grantee does not exercise its Option. Grantee’s obligation to file and prosecute such application at its expense shall survive the expiration or earlier termination of this Agreement.

B. If this Agreement is terminated for any reason other than a Grantor default or otherwise expires by its terms, Grantee shall, within thirty (30) days after termination or expiration, as applicable, assign, transfer and convey to Grantor, free and clear of all security interests, liens, encumbrances, debts, financial obligations and any other third party rights and by Bill of Sale executed by Grantee the following data, reports, equipment, agreement and assets: (i) any meteorological tower(s) or semi-automatic meteorological stations placed on the Property by Grantee and all energy assessment reports and raw data collected from devices; (ii) all data and reports relating to environmental conditions and/or threatened and endangered species collected by Grantee relative to the Project (defined below) (or any other studies performed by Grantee on the Property); (iii) all third party data, studies and reports relating to power transmission related to the Property location; and (iv) any transfer rights, interconnection rights, Zoning Approvals and any other permits obtained by Grantee for the Project related to the Property location (collectively, the “**Grantee Data and Assets**”). Grantee shall provide Grantor with a list of all Grantee Data and Assets within fifteen (15) days after termination or expiration of this Agreement.

Grantee's obligation to assign, transfer and convey the Grantee Data and Assets shall be only to the extent Grantee is legally permitted to do so (contractually or otherwise); provided, however, that Grantee shall make reasonable efforts to obtain any third party consents required for such permission. The purchase price for the Grantee Data and Assets shall be [REDACTED] which Grantor shall pay to Grantee immediately upon receipt of the Bill of Sale for the Grantee Data and Assets by Grantor. Grantee shall cooperate with Grantor and execute any other documents reasonably requested to effectuate the transfer and conveyance of legal title and ownership of the Grantee Data and Assets to Grantor if for any reason any such Grantee Data and Assets cannot be legally transferred and conveyed via Bill of Sale. If Grantee intends to terminate this Agreement or allow the Agreement to expire without exercising the Option, Grantee shall use commercially reasonable efforts to assign any then-active interconnection rights to Grantor pursuant to this Section 5(B) prior to any such termination or expiration. This Section 5(B) shall survive expiration or earlier termination of this Agreement.

6. Title/Survey. During the Term, Grantee shall have the right to obtain a preliminary title commitment (the "**Title Commitment**") from the Title Company (defined below) and an ALTA survey with respect to the Property (the "**Survey**"), each at Grantee's expense, and Grantee shall provide a copy thereof to Grantor. Further, Grantor shall, within five (5) days after the Effective Date, disclose and, to the extent written, provide copies to Grantee of any and all unrecorded interests in the Property or a portion thereof, including without limitation leases, easements, mortgages, deeds of trust, severances of mineral rights or other encumbrances of which Grantor has knowledge. Notwithstanding the foregoing, Grantee acknowledges, without any further notice from Grantor being required, that Grantor has entered into a lease for farming activities on the Property with Farm Tenant (as provided and in compliance with Section 10) for the 2024 crop year (the "**Farm Lease**"). Not less than sixty (60) days prior to closing, Grantee shall notify Grantor in writing (the "**Objection Notice**") of Grantee's objections, if any, to any of the encumbrances on title described in the Title Commitment (except for real estate taxes assessed but not yet due and the Farm Lease) and Survey or disclosed to Grantee (the "**Objections**"). If Grantee reasonably objects to any such encumbrances on title or Survey, and if, within ten (10) days after notice of the Objection Notice, Grantor is unwilling or unable to remove the same before the Closing Date (defined below), Grantee may, by notice to Grantor, either (i) terminate the transaction, and all rights and obligations hereunder shall terminate without further liability to either party (except for the return of the Earnest Deposit to Grantee), or (ii) accept title to the Property subject to such encumbrances, in which event the encumbrances shall become "**Permitted Exceptions**". Notwithstanding the foregoing, Grantor shall be obligated to satisfy or remove, on or before the Closing Date, the lien of any real property taxes applicable to periods before closing and any encumbrances created, or suffered to be created by Grantor that are security for payment of a sum of money (including mortgages, trust deeds, tax liens, contractor's liens and judgment liens). Grantor shall not create or suffer to be created any lien or encumbrance on the Property after the Effective Date without the prior written consent of Grantee, not to be unreasonably withheld. For purposes of this Agreement, the term "**Grantor's Knowledge**" or "**Grantor has Knowledge**" shall mean the actual knowledge of Elizabeth Freeman, Charlotte Gay Stites, James Edward Gay, and/or Anne Gay Donworth, with no duty to conduct any further independent investigations, and Grantor hereby warrants that the above-named persons are all of the proper persons necessary and with knowledge to accurately make such representations and warranties set forth in this Agreement.



7. Exercise of Option. Grantee may exercise the Option by written notice to Grantor given at any time, or from time to time, before the expiration of the Term. Upon Grantee's exercise of the Option as provided herein, Grantee shall deliver within two (2) business days after Grantee's exercise of the Option, to an agent of the Title Company, in escrow, [REDACTED] **"Earnest Deposit"**), which such Earnest Deposit shall be a credit towards the Purchase Price of the Property at Closing.

8. Right of Entry. Subject to the terms herein, Grantee, its employees, agents, consultants, contractors and other representatives (collectively, the "Grantee Parties") may, at its expense, enter onto the Property during the Term for any purpose whatsoever related to evaluation of the Property for solar energy development, including conducting tests, surveys, studies and other acts which it deems reasonably necessary for its development of the Property. Without limiting the generality of the foregoing, Grantor specifically grants the Grantee Parties the right to perform tests on the Property and install and maintain equipment on the Property during the Term for purpose of measuring the solar energy resource on the Property, including, without limitation, performing and completing certain interconnection and environmental studies, such as a Phase I Environmental Survey, performing and completing a site survey, conducting geotechnical work (including, without limitation, soil borings) and installing MET Towers (**"Investigations"**). During the conduct of such Investigations, the Grantee Parties shall cooperate with Grantor to minimize disruption of the operations of Grantor at the Property, inclusive of any farm tenant that cultivates crops on the Property. Such cooperation shall include, but not be limited to, providing Grantor prior notice of entry onto the Property for the conduct of Investigations. If this Agreement is terminated or otherwise expires by its terms, Grantee shall be obligated to repair and restore any material damage to the Property resulting from the Investigations. Further, if Grantee damages any crops on the Property in the conduct of its Investigations, Grantee shall compensate Grantor for such damages, and the failure of Grantee to compensate Grantor shall be deemed a default under this Agreement. Grantee shall promptly pay all contractors providing services to Grantee on the Property for its Investigations in order to prevent the filing of mechanics liens thereon. Grantee agrees to hold Grantor harmless from and against any and all claims, costs, expenses, and liabilities, including reasonable attorneys' fees, for physical damage to the Property (inclusive of a farm tenant's crops) or personal injuries or deaths arising out of or by reason of the Investigations, provided that such claims, costs, expenses and liabilities did not arise out of the gross negligence or willful misconduct of Grantor or its employees, agents, consultants, contractors and other representatives. With respect to any crop damages to be paid by Grantee pursuant to this Section 8, the amount of such damages shall be determined by multiplying the amount of acres damaged times the expected yield for the specific crop damaged based upon the Farm Tenant's records of the average crop yields for the previous three (3) years or other records as mutually agreeable to Grantor and Grantee, and multiplied by the price of the crop damaged on the approximate date of damage as reasonably determined by Grantor and Grantee. Notwithstanding the foregoing, nothing in this Section 8 shall be construed as a contingency to closing if Grantee exercises the Option, in which case Grantee shall be deemed to have accepted the Property in the condition as provided in Section 9. The obligations contained in this Section 8 shall survive expiration or earlier termination of this Agreement.

9. AS-IS Condition of Property. EXCEPT FOR THOSE REPRESENTATIONS AND WARRANTIES SET FORTH IN SECTION 10 BELOW, GRANTEE ACKNOWLEDGES THAT IT IS NOT RELYING ON ANY REPRESENTATIONS OR WARRANTIES

WHATSOEVER BY GRANTOR OR ANY AGENT OR EMPLOYEE THEREOF REGARDING THE PROPERTY (INCLUDING, WITHOUT LIMITATION, ITS PHYSICAL CONDITION, ITS SUITABILITY FOR ANY PARTICULAR PURPOSE, ITS COMPLIANCE WITH LAWS INCLUDING, WITHOUT LIMITATION, ENVIRONMENTAL LAWS, OR THE ABSENCE OF HAZARDOUS SUBSTANCES THEREUPON, AND GRANTOR EXPRESSLY DISCLAIMS ANY AND ALL SUCH REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, EXCEPT FOR ANY REPRESENTATIONS AND WARRANTIES CONTAINED IN SECTION 10 BELOW. EXCEPT AS EXPRESSLY OTHERWISE PROVIDED HEREIN, GRANTEE SHALL ACCEPT THE PROPERTY IN ITS "AS IS", "WHERE IS", "WITH ALL FAULTS" CONDITION, AND GRANTOR HEREBY DISCLAIMS ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, EXPRESS OR IMPLIED.

EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS AGREEMENT, GRANTOR MAKES NO REPRESENTATION OR WARRANTY AS TO THE ACCURACY OR COMPLETENESS OF ANY MATERIALS, DATA OR OTHER INFORMATION DELIVERED BY GRANTOR TO GRANTEE IN CONNECTION WITH THE TRANSACTION CONTEMPLATED HEREBY, INCLUDING, WITHOUT LIMITATION, THE DUE DILIGENCE MATERIALS.

GRANTEE ACKNOWLEDGES THAT IT IS A SOPHISTICATED REAL ESTATE BUYER WHO HAS HERETOFORE HAD AND/OR SHALL DURING THE TERM HAVE OPEN ACCESS TO, AND SUFFICIENT TIME TO REVIEW, ALL INFORMATION, DOCUMENTS, AGREEMENTS, STUDIES AND TESTS RELATING TO THE PROPERTY THAT GRANTEE DEEMED OR DEEMS NECESSARY TO REVIEW IN ITS SOLE DISCRETION, AND HAS OR HEREAFTER SHALL HAVE CONDUCTED A COMPLETE AND THOROUGH INSPECTION, ANALYSIS AND EVALUATION OF THE PROPERTY, INCLUDING BUT NOT LIMITED TO ENVIRONMENTAL TESTING.

GRANTEE HAS UNDERTAKEN OR HEREAFTER SHALL UNDERTAKE SUCH INVESTIGATIONS AS GRANTEE DEEMED OR DEEMS NECESSARY TO MAKE GRANTEE FULLY AWARE OF THE CONDITION OF THE PROPERTY AS WELL AS ALL FACTS, CIRCUMSTANCES AND INFORMATION WHICH MAY AFFECT THE USE AND OPERATION OF THE PROPERTY, AND GRANTEE COVENANTS AND WARRANTS TO GRANTOR THAT GRANTEE HAS RELIED AND SHALL RELY, EXCEPT TO THE EXTENT OF GRANTOR'S REPRESENTATIONS AND WARRANTIES CONTAINED IN SECTION 10 BELOW, SOLELY ON GRANTEE'S OWN DUE DILIGENCE INVESTIGATION IN DETERMINING TO PURCHASE THE PROPERTY. THE PROVISIONS OF THIS SECTION SHALL SURVIVE THE CLOSING OR EARLIER TERMINATION OF THIS AGREEMENT AND SHALL BE DEEMED INCORPORATED INTO THE CLOSING DOCUMENTS TO BE DELIVERED AT CLOSING.

10. Representations and Warranties. Grantor represents and warrants to Grantee that both as of the Effective Date and as of the Closing Date (as qualified herein), as follows:

a. The person(s) signing this Agreement on behalf of Grantor have the full right and authority to do so, and no other persons or entities (including spouses) need to sign this Agreement for it to be fully enforceable against Grantor and the Property.

b. Grantor has received no written notice from any governmental agency of any violation of any statute, law, ordinance, deed restriction, rule or regulation with respect to the Property.

c. There is no pending or, to Grantor's Knowledge, any threatened litigation, condemnation proceeding, or annexation proceeding affecting the Property and there are no governmental assessments not disclosed herein or not disclosed in the Title Commitment or any agreements to convey any portion of the Property, or any rights thereto, to any party other than Grantee, including, without limitation, any government or governmental agency.

d. Grantor is not a "foreign person" as that term is defined in Section 1445 of the Internal Revenue Code. At closing, Grantor shall execute and deliver a certification of non-foreign status on a form required by the Internal Revenue Service.

e. To Grantor's Knowledge, from and after the date that Grantor and Grantor's predecessor in interest to the Property acquired title to the Property in 1983 (the "**Ownership Date**"), the Property has not been used for the storage or disposal of any hazardous material or waste, and the Property has not been identified by any governmental agency as a site upon which environmentally hazardous materials have been or may have been located or deposited. To Grantor's Knowledge, prior to the Ownership Date, the Property was not used for the storage or disposal of any hazardous material or waste, there were no environmentally hazardous materials or wastes contained on or under the Property and there are no potentially hazardous environmental conditions on the Property. If, subsequent to the closing, it should be determined that as of the Closing Date environmentally hazardous materials or wastes were contained on or under the Property and such hazardous materials or wastes were stored or disposed on or after the Ownership Date but prior to the Closing Date, Grantor shall hold Grantee fully harmless from, indemnify Grantee for and defend Grantee against any and all claims, actions, liabilities, judgments and expenses, including, but not limited to, costs of abatement, removal and cleanup, penalties, fines and reasonable attorney fees, arising out of or in connection with any such contamination.

f. To Grantor's Knowledge, no third party has any rights to use or occupy the Property other than as disclosed in the Title Commitment or otherwise disclosed by Grantor to Grantee pursuant to Section 6.

g. Grantor has not sold, leased transferred and/or conveyed all or any part of its interests in any oil, gas, mineral, and other subsurface rights, or rights to explore, extract, or develop oil, gas, or minerals or other subsurface rights with respect to the Property to any third party. To Grantor's Knowledge, Grantor is the owner of all oil, gas, mineral, and other subsurface rights with respect to the Property.

h. Except as specified in Section 25 herein, so long as this Option remains in effect, Grantor shall not do any of the following, without the written consent of Grantee:

(I) Sell, grant, convey or dispose of, or negotiate or contract to sell, grant, convey or dispose of the Property or any part thereof;

(II) Grant any easement, license or right-of-way in, to or through the Property or any part thereof, or any leases with respect to the Property; or

(III) Create, nor allow to be created, any use restriction or covenant of any kind, character or nature whatsoever with respect to the Property.

Notwithstanding anything to the contrary contained in the foregoing Section 10(h) above, Grantor may, without the consent of Grantee: (i) grant, convey, or transfer the interest in the Property, so long as such transferee thereto is notified of, and takes subject to, this Agreement, and delivers to Grantee a written acknowledgement of this Agreement by said transferee; and (ii) lease the surface of the Property for farming activities to a farm tenant (the “**Farm Tenant**”) in the same manner as it presently operates the Property, provided the Farm Tenant’s lease is terminable upon the earlier of (i) ninety (90) days written notice from the Grantee, or (ii) the Closing Date. In no event shall the Farm Tenant’s lease be extended beyond the 2024 spring and summer growing season.

If after the Effective Date, there are facts that are disclosed to Grantor by any person or entity other than Grantee that are not known by Grantor as of the Effective Date, that make any of the representations or warranties in the above Section 10 no longer true and correct, Grantor shall advise Grantee of such facts in writing and Grantee shall, prior to the Closing Date, provide written notice to Grantor that Grantee desires to either (i) terminate the transaction, and all rights and obligations hereunder shall terminate without further liability to either party, or (ii) accept title to the Property subject to such newly disclosed facts. If Grantee discovers any facts that make any of Grantor’s representations or warranties contained in the above Section 10 no longer true or correct, Grantee shall be obligated to provide Grantor with written notice of such facts within a reasonable time after discovery of those facts, and if Grantor, prior to the Closing Date, has not taken corrective actions to make the representations or warranties contained in the above Section 10 to be true and correct, Grantee shall provide Grantor with written notice that Grantee desires to either (i) terminate the transaction, and (except for liabilities that survive the termination of this Agreement under Section 5(B), Section 8, Section 13, Section 14, Section 16 and Section 23) all rights and obligations hereunder shall terminate without further liability to either party, or (ii) accept title to the Property subject to such newly disclosed facts.

11. Representations and Warranties of Grantee. Grantee represents and warrants to Grantor as follows, both as of the Effective Date and as of the Closing Date:

a. The person(s) signing this Agreement on behalf of Grantee have the full right and authority to do so, and no other persons or entities (including spouses) need to sign this Agreement for it to be fully enforceable against Grantee.

b. Neither the execution, delivery or performance by Grantee of this Agreement, nor the consummation of the transaction contemplated hereby will: (i) violate or conflict with any provision of Grantee’s organizational documents; or (ii) violate any

order, judgment, injunction, award or decree of any court or arbitration body, or any other body, by or to which Grantee is or may be bound or subject.

c. No voluntary, and to Grantee's knowledge no involuntary attachments, execution proceedings, assignments for the benefit of creditors, insolvency, bankruptcy, reorganization or other insolvency-related proceedings are pending against Grantee.

12. Closing. If Grantee exercises the Option in the manner and at the time herein set forth, the sale shall close, in escrow, at the offices of a title company selected by Grantee (the "**Title Company**") on the date designated in the notice of exercise of Option, which such date shall be no later than the sixtieth (60<sup>th</sup>) day following the date of Grantee's notice of exercise of Option as may be adjusted as provided in Section 25 (the "**Closing Date**"). On or prior to the Closing Date, the parties shall deliver the deed and all funds due on the Closing Date to the Title Company to be held in escrow for facilitating the closing of the transaction contemplated hereby. The escrow instructions for the deed and money escrow shall be in the form customarily used by the Title Company with such special provisions added thereto as may be required to conform to the provisions of this Agreement. The Earnest Deposit escrow instructions shall be substantially in the form of Exhibit "D" attached hereto (the "**Earnest Deposit Escrow Instructions**"). On the Closing Date:

a. Grantor shall convey the Property to Grantee or Grantee's nominee by warranty deed in the form attached hereto as Exhibit "B" (the "**Deed**") or its nearest equivalent in the Commonwealth of Kentucky, free and clear of all liens and encumbrances except the Permitted Exceptions. The exact legal description used in the Deed will be determined by the Survey.

b. Grantor shall fully cooperate in the delivery and issuance to Grantee, at Grantee's expense (to be ordered and pursued by Grantee), an ALTA extended coverage title insurance policy in the amount of the Purchase Price, issued by the Title Company, insuring Grantee as the owner of the Property free and clear of all liens, encumbrances, claims and exceptions, except the Permitted Exceptions. Such ALTA extended coverage title insurance policy will be paid for by Grantee.

c. Grantee shall pay to the Title Company (as closing agent) the balance due on the Purchase Price plus an additional One Million and 00/100 Dollars (\$1,000,000.00) (the "**Bonus Closing Payment**"). The balance of the Purchase Price and the Bonus Closing Payment will be paid to Grantor by Title Company upon recording of the Deed.

d. Real property taxes and other usual items shall be prorated as of the Closing Date.

e. Each party shall pay one-half of the escrow fee charged by the Title Company in connection with this transaction. Grantee shall pay the cost of recording the Deed and any transfer, excise or documentary stamp taxes. All other costs, including the cost of Grantee's title insurance for the Property, shall be paid by the Grantee.

f. Each party shall execute such settlement statements, real estate transfer declarations, ALTA Statements and Affidavits of Title required by Title Company, and

any and all other documents reasonably necessary to complete the closing of the transaction contemplated in this Agreement, including, without limitation, an agreement between Grantor, Grantee, and the Title Company agreeing to the Earnest Deposit Escrow Instructions.

13. Failure to Exercise. If Grantee fails to provide written notice to Grantor of Grantee's election to exercise the Option on or before the last day of the Term, the Option shall automatically expire without any further notice to Grantee required, Grantee shall be deemed to have waived the Option and shall have no further right or option to purchase the Property and Grantor shall have no obligation to sell the Property to Grantee, and Grantor shall retain the entire Option Fee paid by Grantee and Grantee shall have no right to the refund of any portion thereof. In such instance, Grantee shall execute (a) a Quit Claim Deed conveying any interest it may have in the Property to Grantor, and (b) a Bill of Sale conveying the Grantee Data and Assets to Grantor as provided in Section 5(B), and this Agreement shall automatically terminate and neither party shall owe any obligations to the other hereunder other than Grantee's obligation to execute the Quit Claim Deed and the Bill of Sale. This Section 13 shall survive expiration or earlier termination of this Agreement.

14. Remedies.

A. Grantee. In the event Grantor breaches any term or provision of this Agreement and fails to cure such breach within twenty (20) days after written notice of the breach from Grantee, then Grantee, may, in addition to any other remedies available under state law, (i) terminate this Agreement and, in the event of a material uncured default either caused by, or within the control of, Grantor, obtain the return of all Option consideration previously paid to Grantor, including all Option Fees, or (ii) tender performance of the obligations of Grantee and specifically enforce all obligations of Grantor.

B. Grantor. In the event Grantee breaches any term or provision of this Agreement and fails to cure such breach within twenty (20) days after written notice of the breach from Grantor, and regardless of whether the breach occurs before or after Grantee notifies Grantor of the exercise of the Option, the Grantor, as its exclusive remedy and in lieu of any other relief, may terminate this Agreement by giving Grantee written notice of termination and retain all Option Fee consideration paid by Grantee; provided, however, the immediately foregoing sentence shall not apply to Grantee's indemnification obligations under Section 8. Grantor acknowledges (i) the adequacy of this exclusive remedy and (ii) that this limitation of remedies is an essential part of this Agreement from the perspective of Grantee. Grantor expressly waives the right to pursue any other right or remedy in law or equity other than the remedy specified above, including the right of specific performance and the right to sue for damages, in the event of a default by Grantee. Notwithstanding the foregoing, in the event Grantee fails to satisfy its indemnification obligation under Section 8, then Grantor will be entitled to any remedies available under applicable law. In addition to Grantor's remedies set forth herein, if Grantee exercises its Option to purchase the Property and fails to close on the purchase of the Property for any reason other than a breach, default or misrepresentation by Grantor hereunder or the exercise by Grantee of a right to terminate this Agreement as otherwise provided in this Agreement, then the Earnest Deposit shall be paid to Grantor as liquidated damages (due

to the difficulty and inconvenience of measuring actual damages and the fact that the Earnest Deposit represents as fair an approximation of actual damages as the parties can now determine) and in full satisfaction of all of Grantor's purchase obligations hereunder. Notwithstanding the foregoing, in the event of any termination of this Agreement (other than due to a material uncured default either caused by, or within the control of, Grantor) or failure by Grantee to close on the purchase of the Property pursuant to this Section 14, Grantee shall execute a Bill of Sale conveying the Grantee Data and Assets to Grantor as provided in Section 5(B). This Section 14 shall survive expiration or earlier termination of this Agreement.

15. Binding Effect. This Agreement and the Option shall run with the land and be binding upon the successors and assigns of the parties.

16. Assignment. This Agreement, and Grantee's rights and obligations hereunder, are freely assignable, in whole or in part, by Grantee without Grantor's consent: (i) for security purposes; or (ii) to any entity who currently operates (or combined with such entity's parent company and/or affiliates collectively currently operate) utility scale energy generation facilities, that, in the aggregate, total 50 MW or greater, or (iii) to East Kentucky Power Cooperative and its subsidiaries and affiliates. Upon any such assignment, the original Grantee will have no further liability or obligations hereunder. Grantor may assign this Agreement, and Grantor's rights and obligations hereunder, to (a) any member(s) of Grantor, or (b) any trust or entity which controls, is controlled by or under common control with, Grantor, any member(s) of Grantor or any immediate family members of any such member of Grantor; provided, however, that any such assignment takes place as part of a conveyance of the Property to the assignee(s). This Section 16 shall survive expiration or earlier termination of this Agreement.

17. Confidentiality. Grantor shall maintain in the strictest confidence, for the benefit of Grantee: (a) all the terms and conditions of this Agreement; (b) all information provided by Grantee pursuant to this Agreement; and (c) all information obtained by or about Grantee's site or product design, methods of operation, and methods of construction, regardless of its source; unless such information either: (i) is in the public domain by reason of prior publication through no act or omission of Grantor or its employees or agents; or (ii) was already known to Grantor at the time of disclosure and which Grantor is free to use or disclose without breach of any obligation to any person or entity (collectively, the "**Confidential Information**"). Grantor shall not use Confidential Information for its own benefit, publish or otherwise disclose it to others, or permit its use by others for their benefit or to the detriment of Grantee. Notwithstanding the foregoing, Grantor may disclose Confidential Information to Grantor's lenders, attorneys, accountants and other personal financial advisors solely for use in connection with their representation of Grantor regarding this Agreement or to any prospective purchaser of the Property; provided that in making such disclosure, Grantor shall advise the party receiving the information of the confidentiality of the information. Grantor may also disclose Confidential Information pursuant to lawful process, subpoena or court order requiring such disclosure, provided that Grantor shall give Grantee reasonable advance notice of the required disclosure and will cooperate with Grantee in limiting such disclosure and in obtaining protective orders where appropriate. Grantor shall get Grantee's written consent before issuing a press release or having any contact with or responding to the news media with any operational, sensitive or confidential information with respect to this Agreement. The provisions of this Section 17 shall survive the termination or expiration of this Agreement.

18. Governing Law. This Agreement shall be construed in accordance with the laws of the Commonwealth of Kentucky without reference to the choice of law principles of the Commonwealth of Kentucky or any other state.

19. Notice. Any notice to be given to a party hereunder, including notice of exercise or extension of the Option, shall be in writing and shall be effective when delivered personally or mailed by nationally recognized overnight delivery service, certified mail, return receipt requested, postage prepaid, addressed to the recipient at the appropriate address first set forth below or by facsimile upon receipt of a confirmation of delivery or electronic mail. Either party may change its address for notice by written notice thereof to the other party.

Grantor: Fayette Partners, LLC  
236 Holiday Road  
Lexington, Kentucky 40502

With a copy to: Harold N. Adams  
Meyer Capel  
306 W. Church St.  
Champaign, IL 61820

Grantee: Bluegrass Plains Solar Project, LLC  
c/o Savion, LLC  
422 Admiral Boulevard  
Kansas City, Missouri 64106

20. Attorney Fees. If any suit or action is brought to enforce or interpret any of the terms of this Agreement or to recover any payment to be made hereunder or to recover damages for the breach hereof, the prevailing party in such suit or action, and in appeal therefrom, shall be entitled to recover its reasonable attorney fees and costs as fixed by the court hearing the same.

21. Section Captions. The section captions are for the convenience of the parties and shall not affect the meaning of this Agreement.

22. Entire Agreement. This Agreement contains the entire agreement between the parties with respect to the subject matter hereof, superseding all negotiations, prior discussions, and preliminary agreements. In particular, this Agreement supersedes the terms of the Original Option Agreements. This Agreement may not be changed except in writing, executed by both parties.

23. Real Estate Commissions. Grantor and Grantee represent to each other that no broker or finder has been engaged by Grantor or Grantee in connection with any of the transactions contemplated by this Agreement, and each shall indemnify the other from and against any claims that a brokerage commission is owed by the indemnitor arising out of or related to this Agreement. The indemnity contained in this Section 23 shall survive expiration or earlier termination of this Agreement.



24. Recording. This Agreement shall not be recorded. At the request of Grantee, Grantor shall execute an Amended, Restated, and Consolidated Memorandum of this Agreement substantially in the form attached as Exhibit "C" (the "**Memorandum**"), which Grantee may then record. At closing, the Deed shall be recorded. The recording costs for the Memorandum and the Deed, along with any documentary or transfer tax, shall be paid by Grantee.

25. Grantor 1031 Exchange. Grantee agrees that if Grantor wishes to use the proceeds from closing on the Property in connection with a tax deferred exchange under IRC Section 1031, it will reasonably cooperate to enable Grantor to engage in such transaction, provided that doing so shall not delay the closing or cause additional expense to Grantee. Grantor's rights under this Agreement may be assigned to a Qualified Intermediary of Grantor's choice for the purpose of completion of such an exchange. Grantee agrees to reasonably cooperate with Grantor and the Qualified Intermediary in a manner necessary to complete the exchange, at no additional cost to Grantee, including adjusting the Closing Date to a later date but no later than the seventieth (70<sup>th</sup>) day following the date of Grantee's notice of exercise of Option as provided herein.

26. Counterparts. This Agreement may be executed in counterparts, each of which, when executed, shall be deemed to be an original, all of which shall be deemed to be one and the same instrument. Facsimile and electronic signatures shall be deemed original signatures.

27. Post-Closing Obligation. In the event (i) Grantee exercises the Option after Farm Tenant has completed planting crops on the cultivated acreage of the Property for the 2024 growing season, ending November 15, 2024, and (ii) after the Closing Date but before November 15, 2024, Grantee's activities on the Property result in damage to at least ten (10) acres of growing crops in any manner or prevent Farm Tenant from harvesting at least ten (10) acres of planted crops, Grantee shall pay to Grantor a one-time, lump-sum payment in the amount of [REDACTED]

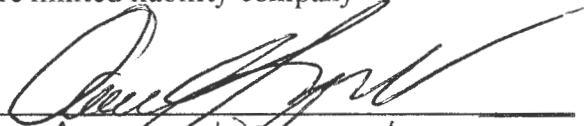
[REDACTED] If Grantee is obligated to pay the Crop Damage Payment pursuant to this Section, Grantee shall pay the Crop Damage Payment to Grantor within sixty (60) days after commencing construction activities on the Property. The Crop Damage Payment shall be Grantee's sole liability for the loss of any growing crops on the Property, and Grantor shall hold Grantee fully harmless from, indemnify Grantee for and defend Grantee against any and all claims, actions, liabilities, judgments and expenses, including, but not limited to, reasonable attorney fees, arising out of or in connection with damage to growing crops on the Property after the Closing Date. Such indemnity is intended to apply, without limitation, to any claims asserted or instituted by the Farm Tenant. Notwithstanding the foregoing, Grantee may elect to allow Farm Tenant to harvest crops on the Property after the Closing Date, and Grantor shall cause Farm Tenant to enter into a reasonable access agreement for such purposes. This Section 27 shall not merge with the Deed and shall survive the Closing Date.

*[Signature Page Follows]*

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

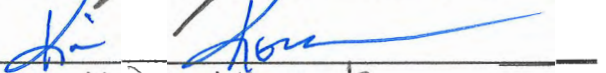
**GRANTEE**

BLUEGRASS PLAINS SOLAR PROJECT, LLC, a Delaware limited liability company

By: 

Name: Avery Upscomb

Title: Authorized Person

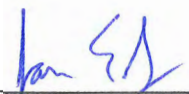
By: 

Name: Kim Klosek

Title: Authorized person

**GRANTOR**

FAYETTE PARTNERS, LLC, a Kentucky limited liability company

By: 

James E. Gay, Authorized Member

**EXHIBIT "A"**

**LEGAL DESCRIPTION**

THE FOLLOWING REAL PROPERTY LOCATED IN THE COUNTY OF FAYETTE,  
COMMONWEALTH OF KENTUCKY:

THE FOLLOWING REAL PROPERTY LOCATED IN THE COUNTY OF FAYETTE,  
COMMONWEALTH OF KENTUCKY:

Being all of Tracts 2 and 3 as shown on the Final Record Plat of the Augustus Gay Property of record in Plat Cabinet I, Slide 241, Fayette County Clerk's Office.

And being the same property conveyed to Elizabeth Gay Freeman, a married person, Charlotte Gay Stites, a married person, James Edward Gay, a married person, and Anne Gay Donworth, a married person, by Deed from James E. Bassett III, in his capacity as Trustee of the Marital Trust Under Section 5 of the Will of Lucy Gay Bassett, dated March 20, 2021, and recorded March 31, 2021, in Deed Book 3829, at Page 132, in the official public records of Fayette County, Kentucky, from, and subsequently conveyed to Fayette Partners, LLC, by Deed from Elizabeth Gay Freeman and George Freeman, wife and husband, Charlotte Gay Stites and John Clay Stites, wife and husband, James Edward Gay and Alyson S. Gay, husband and wife, and Anne Gay Donworth (f/k/a Anne Pinckney Gay) and Richard Donworth, wife and husband, by deed dated March 20, 2021, and recorded April 21, 2021, in Deed Book 3836, at Page 263, in the official public records of Fayette County, Kentucky.

Being all of Tract 4 as shown on the Final Record Plat of the Augustus Gay Property of record in Plat Cabinet I, Slide 241, in the Fayette County Clerk's Office.

And being the same property conveyed to Gay Land Company, LLC (now, Fayette Partners, LLC) by Deeds from (i) Lucy Gay Bassett, Trustee of the James G. Gay Irrevocable Trust for the Benefit of Anne Pinckney Gay Dated September 8, 1983, dated January 31, 2002, and recorded June 7, 2002, in Deed Book 2284, at Page 149, in the official public records of Fayette County, Kentucky; (ii) James Edward Gay, dated January 31, 2002, and recorded June 7, 2002, in Deed Book 2284, at Page 144, in the official public records of Fayette County, Kentucky; (iii) Clay Stites and Charlotte Gay Stites, husband and wife, dated January 31, 2002, and recorded June 7, 2002, in Deed Book 2284, at Page 140, in the official public records of Fayette County, Kentucky; (iv) George Freeman and Elizabeth G. Freeman, husband and wife, dated January 31, 2002, and recorded June 7, 2002, in Deed Book 2284, at Page 136, in the official public records of Fayette County, Kentucky; and (v) James G. Gay and Anne P. Gay, husband and wife, dated December 27, 2001, and recorded June 7, 2002, in Deed Book 2284, at Page 132, in the official public records of Fayette County, Kentucky

PINs: 20113980, 20113990 and 2011400

**EXHIBIT "A-1"**

**DEPICTION OF THE PROPERTY**



EXHIBIT A-1  
Fayette Partners, LLC



US Feet  
0 250 500 1,000

Scale: 1:12,000

Coordinate System: NAD 1983 StatePlane  
Kentucky North FIPS 1601 Feet

The following companies and organizations provided data that contributed to the production of this map:

- Cartegis, Inc.
- Environmental Systems Research Institute (ESRI)
- GeoEye, Inc. Imaging Technology
- U.S. Department of Agriculture (USDA)
- U.S. Federal Aviation Administration (FAA)
- U.S. Geological Survey (USGS)
- Virginia Department of Transportation
- Veritas, Inc. GeoEye Technology
- Imagery © 2022 Hexagon and its partners



FAYETTE COUNTY, KENTUCKY



**EXHIBIT "B"**

Form of Warranty Deed

**SPECIAL WARRANTY DEED**

THIS INDENTURE, made effective as of the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_, by and between \_\_\_\_\_ (“Grantor”) and \_\_\_\_\_, having an address of 422 Admiral Boulevard, Kansas City, Missouri 64106 (“Grantee”).

WITNESSETH, THAT in consideration of the sum of [REDACTED] and other good and valuable consideration to Grantor duly paid, the receipt of which is hereby acknowledged, Grantor does by these presents, CONVEY WITH SPECIAL WARRANTY unto Grantee and Grantee’s successors and assigns, the property in \_\_\_\_\_ County, Kentucky, described in Exhibit “A” attached hereto and incorporated herein by this reference, together with all improvements thereon (collectively, the “Property”);

Subject to the following (collectively, the Permitted Exceptions):<sup>1</sup>

Grantor, for itself, and its successors and assigns, does covenant, promise and agree, to and with the Grantee, its heirs/successor and assigns, that during the period that Grantor has owned title to the subject real estate, that Grantor has not done or suffered to be done anything whereby the subject real estate hereby granted is, or may be, in any manner encumbered or charged, except for and subject to the exceptions set forth herein, and that Grantor will warrant and forever defend the subject real estate against all persons lawfully claiming by, through or under Grantor, but not otherwise;

***[SIGNATURE PAGE FOLLOWS]***

---

<sup>1</sup> Note to Draft: To be completed, prior to Closing, with Permitted Exceptions, if any, as contemplated by Section 6 of the Real Estate Option Agreement.

IN WITNESS WHEREOF, Grantor has caused this Deed to be executed as of the day and year first above written.

**GRANTOR:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

STATE OF \_\_\_\_\_ )  
  )  
COUNTY OF \_\_\_\_\_ )

BE IT REMEMBERED, that on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, the undersigned, a Notary Public in and for said County and State aforesaid, came \_\_\_\_\_, \_\_\_\_\_, to me known to be the person(s) who executed the foregoing instrument, and acknowledged that he/she/they executed the same as her/his/their free act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

My Commission Expires:

\_\_\_\_\_  
[SEAL]

\_\_\_\_\_  
Notary Public in and for said County and State

Print Name: \_\_\_\_\_

**EXHIBIT "C"**

**Form of Amended, Restated, and Consolidated Memorandum of Option**



**AFTER RECORDING, RETURN TO:**

**Bluegrass Plains Solar Project, LLC,  
422 Admiral Boulevard  
Kansas City, Missouri 64106**

**AMENDED, RESTATED, AND CONSOLIDATED MEMORANDUM OF OPTION**

THIS AMENDED, RESTATED, AND CONSOLIDATED MEMORANDUM OF OPTION (“**Memorandum**”) dated for reference purposes as of November 21, 2023 (but for all other purposes, the “**Effective Date**” shall be September 28, 2018), is by and between Fayette Partners, LLC, a Kentucky limited liability company, whose address is 236 Holiday Road, Lexington, Kentucky 40502 (“**Grantor**”) and Bluegrass Plains Solar Project, LLC, a Delaware limited liability company, its successors and assigns, whose address is 422 Admiral Boulevard, Kansas City, Missouri 64106 (“**Grantee**”).

1. Grantor is the owner of that certain real property located in Fayette County, Commonwealth of Kentucky more particularly described in the attached Exhibit A attached hereto and as generally depicted on the map attached hereto as Exhibit A-1 (the “**Property**”).

2. Grantor (f/k/a Gay Land Company, LLC) and Grantee entered into that certain Real Estate Option Agreement dated effective as of September 28, 2018, as amended by that certain First Amendment to Real Estate Option Agreement dated effective as of September 7, 2023, as further amended by that certain Second Amendment to Real Estate Option Agreement dated effective as of October 6, 2023, as further amended by that certain Third Amendment to Real Estate Option Agreement dated effective as of October 20, 2023, as further amended by that certain Fourth Amendment to Real Estate Option Agreement dated effective as of October 25, 2023, and as further amended by that certain Fifth Amendment to Real Estate Option Agreement dated effective as of November 17, 2023 (as amended collectively, the “**Fayette Option**”), notice of which is imparted by that certain Memorandum of Option recorded October 24, 2018 in Book 3624, Page 402 in the official public records of Fayette County, Kentucky (the “**Fayette Option Memo**”) wherein Grantor granted to Grantee an option to purchase a portion of the Property.

3. Grantor’s predecessor in interest, James E. Bassett, executor of the Estate of Lucy Gay Bassett, and Grantee entered into that certain Real Estate Option Agreement dated effective

as of October 22, 2018, as amended by that certain First Amendment to Real Estate Option Agreement dated effective as of September 7, 2023, as further amended by that certain Second Amendment to Real Estate Option Agreement dated effective as of October 6, 2023, as further amended by that certain Third Amendment to Real Estate Option Agreement dated effective as of October 20, 2023, as further amended by that certain Fourth Amendment to Real Estate Option Agreement dated effective as of October 25, 2023, and as further amended by that certain Fifth Amendment to Real Estate Option Agreement dated effective as of November 17, 2023 (as amended collectively, the “**Bassett Option**” and together with the Fayette Option, the “**Original Option Agreements**”), notice of which is imparted by that certain Memorandum of Option, recorded November 26, 2018 in Book 3630, Page 594, in the official public records of Fayette County, Kentucky (the “**Bassett Option Memo**” and together with the Fayette Option Memo, the “**Original Option Memos**”) wherein Grantor’s predecessor in interest granted to Grantee an option to purchase the balance of the Property.

4. Grantor and Grantee entered into that certain Amended, Restated, and Consolidated Real Estate Option Agreement (the “**Agreement**”) of even date herewith which amends, restates, supersedes, and consolidates the Original Option Agreements into one agreement, such that the Agreement is the single real estate option between Grantor and Grantee concerning the Property.

5. Grantor and Grantee intend for the Term (as defined in the Agreement) to continue in the Agreement from the Effective Date, and to extend the Term pursuant to the terms in the Agreement.

6. Grantor and Grantee desire to amend, restate, supersede, and consolidate the Original Option Memos into one memorandum being this Memorandum.

7. Pursuant to Agreement, Grantee holds an option to purchase all of the Property on the terms therein stated (the “**Option**”). The term of the Option commenced on September 28, 2018 and shall expire September 30, 2024, unless Grantee validly elects to extend the term of the Option to March 31, 2025.

8. Grantor and Grantee have executed and recorded this Memorandum to provide record notice of the existence of the Option. This Memorandum of Option may be executed in counterparts.

*[Signature Pages Follow]*

IN WITNESS WHEREOF, the parties have executed this Memorandum as of November \_\_\_\_, 2023.

**GRANTEE:**

**BLUEGRASS PLAINS SOLAR PROJECT, LLC,**  
a Delaware limited liability company

By: \_\_\_\_\_  
Aaron Lipscomb, Authorized Person

STATE OF \_\_\_\_\_ )

) ss.

COUNTY OF \_\_\_\_\_ )

Be it remembered that on this \_\_\_\_ day of \_\_\_\_\_, 2023, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Aaron Lipscomb, to me personally known, who being by me duly sworn did say that he is an Authorized Person of Bluegrass Plains Solar Project, LLC, a Delaware limited liability company, and that the within instrument was signed and delivered on behalf of said limited liability company by authority thereof, and acknowledged said instrument to be the free act and deed of said limited liability company for the purposes therein expressed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial seal in the date herein last above written.

My Commission Expires:

\_\_\_\_\_  
[SEAL]

\_\_\_\_\_  
Notary Public in and for said County and State

Print Name: \_\_\_\_\_

**BLUEGRASS PLAINS SOLAR PROJECT, LLC,**  
a Delaware limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

Be it remembered that on this \_\_\_ day of \_\_\_\_\_, 2023, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came \_\_\_\_\_, to me personally known, who being by me duly sworn did say that he/she is \_\_\_\_\_ of Bluegrass Plains Solar Project, LLC, a Delaware limited liability company, and that the within instrument was signed and delivered on behalf of said limited liability company by authority thereof, and acknowledged said instrument to be the free act and deed of said limited liability company for the purposes therein expressed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial seal in the date herein last above written.

My Commission Expires:

\_\_\_\_\_  
[SEAL]

\_\_\_\_\_  
Notary Public in and for said County and State

Print Name: \_\_\_\_\_

**GRANTOR:**

FAYETTE PARTNERS, LLC, a Kentucky limited liability company

By: \_\_\_\_\_  
James E. Gay, Authorized Member

STATE OF \_\_\_\_\_ )  
  )  
COUNTY OF \_\_\_\_\_ )

Be it remembered that on this \_\_\_\_\_ day of \_\_\_\_\_, 2023, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came James E. Gay, to me personally known, who being by me duly sworn did say that he is an Authorized Member of Fayette Partners, LLC, a Kentucky limited liability company, and that said instrument was signed and delivered on behalf of said limited liability company and that said Fayette Partners, LLC acknowledged said instrument to be the free act and deed of said limited liability company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

My Commission Expires:

\_\_\_\_\_  
Notary Public in and for said County and State

\_\_\_\_\_  
[SEAL]

Print Name: \_\_\_\_\_

## **EXHIBIT A**

### **Legal Description**

THE FOLLOWING REAL PROPERTY LOCATED IN THE COUNTY OF FAYETTE,  
COMMONWEALTH OF KENTUCKY:

Being all of Tracts 2 and 3 as shown on the Final Record Plat of the Augustus Gay Property of record in Plat Cabinet I, Slide 241, Fayette County Clerk's Office.

And being the same property conveyed to Elizabeth Gay Freeman, a married person, Charlotte Gay Stites, a married person, James Edward Gay, a married person, and Anne Gay Donworth, a married person, by Deed from James E. Bassett III, in his capacity as Trustee of the Marital Trust Under Section 5 of the Will of Lucy Gay Bassett, dated March 20, 2021, and recorded March 31, 2021, in Deed Book 3829, at Page 132, in the official public records of Fayette County, Kentucky, from, and subsequently conveyed to Fayette Partners, LLC, by Deed from Elizabeth Gay Freeman and George Freeman, wife and husband, Charlotte Gay Stites and John Clay Stites, wife and husband, James Edward Gay and Alyson S. Gay, husband and wife, and Anne Gay Donworth (f/k/a Anne Pinckney Gay) and Richard Donworth, wife and husband, by deed dated March 20, 2021, and recorded April 21, 2021, in Deed Book 3836, at Page 263, in the official public records of Fayette County, Kentucky.

Being all of Tract 4 as shown on the Final Record Plat of the Augustus Gay Property of record in Plat Cabinet I, Slide 241, in the Fayette County Clerk's Office.

And being the same property conveyed to Gay Land Company, LLC (now, Fayette Partners, LLC) by Deeds from (i) Lucy Gay Bassett, Trustee of the James G. Gay Irrevocable Trust for the Benefit of Anne Pinckney Gay Dated September 8, 1983, dated January 31, 2002, and recorded June 7, 2002, in Deed Book 2284, at Page 149, in the official public records of Fayette County, Kentucky; (ii) James Edward Gay, dated January 31, 2002, and recorded June 7, 2002, in Deed Book 2284, at Page 144, in the official public records of Fayette County, Kentucky; (iii) Clay Stites and Charlotte Gay Stites, husband and wife, dated January 31, 2002, and recorded June 7, 2002, in Deed Book 2284, at Page 140, in the official public records of Fayette County, Kentucky; (iv) George Freeman and Elizabeth G. Freeman, husband and wife, dated January 31, 2002, and recorded June 7, 2002, in Deed Book 2284, at Page 136, in the official public records of Fayette County, Kentucky; and (v) James G. Gay and Anne P. Gay, husband and wife, dated December 27, 2001, and recorded June 7, 2002, in Deed Book 2284, at Page 132, in the official public records of Fayette County, Kentucky

PINs: 20113980, 20113990 and 2011400

# EXHIBIT A-1

## Depiction of the Property



EXHIBIT A-1  
Fayette Partners, LLC



Coordinate System: NAD 83 StatePlane  
Kentucky North FIPS 1001 Feet

The following companies and organizations provided data that contributed to the production of this map:  
Civil, Inc. Inc.  
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GeoCity, Inc. and Technology  
U.S. Department of Agriculture (USDA)  
U.S. Forest Service (USFS)  
U.S. Geological Survey (USGS)  
Whitlock, Dispensaries  
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### FAYETTE COUNTY, KENTUCKY



Site Location

## EXHIBIT "D"

### **Earnest Deposit Escrow Provisions**

Title Company shall hold, manage, and disburse the Earnest Deposit subject to the following:

1. Title Company undertakes to perform only such duties as are expressly set forth and are limited to the safekeeping of the Earnest Deposit in accordance with the terms of this Agreement.
2. Title Company shall place the Earnest Deposit in a non-interest-bearing and/or IOTA account.
3. Title Company may act in reliance upon any writing or instrument or signature which it, in good faith, believes to be genuine, assume the validity and accuracy of any statement or assertion contained in such a writing or instrument and assume that any person purporting to give any writing, notice, advice or instructions in connection with the provisions hereof has been fully authorized to do so. Title Company shall not be liable in any manner for the sufficiency or correctness as to the form, manner, and execution or validity of any document delivered to the Title Company, any notice received relative to this Agreement or the identity, authority, or right of any person executing the same.
4. Provided that Title Company is not guilty of willful misconduct or gross negligence or otherwise breaches this Agreement, Grantee and Grantor release Title Company, its officers, managers, directors, and agents, from any and all claims, liabilities, suits, or proceedings at law or in equity and any other expenses, fees, or charges which they may incur by reason of the subject matter of this Agreement.
5. Provided that Title Company is not guilty of willful misconduct or gross negligence or otherwise breaches this Agreement, Grantee and Grantor jointly and severally agree to indemnify Title Company, its officers, managers, directors, and agents, from any and all claims, liabilities, suits, or proceedings at law or in equity and any other expenses, fees, or charges which Title Company may incur by reason of the subject matter of this Agreement and shall promptly reimburse Title Company for the same upon written demand from Title Company.
6. Title Company shall be discharged of any responsibility hereunder at such time Title Company has disposed of the Earnest Deposit as provided for in this Agreement.
7. Title Company shall not be liable for loss or impairment of the Earnest Deposit in the course of collection or while on deposit with a bank due to bank failure, insolvency, or suspension, except as shall result from failure of the Title Company to comply with provisions of this Agreement.
8. If Title Company determines that Grantee and Grantor are in disagreement about the propriety of any action contemplated by Title Company hereunder, Title Company may



(without limitation) withhold disposition of the Earnest Deposit pending resolution of such disagreement. In the event that conflicting demands are made upon Title Company, Grantee and Grantor expressly agree and consent that Title Company shall have the absolute right to do the following:

- a. withhold and stop all disbursements for a period of thirty (30) days; and
  - b. at any time after such 30-day period, file a suit in interpleader in a court of competent jurisdiction seeking to require the parties to interplead and litigate in such court their several claims and rights among themselves. Upon the filing of such a suit and a deposit of the Earnest Deposit to such court, Title Company shall ipso facto be fully released and discharged from all obligations to further perform any and all duties imposed upon it by this Agreement. Grantee and Grantor shall reimburse Title Company for any expenses, fees, or charges that Title Company may incur by reason of the interpleader promptly upon written demand from Title Company.
9. Title Company may, in its sole discretion, elect to resign in its capacity as Title Company under this Agreement upon not less than thirty (30) days written notice to Grantee and Grantor.
10. Title Company shall pay the Earnest Deposit to Grantor at the Closing upon written instructions from Grantee and the Earnest Deposit so paid shall be applied to the Purchase Price. Except for disbursements made at the joint direction of Grantee and Grantor and any payment of the Earnest Deposit to Grantor at the direction of Grantee, Title Company shall notify Grantor and Grantee of any intended disbursement of the Earnest Deposit not less than three (3) business days prior to any actual disbursement of the Earnest Deposit. Grantee and Grantor shall be deemed to have consented to such proposed disbursement unless such party has notified Title Company and the other party to this Agreement of its objection to such proposed disbursement by the end of such period of three (3) business days.
11. All notices permitted or required under this Agreement will be in writing and will be given by (a) United States Certified Mail, return receipt requested, postage prepaid, (b) personal delivery, (c) overnight courier delivery service for next business day delivery, charges prepaid, or (b) fax transmission, and addressed to the applicable party at the address either set forth below or as set forth in this Agreement or to such other address as a party may specify from time to time by giving notice in accordance with this Section. All notices will be effective upon the date of receipt or, if applicable, refusal.

Title Company: [INSERT TITLE COMPANY  
NOTICES ADDRESS]