

Dated

**[INSERT PROJECT COMPANY NAME]
as the Borrower**

and

**[INSERT FINANCE PARTIES NAMES]
as the Finance Parties**

FINANCING TERM SHEET

Common terms agreement for the senior secured financing of a
solar PV project



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The common terms applicable to all Senior Debt Facility Agreements will be set forth in the Common Terms Agreement, and will include: (a) the purpose of each Senior Debt Facility Agreement; (b) the Availability Period; (c) the repayment and prepayment terms; (d) Tax provisions; (e) undertakings, representations and warranties; and (f) Events of Default. Certain of these key terms are described below.

Capitalised terms shall have the meaning given to them in the power purchase agreement entered into between the Buyer and the Borrower (the **PPA**) unless otherwise defined herein.¹

Where applicable and unless otherwise stated below, the provisions of the Common Terms Agreement and all related Senior Debt Facility Agreements will be based on the Senior Multicurrency Term and Revolving Facilities Agreement for Leveraged Acquisition Finance Transactions produced by the Loan Market Association.

PART 1 KEY INFORMATION TABLE

Subject	Clause	Key Information
Lenders	4	Commercial Banks - [YES][NO] ECAs - [YES][NO] Multilateral agencies - [YES][NO] [Shareholder senior loans - [YES][NO] [specify any others]
Site	7	[insert Site details]
Senior Debt to Equity Ratio	9	[insert agreed ratio] : 1
Affiliate	10	[insert Affiliate definition]
Availability Period	12	[insert agreed period]
Tenor	14	[insert agreed number] years.
Final Maturity Date	15	[insert agreed date]
Initial Repayment Date	16	[6] months after the Commercial Operation Date
Repayment Schedule	16	[Semi-annual][Quarterly]
Interest Period during the availability period of the Senior Debt	17	[1/3/6] months
Interest Rate	18	[[Insert reference rate, if applicable] plus] [insert margin percentage in words] percent ([insert percentage in figures]%).] [insert accrual period]
Debt Service Coverage Ratio	20	[insert agreed ratio]
Control	20	[Insert definition] ²
Mandatory prepayment for insurance proceeds – threshold amount of proceeds of claims under physical loss or damage insurance policies for a single loss / related series of losses	20(a)	[insert amount in relevant currency]

¹**User note:** This Term Sheet has been prepared on the assumption that it will be used as part of the IRENA-TWI Pen Solar Contracts Templates and therefore the terms of the PPA and other project agreements are well defined. To the extent that the IRENA-TWI Pen Solar Contracts Templates are not used or are used but in an amended form, the Term Sheet and Finance Agreements will need to be revised accordingly. Where this Term Sheet is used in the context of a merchant project, references to the PPA (and defined terms therein) may need to instead make reference to the applicable grid code or equivalent.

²**User note:** Consider jurisdiction of incorporation of the Borrower and Shareholders.

Subject	Clause	Key Information
Mandatory prepayment for proceeds of sale or other disposal of assets – threshold amount of proceeds	20(c)	[insert amount in relevant currency]
Direct Agreements	22	In respect of: the PPA; the Implementation Agreement; the Grid Connection Agreement; the Supply Agreement; the Installation Agreement; the O&M Agreement; the Land Agreement or such other agreement securing the rights of the Borrower over the Site (if any) and such other Project Agreements as may be agreed by the Facility Agent and the Borrower.
DSRA Funding Period	27	[insert period of months e.g. 6 or 12 months]
Information Covenants – threshold amounts for reporting details of any damage or destruction to the Project assets or of any insurance claim	35(d)	Damage or destruction to the Project assets - [insert threshold amount in relevant currency] Insurance claim - [insert threshold amount in relevant currency]
Construction report reporting period	35(f)	[weekly][monthly][quarterly]
Operating report reporting period	35(g)	[monthly][quarterly][annually]
Lenders' Performance Standards	36(g)	[insert any applicable international performance standards e.g. the Equator Principles and/or the IFC Performance Standards] ³
Benefit of Environmental Credits	36(v)	[Buyer][Borrower]
Business Day	38(a)	[insert definition]
Governing Law of the Finance Agreements	43	[insert governing law].
Dispute Resolution – Finance Agreements	44(a)	[ICC arbitration in [insert seat of arbitration] ⁴ [non-exclusive jurisdiction of the courts of [insert jurisdiction] ⁵] ⁶ .
Dispute Resolution – Direct Agreements	44(c)	[ICC arbitration in [insert seat of arbitration] ⁷ .

³**User note:** Compliance with any recognised industry performance standards relating to environmental, socio-economic and regulatory matters should be specified here (e.g. the Equator Principles and IFC Performance Standards). The Borrower should note the Project Company should pass down an equivalent undertaking to its contractors in the Supply, Installation and O&M Agreements.

⁴**User note:** As per arbitration resolution clause of the Project Agreements, which must be replicated in the Finance Agreements.

⁵**User note:** If elected, the choice of jurisdiction must coincide with the choice of governing Law.

⁶**User note:** If the Project is located in a non-OECD countries, arbitration will typically be the preferred option.

⁷**User note:** As per arbitration resolution clause of the Project Agreements, which must be replicated in the Finance Agreements.

Subject	Clause	Key Information
Maintenance Reserve Account – required minimum balance	45	[insert amount in relevant currency]
Secured Hedging	46	[Applicable][Not Applicable]
Intercreditor Agreement	47	[Applicable][Not Applicable]
Working Capital Facility	48	[Applicable][Not Applicable]
Debt Service Reserve Facility	49	[Applicable][Not Applicable]

PART 2 GENERAL CONDITIONS

Parties

- 1 **Borrower** A special purpose limited liability company incorporated under the Laws of the Relevant Jurisdiction.⁸

- 2 **Shareholders** The shareholders of the Borrower (the **Shareholders**) will be parties to an equity support agreement (the **Equity Support Agreement**) which will regulate certain matters with respect to the investment of the Shareholders in the Borrower (and, in particular, their obligations to make contributions to the capital of the Borrower and the credit support for those obligations).⁹

[The Shareholders are:]

[•]¹⁰

- 3 **Sponsors** The sponsors will be the direct or indirect shareholders of the Borrower with primary strategic and/or technical responsibility for the Project (the **Sponsors**). The Sponsors may be Shareholders.

[The Sponsors are:]

[•]¹¹

- 4 **Senior Creditors** The Borrower may draw on one or more of the following sources of Senior Debt:¹²
 - (a) loans from export credit agency (**ECA**) lenders (including commercial banks who are lending under guarantee or cover from ECAs);
 - (b) multilateral agency lenders;¹³
 - (c) uncovered commercial bank lenders; or

⁸**User note:** Borrower name to be identified here if incorporated.

⁹**User note:** The Sponsors may also need to be a party to the Equity Support Agreement. However, an Equity Support Agreement may not be required if Equity is paid in upfront. Please refer to User Note 20.

¹⁰**User note:** Shareholders of the Borrower to be listed here if known.

¹¹**User note:** Sponsors of the Borrower to be listed here if known.

¹²**User note:** Indicative list of possible senior creditors provided. Actual lenders to be listed here if known.

¹³**User note:** If a multilateral agency facility is provided, additional policy terms specific to that multilateral will need to be added, including convertibility provisions, prepayment and suspension events, broader Tax gross up and increased cost indemnities than is currently set out in this term sheet, Environmental and Social, Anti-Money Laundering, and Anti-Bribery and Corruption provisions and full flexibility to transfer commitments or loans.

(d) [senior loans provided by any of the Shareholders],

which will be incurred under a common terms agreement (the **Common Terms Agreement**), the terms of which are described in this term sheet, and individual facility agreements which will supplement the common terms (the **Senior Debt Facility Agreements**). In addition, the Borrower will be permitted, subject to applicable conditions, to issue senior secured notes either directly or through an affiliated special purpose vehicle (**SPV**) issuer, which may be issued in an international capital markets transaction pursuant to an indenture (the **Senior Notes**).¹⁴

The loans under the Senior Debt Facility Agreements, together with the Senior Notes will constitute the **Senior Debt** and the creditors under and in respect of the Senior Debt Facility Agreements, the Senior Notes and any Senior Hedging Documents will be the **Senior Creditors**. All Senior Debt will rank pari passu in right of payment, and will share equally and rateably in the Project collateral and any proceeds of enforcement.

5 Administrative Parties

A security agent, acceptable to the initial Senior Creditors and the Borrower (the **Security Agent**), will be appointed pursuant to an intercreditor agreement (the **Intercreditor Agreement**) to hold, administer and enforce all of the Security Interests on behalf of all Senior Creditors.¹⁵

An intercreditor agent (the **Intercreditor Agent**)¹⁶, acceptable to the Senior Creditors and the Borrower, will be appointed pursuant to the Intercreditor Agreement.

The Lenders under each Senior Debt Facility Agreement will appoint an agent to act on their behalf (each a **Facility Agent** and together with the Intercreditor Agent and the Security Agent, the **Administrative Parties**).

6 Finance Parties

Each Administrative Party and each Senior Creditor.

The Project and Overall Financing

7 Project

The **Project** will comprise:

- (a) the development, financing, design, procurement, Construction, commissioning, installation, testing, Operation, Maintenance, insurance, and

¹⁴**User note:** This Term Sheet does not set out the terms for the senior notes, or the conditions that would apply to the issuance of any such senior notes. It is contemplated that the Borrower may issue payment bonds, itself, or incur debt via a proceeds loan made by an affiliated SPV issuer, subject to regulatory, Tax and other applicable considerations. It should be noted that this is separate to the ability of the Lenders to assign their loans under the Senior Debt Facility Agreements as part of a portfolio securitisation, as described in Clause 39 below.

¹⁵**User note:** Although we have referred in this Term Sheet to the Security Agent, certain jurisdictions may require a separate onshore security agent (for local Law security), with an offshore security agent holding all other security interests. We note that a number of jurisdictions do not recognise the concept of a trust, and therefore have provided for a security agent, rather than a security trustee.

¹⁶**User note:** Where there is a single Security Agent role, this may be combined with the Intercreditor Agent role.

decommissioning of the Facility in accordance with the Implementation Agreement and the PPA;

- (b) the use by the Borrower of the Site (as defined in the Key Information Table) and related easement facilities and adjoining land in accordance with and as defined in the land agreement entered or to be entered into, between the Borrower and the Land Owner (**Land Agreement**) or such other agreement securing the Borrower's rights over the Site;¹⁷
- (c) the selling of Energy delivered by the Facility in accordance with the PPA¹⁸; and
- (d) all activities incidental to any of the foregoing in accordance with the PPA and the Implementation Agreement.

8 **Senior Debt Facilities** One or more USD / EUR / *[insert local currency if used]* senior term loan facilities (the **Senior Debt Term Loan Facilities**) and one or more revolving credit facilities (the **Senior Debt Revolving Credit Facilities** and together with the Senior Debt Term Loan Facilities, the **Senior Debt Facilities**).

9 **Equity** Each Shareholder shall have the option to make available its share of equity contributions by means of (a) funds provided to the Borrower in the form of subordinated shareholder advances to the Borrower, and (b) subscriptions for shares in the Borrower¹⁹ (together, **Equity**).

The ratio of the aggregate principal amount outstanding under the Senior Debt to the aggregate amount of the Equity contributions made by Shareholders (the **Debt to Equity Ratio**) must not at any time be more than the ratio stated in the Key Information Table.²⁰

10 **Acceptable Support** **Credit** Acceptable Credit Support will be provided by each Sponsor on a several basis in proportion to its shareholding in the Borrower or Shareholder, in respect of any Equity commitment that is unfunded as at Financial Close.

Acceptable Credit Support will comprise a corporate guarantee or letter of credit granted or procured by each

¹⁷**User note:** Land rights to the Site will be specific to the Relevant Jurisdiction and the Project. This clause will need to be amended to reflect the applicable land rights enjoyed by the Borrower and consequential amendments made to the Project Agreements.

¹⁸**User note:** Where this Term Sheet is used in the context of a merchant project, references to the PPA (and defined terms therein) may need to instead make reference to the applicable grid code or equivalent.

¹⁹**User note:** The parties may also agree to the inclusion of early generating revenues (EGRs) within the definition of Equity. Depending on the lender requirements in respect of Acceptable Credit Support, Sponsors may elect to retain EGRs in a reserve account for distribution at the Commercial Operation Date, subject to any MLA requirements.

²⁰**User note:** The Debt to Equity Ratio shall be based on the debt capacity of the Project as resulting from agreed cover age ratios and the Base Case Financial Model. This term sheet provides that the Shareholders will be required to fund Equity pro rata with Senior Debt drawdowns in accordance with the Debt to Equity Ratio, with credit for any Equity that is contributed prior to Financial Close. However, Lenders may require Shareholders to fund one hundred percent (100%) of Equity upfront depending on the credit strength of the Sponsors. Where equity bridge loans are used to fund Equity, these may be drawn first as a cheaper source of funding.

Sponsor (or an Affiliate of the Sponsor, which shall have the meaning given to it in the Key Information Table).²¹

Key Terms and Pricing – Term Loan Facilities

- 11 **Use of proceeds** The Borrower shall apply advances under any Senior Debt Term Loan Facility towards: (a) either (or both) of: (i) the payment, or (ii) reimbursement of Project costs; (b) funding the DSRA and MRA (if applicable) up to the reserve amount(s) required at or prior to the Commercial Operation Date or Deemed Commercial Operation Date, and for the purposes of this Term Sheet, the **Commercial Operation Date**) if permitted under the terms of the relevant Senior Facility Agreement; (c) paying its Senior Debt Obligations (other than principal) in respect of the Senior Debt; and (d) the reimbursement of Equity that has been applied to meet Project costs; provided that the Debt to Equity Ratio is satisfied following such reimbursement.²²
- 12 **Availability Period** Senior Debt Term Loan Facility will not be available until the date on which all the Finance Agreements have been signed and are in full force and effect and the conditions precedent specified in Clause 31 (*Conditions Precedent for Utilisation*) below have been satisfied or waived (**Financial Close**).
- Each Senior Debt Term Loan Facility will then be available, subject to satisfaction of conditions precedent to each utilisation described in Clause 32 (*Conditions Precedent for Utilisations*) below, from the date of Financial Close until the earliest to occur of (a) the date on which the aggregate commitments of the Senior Creditors under that Senior Debt Term Loan Facility are reduced to zero, (b) an agreed number of days after the Commercial Operation Date as set out in the Key Information Table, and (c) the Commercial Operation Longstop Date.²³
- 13 **Pro Rata Utilisations** All utilisations of Senior Debt will be made pro rata across all Senior Debt Term Loan Facilities, subject to certain agreed exceptions including with respect to tied ECA facilities and loans to fund financing costs.
- 14 **Tenor** The tenor of the Senior Debt shall be for the number of years from the Commercial Operation Date as set out in the Key Information Table.
- 15 **Final Maturity Date** The final maturity date of the Senior Debt, shall be the date set out in the Key Information Table.
- 16 **Repayment Schedules** Principal and interest payments shall commence on the Initial Repayment Date as set out in the Key Information Table and shall be made periodically in accordance with the Repayment Schedule set out in the Key Information Table (each being a **Repayment Date**). The scheduled repayments will be sculpted

²¹**User note:** Requirement for credit support in respect of unfunded Equity commitments to be negotiated on a deal by deal basis, depending on the credit strength of the Sponsors. Depending on Lenders requirements, Sponsors may be required to provide a single LC as credit support, with liability for drawdowns to be agreed as between Sponsors.

²²**User note:** The use of proceeds may need to be adapted if and to the extent that the Senior Debt proceeds are being applied to refinance an existing financing.

²³**User note:** If ECAs are participating in the Senior Debt Term Loan Facility, it will be required that any availability period complies with applicable OECD guidelines.

based on the maintenance of a minimum DSCR on each Repayment Date (as defined in the Key Information Table) in accordance with a repayment schedule that will be prepared by the Borrower and agreed with the Senior Creditors.²⁴

- | | | |
|----|------------------------------|--|
| 17 | Interest Periods | During the Availability Period of the Senior Debt, the interest periods shall be the number of months set out in the Key Information Table, and six months thereafter. |
| 18 | Interest Rate | <p>Either (a) the aggregate of the applicable reference rate and a margin, or (b) a fixed rate of interest, with a period of accrual as specified in the Key Information Table</p> <p>If the Borrower fails to make a payment when due and payable to the Senior Creditors on or before its due date, the Borrower shall pay an additional margin of 2% over and above the applicable interest rate that otherwise would be in effect on the full principal amount plus accrued interest outstanding at that time, for the period during which the payment is overdue.</p> |
| 19 | Fees | As specified in the applicable Senior Debt Facility Agreement and separate fee letters dealing with agency arrangements to be entered into between the Borrower and the relevant Finance Parties. |
| 20 | Mandatory Prepayments | <p>In addition to any specific mandatory prepayment requirements that may be required under the terms of the Senior Debt Facility Agreement, the Borrower will be required to make mandatory prepayments of the Senior Debt in certain circumstances, including where it becomes illegal for a Senior Creditor to continue its participation in the financing.</p> <p>Where there is a change of Control (as defined in the Key Information Table) of the Borrower that is not permitted by the Finance Agreements, a mandatory prepayment of all the participations of the Senior Creditors then outstanding, except to the extent that a requisite majority of Senior Creditors agree to waive such requirement, will be required. Any Senior Creditor that does not consent to such waiver shall be entitled to a mandatory prepayment of its then outstanding participation.</p> <p>In addition, the following amounts shall be applied in prepayment of the Senior Debt and, to the extent necessary, to pay any termination amounts under the Senior Hedging Documents, if any, arising as a result of such prepayment of the Senior Debt:</p> <ul style="list-style-type: none">(a) proceeds of claims under physical loss or damage insurance policies in excess of the agreed threshold as set out in the Key Information Table for a single loss / related series of losses; provided that such prepayment will not be required if the ratio of cash available for debt service is equal to or greater than the required ratio set out in the Key Information Table (the Debt Service Coverage Ratio or DSCR). If the aggregate amount of such proceeds is less than the agreed threshold, or the DSCR has been met, such funds may be used by the |

²⁴**User note:** If ECAs are participating in the Senior Debt Term Loan Facility, it will be required that any repayment schedule complies with applicable OECD guidelines.

Borrower towards reinstatement or to reimburse Shareholders for any equity contributions made to, or funds otherwise paid on behalf of, the Borrower towards the relevant physical loss or damage, or subject to the distribution conditions described below, applied by the Borrower as a distribution;

- (b) proceeds of compensation received by the Borrower in connection with the nationalisation or expropriation of a Project asset, the modification or extinguishment of rights relating to Project assets or the revocation or refusal of any applicable Authorisation;
- (c) proceeds of sale or other disposal of assets exceeding the agreed annual threshold amount as set out in the Key Information table and permitted by the Finance Agreements;
- (d) all termination amounts payable to the Borrower [*or the Shareholders*] under the PPA and the Implementation Agreement (up to the aggregate of all amounts then owed to the Finance Parties in respect of the Senior Debt Facilities and under the Senior Hedging Agreements, if any); and
- (e) all liquidated and unliquidated damages received by the Borrower under the Supply Agreement and the Installation Agreement, in each case to the extent not required to be applied for the payment of liabilities under the PPA, or towards Project costs or Senior Debt service.

The prepaid amount will be applied in reduction of scheduled instalments under the Senior Debt on a *pro rata* basis.²⁵ Amounts prepaid in respect of the Senior Debt will not be available for redrawing.

21 Voluntary Prepayments and Cancellations

Voluntary prepayments and cancellations will be permitted without premium or penalty, subject to: (a) an agreed minimum amount, and (b) payment of applicable break costs.

Voluntary prepayments or cancellations may not be made before the Commercial Operation Date unless the Intercreditor Agent receives a certificate (confirmed by the independent technical consultant of the Lenders) from the Borrower confirming that there will not be a funding shortfall following such prepayment or cancellation. The cancellation would not have a material adverse effect on the ability of the Borrower to fund the remaining expenditure required to achieve the Commercial Operation Date by the Commercial Operation Longstop Date.

The amount prepaid or cancelled by the Borrower will be applied in reduction of scheduled instalments under the Senior Debt on a *pro rata* basis. Amounts prepaid or cancelled in respect of the Senior Debt will not be available for redrawing.

²⁵**User note:** If the Finance Agreements provide for a cash-sweep, which is not contemplated in this Term Sheet but may be agreed by the parties, then any such prepayment must be made first to reduce the maturity up to the target maturity date, then *pro rata*.

Other Terms and Conditions

22 Finance Agreements

The Finance Agreements will comprise:

- (a) Senior Facility Agreements;
- (b) the Common Terms Agreement;
- (c) the Intercreditor Agreement²⁶;
- (d) the Accounts Agreement;
- (e) the Equity Support Agreement;
- (f) each Security Document;
- (g) each Senior Hedging Agreement, if any;
- (h) each Direct Agreement as listed in the Key Information Table;
- (i) any fee letters; and
- (j) any other document agreed as such by the Intercreditor Agent and the Borrower.

23 Project Agreements

The Project Agreements will comprise:

- (a) the PPA, and any related Buyer payment guarantee and credit support;
- (b) the implementation agreement for the Project between the Borrower and the Government (the **Implementation Agreement**) and any related Government guarantee provided in respect of the Project;
- (c) the interconnection agreement for the connection of the Facility to the Grid between the Borrower and the Network Operator (the **Grid Connection Agreement**);
- (d) the engineering and procurement contract (the **Supply Agreement**), or any replacement thereof, for the design and engineering of the Facility and the supply of the key equipment forming the PV system to be used in the Facility, between the Borrower and a supply contractor (the **Supplier**), and any related manufacturer warranty, parent company guarantee, performance bonds and other performance security;
- (e) the installation agreement for the installation, commissioning and testing of the Facility and the completion of the balance of plant for the Project (the **Installation Agreement**), or any replacement thereof, between the Borrower and an installation contractor (the **Installation Contractor**), and any related manufacturer

²⁶**User note:** To include subordination provisions in relation to applicable Equity contributions.

warranty, parent company guarantee, performance bonds and other performance security;

- (f) the operation and maintenance agreement (the **O&M Agreement**), or any replacement thereof, between the Borrower and an operation and maintenance contractor (**O&M Contractor**) with respect to the operation and maintenance of the Facility, and any related manufacturer warranty, parent company guarantee, performance bonds and other performance security;
- (g) the Land Agreement or other agreement securing the land rights of the Borrower in respect of the Site (if any);
- (h) the technical and management services agreement (if any); and
- (i) any other document agreed as such by the Facility Agent and the Borrower.

24 Major Project Participants

The Major Project Participants shall comprise:

- (a) the Supplier and the Installation Contractor and any parent company of each of the Supplier and the Installation Contractor providing a parent company guarantee, until the later of the date (a) upon which the final warranty period under the Supply Agreement, or the Installation Agreement, as applicable, expires, or (b) upon which the Supplier or the Installation Contractor, or any parent company of each of the Supplier and the Installation Contractor providing a parent company guarantee, has no further actual or contingent liabilities under such contract or guarantee);
- (b) from the Commercial Operation Date, the O&M Contractor and any parent company of the O&M Contractor providing a parent company guarantee until the date on which the O&M Contractor or the parent company of the O&M Contractor providing a parent company guarantee, has no further actual or contingent liabilities under such contract or guarantee;
- (c) and any other party which is designated as such by the Borrower and the Facility Agent.²⁷

25 Security Documents

The Intercreditor Agreement will, in addition to intercreditor matters, set out terms relating to (a) the appointment of the Security Agent on behalf of the Senior Creditors, and (b) the creation of a common security package to be held by the Security Agent for the benefit of the Senior Creditors (including for the avoidance of doubt any future providers of Senior Debt permitted to be incurred under the terms of the Common Terms Agreement)²⁸.

The security for the Finance Parties will include security interests with respect to the rights, title and interest of the

²⁷**User note:** The inclusion of the Supplier and the Installation Contractor as Major Project Participants has been proposed on the basis that there is not a single EPC contract or interface agreement (and related guarantee).

²⁸**User note:** Where the laws of the Relevant Jurisdiction render it necessary, a separate common security agreement may be required.

Borrower (or the Shareholders, as applicable) in the following collateral (subject in each case to appropriate modification taking into consideration the specific features or requirements of the Project and what is practicable in the jurisdiction of the Project and the security providers, taking account of cost considerations):

- (a) the Project Accounts and permitted investments (other than any distributions account);
- (b) (i) the Project Agreements, and (ii) applicable Authorisations (to the extent capable of assignment and subject to receipt of consent to the granting of security);
- (c) the shares in the Borrower;
- (d) the Shareholder loans to the Borrower, if any;
- (e) the Senior Hedging Agreements, if any;
- (f) the insurance policies (other than insurances voluntarily taken out by the Borrower and third party liability insurances);
- (g) the Facility; and
- (h) the Site,

(the documents creating such security interests, and any other security interests that are required on a deal-by-deal basis, being together the **Security Documents**). With respect to future assets of the types described above that do not exist, or are not held by the relevant grantor as at the date on which such initial Security Documents are executed and in respect of which it is not possible to grant valid security under the Laws of the applicable jurisdiction at such time, the relevant grantor shall execute supplemental Security Documents from time to time on a reasonable basis to be agreed, taking account of any applicable legal restrictions, the associated costs of such supplemental Security Documents and the value of the assets to be the subject of such Security Interests.

The security package described above is for the benefit, pro rata and without distinction, of all Senior Creditors without any preference by reason of date of incurrence, currency of payment or otherwise.

With respect to the Project Agreements specified in the Key Information Table, the Senior Creditors will require that the counterparties enter into direct agreements with the Security Agent and the Borrower that, subject to applicable law, comply with the principles set out in Schedule 2 to this Term Sheet (the **Direct Agreements**).

The Senior Creditors may also require that the counterparties to the Project Agreements enter into acknowledgements of security with the Security Agent, subject to exceptions to be agreed between the Borrower and the Senior Creditors.

26 **Project Accounts**

The Borrower will be permitted to open and maintain certain onshore and offshore bank accounts for specified purposes (the **Project Accounts**), in accordance with the terms of the Finance Agreements.

All of the Project Accounts will be maintained at the same financial institution, if possible, taking account of licensing requirements.

All Project funds will be held in the Project Accounts and, while so held, may only be invested in certain types of permitted investments. Prior to the declaration of an Event of Default, the Borrower will direct the management of the Project Accounts in accordance with the cash waterfall at Schedule 1 to this Term Sheet. All references to funds and balances in Project Accounts will include permitted investments made with the proceeds thereof.

The Finance Agreements will impose certain restrictions on the ability of the Borrower to transfer funds from offshore accounts into onshore accounts. Such restrictions may be expected to include a limit on the aggregate amount of money that the Borrower may hold in onshore accounts from time to time, by reference to an agreed number of days of estimated future Project operating expenses that are payable in the jurisdiction of the Project and taking into account any currency convertibility issues.

27 **DSRA**

The Borrower shall ensure that from the Commercial Operation Date until the Final Maturity Date, the debt service reserve account (**DSRA**) is funded in an amount equal to Debt Service for the DSRA Funding Period in respect of the Senior Debt²⁹. The Borrower will have the option of funding the DSRA using cash or by way of letters of credit (on a non-replenishable basis), subject in the case of letters of credit to the satisfaction of the Acceptable Credit Support criteria.

28 **Shareholder
Distributions**

The Borrower may not make distributions if:

- (a) the Commercial Operations Date has not occurred;
- (b) a **Default** (being any Event of Default or any event or circumstance to be specified in the Events of Default clause which would, upon the giving of notice, the expiry of a grace period, the making of any determination, the fulfilment of any other condition or any combination of the foregoing constitute an Event of Default), has occurred and is continuing, or would occur as a consequence of that distribution;
- (c) the DSRA, and MRA (if applicable), have not been funded to the respective required amounts;
- (d) the first Repayment Date has not occurred, or all amounts due on such date in respect of the Senior Debt have not been paid; or

²⁹**User note:** Borrower should consider that it may be more economic to insure debt service repayments rather than using a DSRA.

- (e) any required mandatory prepayment of Senior Debt in respect of a share of net available revenue has not been made.
- 29 **Shareholder Transfers** Shareholder transfer restrictions shall be as follows:
- [insert as required].³⁰
- 30 **Financial Model** The Borrower, will maintain, run and regularly update a financial model (the **Financial Model**) in accordance with certain specified formulae and methodologies for calculating ratios to be set forth in the Common Terms Agreement. The Borrower shall share the original, and all updates to, the Financial Model with the Senior Creditors.
- 31 **Conditions Precedent for Utilisation** The first disbursement by the Senior Creditors of a utilisation under the Senior Facility Agreements will be subject to the satisfaction or waiver of certain conditions precedent that will be common to each utilisation, as described below, and to certain additional conditions precedent including (without limitation)³¹ the following, in each case in form and substance satisfactory to the Senior Creditors, as well as any relevant individual conditions set forth under the relevant Senior Facility Agreements:³²
- (a) originals of duly executed Finance Agreements and certified copies of all Project Agreements;
 - (b) evidence that security created under each Security Document has been perfected³³;
 - (c) copies of all Authorisations then required;
 - (d) evidence that each condition precedent to the occurrence of the Effective Date under (and as defined in) each Project Agreement has been satisfied (save for the satisfaction of any condition that the Finance Agreements must be in full force and effect or that Financial Close has occurred);
 - (e) certified copies of the constitutional documents, resolutions (to the extent necessary), incumbency certificates, Tax certificates and evidence of authority of the Borrower, the Shareholders, the Sponsors and the Major Project Participants and certificates of the related director;

³⁰**User note:** Share transfer restrictions to be negotiated on a project by project basis. Such restrictions may include different 'minimum hold' requirements during the construction period and the operational period, which will prevent the Shareholders from transferring their shares in the Borrower below a certain agreed level without the consent of the requisite majority of the Senior Creditors, and may apply credit tests with respect to pre-completion transfers. The change of Control/ transfer restrictions must provide the Sponsors with enough flexibility to trade solar PV assets, and aggregate portfolios of such assets to increase efficiencies in the solar energy market.

³¹**User note:** Project specific CPs such as central bank filings, ECA documentation, letter authorising communications with the auditors; etc. to be considered for inclusion in this list.

³²**User note:** Depending on the chosen Governing Law for the Finance Agreements and Project Agreements, the Borrower may also be required to evidence of the appointment of a process agent registered in the jurisdiction of the chosen Governing Law;

³³**User note:** Subject to local Law requirements, perfections steps may be treated as post-closing conditions subsequent.

- (f) copies of relevant registry extracts for the Borrower, the Shareholders, the Sponsors and the other Major Project Participants;
- (g) a report in relation to the Project (including the irradiation data) and the Project Agreements from the independent technical consultant of the Lenders;
- (h) a legal due diligence report;
- (i) a report from the independent insurance consultant of the Lenders;
- (j) a report in relation to the Project from the independent environmental and social consultant of the Lenders;
- (k) the environmental social management plan and environmental impact assessment of the Project;³⁴
- (l) a copy of a cash flow forecast for the Project (the **Base Case Financial Model**) produced by the Financial Model (in computer legible form) and an electronic version of the Financial Model;
- (m) a copy of the report prepared by the model auditor in relation to the Base Case Financial Model;³⁵
- (n) a copy of an initial Construction budget based on the same assumptions as the Base Case Financial Model;
- (o) confirmation that all of the Project Accounts (to the extent then required) have been opened with the Account Banks;
- (p) the Hedging Strategy shall have been agreed and, to the extent required thereby, implemented;
- (q) copies of the most recent audited financial statements of the Borrower, the Shareholders, the Sponsors, the Buyer, the Supplier, the Installation Contractor, the O&M Contractor and any parent company providing a guarantee in respect of the Supplier, the Installation Contractor or the O&M Contractor, as applicable;
- (r) the appointment of an internationally recognised auditor by the Borrower;
- (s) all insurances and reinsurances required pursuant to the Finance Agreements at the time of first utilisation are in full force and effect and copies of cover notes of such insurances and reinsurances;
- (t) an undertaking from the insurance broker of the Borrower in customary form;

³⁴**User note:** Required scope of external reports to be considered on a case by case basis, including specific lender requirements regarding Equator Principles/ World Bank standards/ IFC Performance Standards.

³⁵**User note:** Requirement for model audit to be considered on a case by case basis, and may not be required if one of the lending banks is acting as a modelling bank.

- (u) copies of each insurance and reinsurance policy referred to in paragraph (s) above demonstrating that the relevant endorsements as required by the Senior Creditors in the agreed form;
- (v) a certificate or receipt showing that the fees and expenses of the Finance Parties due at first utilisation have been paid by or on first utilisation;
- (w) (i) enforceability and capacity legal opinions in relation to the Finance Agreements; and (ii) enforceability and capacity legal opinions in relation to the Project Agreements;
- (x) copies of engagement letters for the independent insurance consultant of the Lenders, the independent legal counsel of the Lenders, the independent technical consultant of the Lenders and the independent environmental and social consultant of the Lenders; and
- (y) information requested by or on behalf of the Senior Creditors before the signing of the Senior Debt Facility Agreements to enable the Senior Creditors to carry out applicable know your customer requirements or to comply with any anti-money laundering legislation, regulations, procedures or rules applicable to them.

32 Conditions Precedent for Utilisations

The conditions precedent to be satisfied (or waived) before any utilisation may be made under the Senior Debt will include:

- (a) no Default is continuing or would result from the utilisation;
- (b) the Repeating Representations of the Borrower in Clause 33 (*Representations and Warranties of the Borrower*) are true in all material respects; and
- (c) the Borrower, taking into account the proposed utilisation, is in compliance with the Senior Debt to Equity Ratio as set out in the Key Information Table.

33 Representations and Warranties of the Borrower

The representations and warranties to be made by the Borrower will be:

- (a) due incorporation, power and authority to conduct its business, execute, deliver and perform the Finance Agreements and Project Agreements (the **Transaction Agreements**), and the power to own its assets;
- (b) due execution and delivery of the Transaction Agreements by it;
- (c) legal, valid, binding and enforceable status of its obligations under the Transaction Agreements subject to customary legal reservations;
- (d) an Event of Default has not occurred and is not continuing;

- (e) the Project assets (including land rights) are free from any security interests (save as permitted by the Finance Agreements) and the Borrower has title to the Project assets (including land rights) required to implement the Project in accordance with the Transaction Agreements;
- (f) it is not party to any agreements under which it has material rights or obligations other than the Transaction Agreements;
- (g) it is in compliance with all applicable Laws (including applicable Environmental Law and applicable Authorisations;
- (h) other than the filing and registration of the Security Documents with the relevant authorities, it is not necessary to file or record any of the Transaction Agreements with any court or other Authority in the Relevant Jurisdiction;
- (i) there is not any actual or pending litigation, arbitration, administrative proceedings or investigation against the Borrower which, if determined against the Borrower, would have a Material Adverse Effect;
- (j) it has filed all requisite Tax returns and paid all its Taxes (as defined in the relevant Finance Agreement) (other than those which it is contesting in good faith and for which adequate reserves have been provided for in the accounts);
- (k) payments under the Finance Agreements are not subject to any deductions for or on account of Tax;
- (l) its execution, exercise of rights and performance of obligations under the Transaction Agreements do not conflict with its agreements, constitutional documents, any Laws or Authorisations, result in the creation of any security interest over its revenues or assets save as permitted by the Transaction Agreements or, in the case of the Finance Agreements, result in any other person being entitled to terminate the Project Agreements or any other material arrangement of the Borrower;
- (m) all Authorisations listed in the Senior Debt Facility Agreements required at the date of the representation have been obtained or made and complied with, and have not been revoked, cancelled or modified or amended in any adverse manner, and (to the extent such Authorisations are not yet required to be obtained) the Borrower is not aware of anything which would prevent them being obtained;
- (n) it owns (or has the right to use) all intellectual property rights (as may be more particularly defined in the relevant Project Agreement) which it requires to carry out the Project;
- (o) subject to customary legal reservations, the Security Documents to which it is a party are effective to create

the security with the priority as stated in the Security Documents;

- (p) the claims of the Finance Parties under the Finance Agreements rank at least *pari passu* with other unsecured and unsubordinated claims save those which are mandatorily preferred by Law;
- (q) insolvency/winding-up proceedings in respect of the Borrower, the Shareholders or the Sponsors have not been started;
- (r) there are not any Disputes (as defined in the relevant Project Agreement) under or in relation to, or material breaches of, any of the Project Agreements by any party;
- (s) the Borrower does not have any immunity from suit or attachment;
- (t) the Borrower does not have any undisclosed financial indebtedness other than permitted indebtedness, or other material obligations other than as contemplated by the Transaction Agreements;
- (u) the Borrower does not have any business other than the Project and does not have any Subsidiaries (as defined in the relevant Finance Agreement);
- (v) (i) the Borrower is not a person that (A) is subject to or the target of a Sanction (as defined below) either personally or by virtue of being incorporated, located or otherwise operating in a country or territory which is the subject of a Sanction or (B) is owned, operated or Controlled by a person that is subject to or the target of a Sanction or (C) appears on or is owned, operated or Controlled by any person who appears on any list issued or maintained by any Sanction Authority (as defined below) as amended, supplemented or substituted from time to time (a **Sanctioned Person**); (ii) the Borrower has not engaged in any transaction or conduct that could result in it becoming a Sanctioned Person; (iii) the Borrower is not subject to any claim, proceeding, formal notice or investigation with respect to any Sanction; and (iv) the transactions contemplated by the Finance Agreements will not involve a Sanctioned Person or any country which is the subject of any Sanction, where: **Sanction** means, any economic, financial, trade or other sanction, embargo, import or export ban, prohibition on transfer of funds or assets or on performing services imposed by any Sanction Authority and in each case having the force of law and which affects the performance by a party of any of its obligations or the exercise of any of its rights arising out of or in connection with this Agreement or requires it to obtain any licence in respect of a Sanction in order for it to perform any such obligation or exercise any such right³⁶;

³⁶**User note:** Consider whether rights associated with the imposition of Sanctions (in this case, for a misrepresentation) should apply irrespective of the effect on performance, for example if there is reputational risk.

- (w) the Borrower, and to the best of its knowledge, neither itself nor any of its officers, employees, agents, sub-contractors or any other persons who perform services for or on behalf of it in connection with the Project: (i) has engaged in any Corrupt Practice; (ii) has been convicted of any Corrupt Practice; or (iii) is under any governmental or internal investigation for any alleged Corrupt Practice, where **Corrupt Practice** means any act or omission prohibited by any laws intended to prevent bribery or other forms of corruption and any act or omission prohibited by any policies and guidelines referred to in paragraph (m)(ii) of Clause 37 (*Negative Covenants of the Borrower*) in connection with the Project;
- (x) subject to customary legal reservations, the governing law of the Transaction Agreements (where applicable) is a valid choice and will be recognised in the Relevant Jurisdiction (as defined in the relevant Finance Agreement) and any judgment obtained under such governing law in relation to a Transaction Agreements will be recognised and enforced in the Relevant Jurisdiction;
- (y) all insurances and reinsurances required to be taken out by the Transaction Agreements at the relevant time are in full force and effect and nothing has been done or omitted to be done by the Borrower which would render any of the insurances or reinsurances unenforceable, suspended, void or voidable; and
- (z) no misleading information,

and each such representation, except those set out in paragraphs (m), (q) and (z) shall be repeated on the date of each utilisation request, each utilisation date and each interest payment date (the **Repeating Representations**).

In this Term Sheet, **Material Adverse Effect** means a material adverse effect on:

- (a) the enforceability, legality, binding nature of any Transaction Agreement, the effectiveness of ranking of any Security granted or purported to be granted pursuant to any Security Document or the rights or remedies of, or ranking of payments due to, any secured creditor under any Finance Agreements; or
- (b) the financial conditions, assets or business of the Borrower;
- (c) the ability of each of the Borrower, the Shareholder or the Sponsors to perform and comply with its respective obligations under any of the Finance Agreements to which it is a party; or
- (d) the ability of the Borrower to perform or comply with any of its material obligations under any of the Project Agreements to which it is a party.

34 **Insurance**

The Borrower will agree with the independent insurance consultant of the Lenders, an insurance plan to keep all Project assets of an insurable character insured with such coverage and in such form and amounts as are customarily provided for project facilities of this type and scale and in compliance with the Project Agreements, taking into account the commercial availability and cost of insurance, the other financial resources available to the Project in the event of casualty or loss, and the amount of Senior Debt outstanding.

All insurances will (if permitted by Law) include waiver of rights of subrogation and non-vitiating provisions and name the relevant Security Agent as loss payee, except for third party liability insurance, and the relevant Security Agent shall be named as co-insured in the relevant policies. An Event of Default must not occur if any of the required insurances cease to be available on commercially reasonable terms, and such non-availability is not due to breach by the Borrower of its insurance obligations.

35 **Information Covenants of the Borrower³⁷**

The following list shall comprise the information covenants of the Borrower:

- (a) provide the Senior Creditors with copies of: (i) all amendments and modifications to the Project Agreements; (ii) information relating to material breaches, Disputes or notices of termination under any Project Agreement (including a copy of such notices themselves, if any) (iii) all amendments to the insurances, reinsurances and Authorisations and all new insurances, reinsurances and Authorisations; and (iv) all notices given or received under the Project Agreements, insurances, reinsurances and Authorisations, in each case where such notice relates to anything that may lead to suspension, adverse amendment, termination or non-renewal of any of them;
- (b) copies of notice or communication from a regulatory body, court or other authorised organisation prohibiting, suspending or varying all or any material part or process carried out by any Major Project Participant in relation to the Project;
- (c) notice and details of any Force Majeure or Material Adverse Effect Event;
- (d) details of any damage or destruction to the Project assets, including the Facility, with a value in excess of the monetary threshold set out in the Key Information Table or of any insurance claim with a value in excess of the monetary threshold set out in the Key Information Table;
- (e) copies of documents, notices and reports dispatched to its Shareholders;
- (f) until the Commercial Operation Date, deliver to the Intercreditor Agent a Construction report (form and

³⁷**User note:** Lender specific requirements (e.g., in respect of E&S, sanctions, anti-corruption or prohibited practices) to be considered for inclusion on a case by case basis. Where appropriate, the parties may agree to include additional covenants relating to model updates, ratio reporting and approval of budgets.

substance of which is to be agreed) according to the reporting period frequency specified in the Key Information Table;

- (g) from the Commercial Operation Date, deliver to the Intercreditor Agent an operating report (form and substance of which is to be agreed) according to the reporting period frequency specified in the Key Information Table;
- (h) deliver to the Intercreditor Agent copies of the audited annual financial statements of the Borrower, the Shareholder, and the Sponsor and, in relation to the Borrower, unaudited quarterly financial statements;
- (i) provide information requested by the Facility Agent on behalf of the Senior Creditors to comply with applicable know your customer or anti-money laundering regulations;
- (j) provide, to the extent reasonable, any information requested on behalf of the Senior Creditors that relates to the Project or any Transaction Agreement; and
- (k) customary information undertakings in relation to litigation, arbitration, administrative proceedings or investigation, material losses, Disputes, change of Control, Change in Law and Events of Default.

36 Affirmative Covenants of the Borrower³⁸

The following list shall comprise the affirmative covenants of the Borrower:

- (a) procure that the Project is constructed, operated and maintained in accordance with the Transaction Agreements, all applicable Laws (including applicable Environmental Law) and Authorisations;
- (b) maintain its existence and power and authority to conduct business;
- (c) comply with its obligations under each Project Agreement and maintain material rights under the Project Agreements and (subject to customary legal reservations) keep the Project Agreements in full force and effect;
- (d) subject to customary legal reservations, create, register and otherwise perfect and maintain the security intended to be created in favour of the secured creditors under the Security Documents;
- (e) ensure the claims of the secured creditors under the Finance Agreements rank at least *pari passu* with other unsubordinated and unsecured claims, save those which are mandatorily preferred by Law and maintain the

³⁸**User note:** Lender specific requirements (in respect of E&S, sanction, anti-corruption or prohibited practices) to be included on a case by case basis. In addition, project specific covenants (e.g. central bank reporting requirements) to be included as required.

ranking of security created by the Security Documents as set out therein;

- (f) apply the proceeds of the Senior Debt for Permitted Purposes only (as defined in the relevant Finance Document);
- (g) comply with applicable Laws, including Environmental Law, and with the Lenders' Performance Standards as set out in the Key Information Table;
- (h) obtain and maintain all Authorisations required to implement the Project in accordance with the Transaction Agreements;
- (i) pay Taxes and file Tax returns (other than those which it is contesting in good faith and where the adequate reserves for those have been made in the accounts);
- (j) apply all Tax credits, losses, reliefs and allowances in the manner provided for in the Base Case Financial Model;
- (k) obtain and maintain all licences in connection with the intellectual property rights necessary for the Project;
- (l) maintain good title to the Site and access to the Site and benefit of all rights to land necessary to implement the Project;
- (m) provide Senior Creditors and their representatives with access to the Site upon reasonable prior notice and subject to applicable Site security requirements;
- (n) maintain acceptable accounting systems and records and books of account in keeping with applicable accounting standards and provide Senior Creditors and their representatives with access to such systems, records and books upon reasonable prior notice;
- (o) give the Intercreditor Agent, its representatives and the independent technical consultant of the Lenders reasonable notice of completion tests and allow attendance at such tests and inspection of the results of such tests by the independent technical consultant of the Lenders;
- (p) (i) comply with the agreed insurance and reinsurance related obligations; (ii) ensure that insurance and reinsurance premia are paid in full when due; (iii) ensure that a fair representation of the risk has been provided in relation to the risks insured; and (iv) ensure that nothing will be done or has been done that would reduce liability, reduce coverage or avoid liability under any of the insurances or reinsurances;
- (q) appoint and maintain international auditors;

- (r) open and maintain the Project Accounts and administer payments and investments in accordance with the Accounts Agreement;
- (s) effect and maintain the Hedging Strategy;
- (t) defend claims or minimise losses where there is no defence;
- (u) comply with any Sanction and all Export Laws in relation to the supply of goods and the performance of any services in relation to the Project; and
- (v) if identified as for the benefit of the Buyer in the Key Information Table, obtain Environmental Credits relating to the Project.³⁹

37 Negative Covenants of the Borrower

The following list shall comprise the negative covenants of the Borrower:

- (a) negative pledge with respect to all the present and future assets and revenues of the Borrower;
- (b) amend or waive any material provision of, or terminate, assign, suspend or transfer any Project Agreement or Authorisation, except where: (i) such amendment or waiver is of administrative nature; or (ii) the Intercreditor Agent directs the Borrower to do so pursuant to exercise of its rights under the Finance Agreements;
- (c) not allow any variation to any Project Agreement, except where such variation will not: (i) result in a funding shortfall, (ii) result in a likely delay to the achievement of the Commercial Operation Date; or (iii) materially alter the nature of the Project, the manner in which it operates or its risk profile;
- (d) create or permit to subsist any financial indebtedness, except shareholder subordinated debt in accordance with the Equity Support Agreement or as permitted under the Finance Agreements;
- (e) create or permit to subsist any loans or guarantees, other than as permitted under the Finance Agreements;
- (f) alter any rights attaching to its shares or amend its constitutional documents, except if such amendment is of administrative effect;
- (g) dispose of assets or assign contractual rights except as permitted or required pursuant to the Finance Agreements in the ordinary course of business or to the extent obsolete or if the assets are subject to replacement;
- (h) acquire any assets other than: (i) in accordance with the relevant Construction budget or operating budget; (ii) in

³⁹**User note:** Additional provisions around registration for such credits, their submission, etc. to be included depending on the specific regime of the Project country.

order to repair or replace lost or damaged assets; or (iii) to the extent such capital assets are required to be purchased as a result of an unforeseen event and do not exceed an agreed indexed amount per rolling one-year period;

- (i) take any action or omit to take any action, which would lead to the winding-up of the Borrower;
- (j) change its business or its Tax residence;
- (k) consolidate or merge with any other person or enter into any amalgamation, merger, demerger, reconstruction, joint venture, partnership, profit sharing or analogous arrangement or have any subsidiary or any interest in any other person other than as a permitted investment;
- (l) waive or settle a claim where the amount of such claim exceeds or is reasonably likely to exceed an agreed indexed amount, net of any insurance deductibles;
- (m) will, and will procure that its officers, employees, agents, sub-contractors and any other persons who perform services for or on behalf of it in connection with the Project will, (i) not breach or could cause the other party to breach any applicable laws intended to prevent bribery or other forms of corruption⁴⁰; (ii) comply with any policies and guidelines for the prevention of bribery and other forms of corruption adopted by the Borrower prior to the effective date of the Common Agreement including policies and guidelines imposed on the other party by the Shareholders or the Finance Parties and any later amendments as may be reasonably required by the Finance Parties from time to time; (iii) keep accurate and up to date records showing all payments made and received and all other advantages given and received by it in connection with this Agreement and the steps it takes to comply with this Clause 37 (*Negative Covenants of the Borrower*), and permit the other party to inspect those records as reasonably required; and (iv) promptly notify the other party of: (A) any governmental investigation relating to an alleged breach of any laws referred to in (i) above; and (B) any governmental or internal investigation relating to an alleged breach of any policies and guidelines referred to in (ii) above in connection with the Project;
- (n) in any proceedings in relation to any Finance Agreement, claim for itself or any of its assets immunity from execution, attachment or other similar legal process;
- (o) enter into hedging other than in accordance with the Hedging Strategy;

⁴⁰**User note:** Relevant legislation would typically include anti-corruption statutes of home jurisdictions of the Finance Parties and may include the UK Bribery Act, the US Foreign Corrupt Practices Act etc..

- (p) enter into material contracts or assume other material obligations, other than as contemplated by the Finance Agreements;
- (q) other than the Transaction Agreements, conclude any contracts with Affiliates;
- (r) no bank accounts other than the Project Accounts;
- (s) not dispose of Tax losses, credits, reliefs or allowances other than as set out in the Base Case Financial Model;
- (t) not change the financial year; and
- (u) issue any shares or options except in relation to the Equity contributions by the Shareholders or any transfers permitted under the Finance Agreements.

38 Events of Default⁴¹

The following list of events shall define the **Events of Default**:

- (a) payment default under any Finance Agreements (other than by a secured creditor) by a Borrower or a Shareholder (a **Relevant Party**), except where caused by (i) administrative or technical error of an account bank or (ii) disruption event and is remedied not later than 3 Business Days (as defined in the Key Information Table) following its occurrence;
- (b) misrepresentation by any Relevant Party under the Finance Agreements (other than in relation to matters separately addressed pursuant to a specific Event of Default) unless circumstances giving rise to such misrepresentation are capable of remedy and are remedied not later than twenty (20) Business Days from the Intercreditor Agent giving notice of misrepresentation or the Relevant Party becoming aware of it;
- (c) breach of any of the transfer restrictions set out in the Finance Agreements;
- (d) breach of any other obligation by any Relevant Party under any Finance Agreement (other than in relation to matters separately addressed pursuant to a specific Event of Default), subject to (i) cure not later than twenty (20) Business Days from such breach occurring (except for breaches relating to negative pledge, security, no disposal, indebtedness, change of Control, distributions and subordination undertakings);
- (e) breach of a material obligation under a Project Agreement by the Borrower, subject to cure not later than twenty (20) Business Days from such breach occurring;

⁴¹**User note:** Applicable cure periods must follow convention for power projects in the Relevant Jurisdiction (particularly given that the standard 20-Business Day period provided for in the LMA documentation is not followed in many jurisdictions) and must align with those agreed in the Project Agreements. Lender specific requirements (e.g., in respect of E&S, sanctions, anti-corruption or prohibited practices), and project specific events of default (e.g., in respect of foreign exchange controls or host government support), to be considered on a case by case basis.

- (f) insolvency proceedings, creditors process, insolvency, winding-up or the appointment of any liquidator, trustee in bankruptcy, judicial custodian, compulsory manager or receiver or any similar event in relation to the Borrower, or any Major Project Participant (whilst such Major Project Participant has outstanding obligations or liabilities under the Project Agreements or Finance Agreements), except where such action is contested in good faith and with appropriate measures and is frivolous and vexatious and is discharged not later than twenty (20) Business Days following such occurrence (or in case of the Supplier, Installation Contractor or the O&M Contractor an appropriate substitution or remedial plan is provided satisfactory to the Intercreditor Agent not later than twenty (20) Business Days following such occurrence and such plan is complied with)⁴²;
- (g) any security interest under the Security Documents ceases to be perfected or to exist or fails to be maintained with the priority created under the Security Documents and on the terms set out in the Security Documents;
- (h) (i) a final judgment is entered against the Borrower in its jurisdiction of incorporation in an amount in excess of an agreed indexed amount; or (ii) an injunction is entered against the Borrower requiring abandonment of the Project;
- (i) it becomes unlawful for the Borrower to perform any obligation under any Transaction Agreement, or invalidity, illegality or unenforceability or termination arises with respect to a Transaction Agreement and in case of the Project Agreements, and such invalidity is not cured within twenty (20) Business Days following its occurrence;
- (j) all or a material part of the Project or any of the shares of the Borrower are nationalised, expropriated or confiscated;
- (k) the Commercial Operation Date has not occurred on or before the Commercial Operation Longstop Date;
- (l) any Authorisation is revoked, not renewed, not obtained when required or materially adversely amended, except where such Authorisation is not required any longer for implementation of the Project;
- (m) insurance or reinsurance is avoided or ceases to be in full force or effect or liability under it is reduced, except where such policy is replaced;
- (n) Abandonment of the Project by the Borrower or one of its Contractors;

⁴² **User note:** Please consider the permitted period to discharge vexatious insolvency proceedings. In some jurisdictions the reality is that it will take much longer than 20 Business Days.

- (o) the whole or a material part of the Project is destroyed and the Project is not reinstated in accordance with the Finance Agreements;
- (p) breach of the Debt Service Coverage Ratio, as stated in the Key Information Table;
- (q) Prolonged Force Majeure Event or Material Adverse Effect; and
- (r) immunity from suit, attachment or similar legal process of the Borrower or any Major Project Participant.

39 Transfers

The consent of the Borrower is required for any assignment or transfer unless the assignment or transfer (i) is to a permitted lender (including another Senior Lender or an Affiliate or related fund of the assignor/transferor, and any other bank or financial institution with an acceptable rating), (ii) is to a special purpose vehicle for purposes of a securitisation, (iii) takes effect after the end of the Availability Period, or (iv) takes effect while an Event of Default is continuing. If required, such consent will not be unreasonably withheld or delayed; provided that transfer to a competitor of the Sponsors is not to be permitted in any circumstances.

The Borrower will not be required to make payments in respect of increased costs or Taxes arising after an assignment or transfer which would not have applied to the assignor/transferor and relating to circumstances existing as at the date of the assignment/transfer.

40 Tax

Tax or Taxes means any form of taxation, levy, duty, charge, withholding, contribution or impost of whatever nature (including any related fine, penalty, surcharge or interest) imposed, collected or assessed by, or payable to, an Authority.

Except as set out below, all payments to be made by the Borrower with respect to the Senior Debt will be made without deduction for or on account of any withholding Taxes, save as required by applicable Law. The Borrower will pay such additional amounts as will ensure that the relevant payee receives the full amount that it would have received had such withholding not been required.

Risk associated with FATCA-related deductions shall be borne by the Senior Lenders.

41 Increased Costs

The Finance Agreements to include then-current LMA-form provisions in respect of increased costs, except that Finance Parties shall be entitled to increased costs in respect of the implementation or application of, or compliance with Basel III or CRD IV or any law or regulation which implements or applies Basel III or CRD IV except to the extent that a Finance Party was or reasonably should have been aware of the increased costs on the date which it became a Finance Party.

42 Other terms

The Finance Agreements to include then-current LMA-form provisions in respect of market disruption.

43 Governing Law

The Finance Agreements (other than the Security Documents and the Direct Agreements) will be governed by the law indicated in the Key Information Table.⁴³

Each Security Document will be governed by the Law of the country where the collateral is located or, in case of receivables, the Law applicable to the relevant receivable.

Each Direct Agreement will be governed by the Law applicable to the underlying contract.

44 Dispute resolution

- (a) The Finance Agreements (other than the Security Documents and the Direct Agreements) will provide for the dispute resolution process indicated in the Key Information Table.
- (b) The Security Documents will provide for non-exclusive jurisdiction of the courts of country of the governing Law.⁴⁴
- (c) The Direct Agreements will provide for the dispute resolution process set out in the Key Information Table.
- (d) Disputes on changes to the assumptions of the Base Case Financial Model to be decided through expert determination.

⁴³**User note:** In line with market practice, international commercial banks and development finance institutions will typically require the Finance Documents to be governed a trusted, tried and tested law such as English Law, New York Law, or sometimes the law of the jurisdiction where the original Finance Parties are located.

⁴⁴**User note:** Note that this follows the position as stated in Clause 43 that the governing law of each Security Document will be the law of the country where the collateral is located or, in case of receivables, the law applicable to the relevant receivable.

Schedule 1 Cash Waterfall

The cash waterfall for the Project will be as follows:⁴⁵

- 1 *[Taxes of the Project Company;*
- 2 *other Project costs including operational expenditure;*
- 3 *Senior Creditor costs, charges, fees and expenses due under the Finance Agreements;*
- 4 *Senior Debt service, including amounts payable by the Borrower under the Senior Hedging Agreements, if any;*
- 5 *mandatory prepayments amounts;*
- 6 *Senior Debt Service Reserve and Maintenance Reserve Account (if applicable) required amounts; and*
- 7 *distributions, subject to the applicable distribution conditions.]*

⁴⁵**User note:** We would expect the cash waterfall to be subject to negotiation between the Borrower and the Senior Creditors taking account of the structure of the Project as well as legal and regulatory requirements; and will be settled on a case by case basis. The list above is a high-level indicative example and is provided for illustrative purposes only.

Schedule 2

Direct Agreement Principles

The following principles are to be reflected in each Direct Agreement:

- 1 Each Direct Agreement to be entered into between the Borrower, the Security Agent and the applicable commercial counterparty.
- 2 Each Direct Agreement will include the following key terms, as well as other terms that may reasonably be required by the Lenders, by reference to applicable market practice for the relevant Project Agreement and applicable Law:
 - (a) An acknowledgement of, and consent to, the creation of security with respect to the underlying contract rights of the Borrower;
 - (b) Payment instructions to a designated account of the Borrower;
 - (c) Controls on the ability of the counterparty to terminate the underlying contract, including cure rights for the Security Agent, and disapplication of any consent rights of the counterparty regarding a future change of Control in the Borrower as a result of a Lender enforcement;
 - (d) Step-in rights for the Security Agent, if appropriate, and subject to appropriate restrictions including in respect of the identity of any step-in party;
 - (e) Substitution/novation rights for the Security Agent, if appropriate and subject to appropriate restrictions including in respect of the identity of ant substitute party;
 - (f) Provisions for the receipt of material notices by the Security Agent;
 - (g) Key representations and warranties relating to capacity and enforceability;
 - (h) The Direct Agreement must not impose any additional liabilities on the applicable commercial counterparty.

Schedule 3 Additional Term Sheet Provisions

- | | | |
|----|------------------------------------|---|
| 45 | Maintenance Reserve Account | <p>If identified as Applicable in the Key Information Table, the Borrower shall ensure that from the Commercial Operation Date until the Final Maturity Date, the maintenance reserve account (MRA) is funded in an amount equal to the agreed threshold set out in the Key Information Table by way of letters of credit or (at the option of the Borrower) cash.⁴⁶</p> |
| 46 | Hedging Strategy | <p>If identified as Applicable in the Key Information Table, the applicable hedging strategy shall be as set out in a hedging strategy letter, to be appended as a Schedule to the Common Terms Agreement.</p> <p>The hedging strategy will be based on LMA form, adapted as required on a case-by-case basis to describe (a) any required, and (b) the scope of any permitted hedging, in accordance with the requirement of the Project financing.</p> <p>Currency hedging may be required to address a currency mismatch between Project revenues and:</p> <ul style="list-style-type: none"> a) Project costs including operational expenditure; b) Senior Debt service obligations. <p>The Borrower will not be permitted to enter into hedging agreements for speculative purposes. The permitted hedging arrangements entered into with acceptable hedge providers in accordance with the terms of the Common Terms Agreement are referred to in this Term Sheet as the Senior Hedging Documents.</p> |
| 47 | Intercreditor Agreement | <p>If identified as Applicable in the Key Information Table, the Intercreditor Agreement will set out customary provisions relating to (a) the appointment of the Intercreditor Agent; and (b) voting amongst the Senior Creditors.</p> <p>The Intercreditor Agreement shall provide that the Senior Hedging Documents (if applicable) shall rank <i>pari passu</i> in right of payment and security.</p> |
| 48 | Working Capital Facility | <p>If identified as Applicable in the Key Information Table, the Borrower shall enter into a Senior Debt Revolving Credit Facility, under which advances will be applied towards either (or both): (i) VAT/ Sales Tax, or (ii) other working capital requirements.</p> <p>The Working Capital Facility will be available from the date of Financial Close until the earlier to occur of (a) the date on which the aggregate commitments of the Senior Creditors under such Senior Debt Revolving Credit Facility are cancelled in full, and (b) the date falling on an agreed number of days before the Final Maturity Date.</p> <p>The interest rate applicable to the Working Capital Facility will be agreed as between the parties, and may differ from the</p> |

⁴⁶**User note:** The inclusion of a Maintenance Reserve Account will be informed by whether the parties to the O&M Agreement selection Option B with respect to clauses 3.10 and 3.11 thereof.

Senior Debt Term Loan Facilities. The interest payment provisions will be as per the Senior Debt Term Loan Facilities.

Prepayment provisions applicable to the Working Capital Facility will be as per the Senior Debt Term Loan Facility; provided that the terms of the Senior Debt Revolving Credit Facility may not provide for automatic cancellation as in the Senior Debt Term Loan Facility, depending on working capital requirements.

49 Debt Service Reserve Facility

If identified as Applicable in the Key Information Table, the Borrower shall enter into a Senior Debt Revolving Credit Facility, under which advances will be applied towards servicing of the Senior Debt where there is a shortfall in respect of such payment amounts.

The Debt Service Reserve Facility will be available from the date of Financial Close until the earlier to occur of (a) the date on which the aggregate commitments of the Senior Creditors under such Senior Debt Revolving Credit Facility are cancelled in full, and (b) the date falling on an agreed number of days before the Final Maturity Date.⁴⁷

Prepayment provisions applicable to the Debt Service Reserve Facility will be as per the Senior Debt Term Loan Facility.⁴⁸

[Other optional features of the financing to be confirmed]

⁴⁷**User note:** This period may be lengthy if there are one or more early generation periods. If the term of the PPA provides for a 'tail' after the Final Maturity Date as contemplated in the form of PPA, Lenders may allow for the DSRF to be available through to the Final Maturity Date.

⁴⁸**User note:** A debt service reserve facility (DSRF) may be included in addition to a DSRA, or with a requirement for the reserve facility to be drawn down into a DSRA towards the back-end of the term loan debt, when panel degradation may adversely affect Project revenues. This would be subject to meeting forward-looking DSCRs.