

**POSEY COUNTY**  
**DECOMMISSIONING PLAN AGREEMENT**

This Decommissioning Plan Agreement (“**Agreement**”) dated as of \_\_\_\_\_, 2022 (“**Commencement Date**”) is by and between Posey Solar, LLC, a Delaware limited liability company, qualified to do business in Indiana (the “**Company**”) and Posey County, Indiana (“**County**”), as approved by the Posey County Area Plan Commission (“**APC**”). This Agreement is effective on the date the APC approves the final development plan for the Project (“**Effective Date**”).

RECITALS

WHEREAS, the Company has submitted an application to the APC to build a commercial solar photovoltaic electric generation project in Posey County, Indiana (the “**Project**”);

WHEREAS, the Company has or will enter into certain lease agreements (collectively, the “**Leases**”) with landowners within the Project area (“**Landowners**”);

WHEREAS, the Company is required to submit a Decommissioning Plan (the “**Plan**”) for the Project as part of its application for Final Development Plan approval pursuant to Section 153.124.03(E) of the Solar and Wind Ordinance for Unincorporated Posey County adopted April 7, 2020 as amended April 3, 2021 (“**Ordinance**”);

WHEREAS, the Company is required to post a surety performance bond or letter of credit for decommissioning costs upon the terms and conditions more fully set forth below prior to the issuance of an Improvement Location Permit (“**ILP**”); and

WHEREAS, for purposes of this Agreement, “Generating Units” are defined to include, but not be limited to, solar panels, racks, inverters, piles, foundations, roads, fencing, transformers, and overhead and underground cable circuits;

THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

**ARTICLE I**  
**DECOMMISSIONING OBLIGATIONS**

1.1. Agreement to Decommission. Company shall decommission each Generating Unit and related improvements in accordance with the terms of this Agreement and the Plan provided as Attachment A to this Agreement.

1.2. Timing. The Company shall decommission each Generating Unit and related improvements upon the permanent discontinuation of such Generating Unit use, which shall be deemed to occur upon the earlier of (a) expiration or earlier termination of the Project with respect to such Generating Unit (“**Project Termination**”) and (b) the failure of such Generating Unit to produce electricity for twelve (12) consecutive months whether from a Force Majeure Event (as

defined herein) or otherwise ("**Discontinuation Period**"). Decommissioning shall be completed not later than twelve (12) months following a Project Termination. In the event of a Discontinuation Period, decommissioning shall be complete not later than eighteen (18) months after the first month of the Discontinuation Period unless a plan outlining the steps and schedule for returning the Generating Units to service not later than twenty-four (24) months following the first month of the Discontinuation Period is submitted and approved by the County within the Discontinuation Period. The approval of the County of such a plan may not be unreasonably withheld. Company shall provide written notice to the County not later than thirty (30) days prior to a Project Termination event and not later thirty (30) days after any consecutive six months in which a Generating Unit(s) fails to produce electricity identifying the affected Generating Unit(s) and property location. Decommissioning shall proceed according to the Plan and includes: (i) removal from the property of each Generating Unit and related improvements installed or constructed by Company, (ii) fill in and compact all trenches or other borings or excavations made by Company on the property, (iii) leave the surface of the property free from Project debris, and (iv) use reasonably practical efforts to restore the Property to a land use equivalent to the land use existing immediately prior to construction, as more particularly described in Attachment B (Agricultural Soil Reclamation Plan) to this Agreement (collectively, "**Decommissioning Obligations**"). In accomplishing the Decommissioning Obligations, the Company shall comply with all applicable laws and ordinances, coordinate with the County as to the use of County roads, provide copies of certificates or other documents evidencing the proper disposal or recycling of materials and components, and provide written notice to the County in the event of any hazardous materials spills or contamination or other act that may materially affect public health and safety and how the Company intends to remedy any such situation. At the discretion of the County, the County may request the Company to provide random soil and water testing at the sites being decommissioned.

A force majeure event under this Agreement includes the following causes (each a "**Force Majeure Event**"): acts of God, war, civil commotion, riots or damage to work in progress by reason of fire or other casualty, strikes, lock outs or other labor disputes, delays in transportation, inability to secure labor or materials in the open market, pandemics, war, terrorism, sabotage, civil strife or other violence, the failure of any governmental authority other than the County to issue any permit, entitlement, approval or authorization within a reasonable period of time after a complete and valid application for the same has been submitted, or litigation contesting and enjoining all or any portion of the right, title and interest of County or Company under this Agreement. The obligation of the Company to maintain the Decommissioning Security under this Agreement shall not be affected by the occurrence of a Force Majeure Event.

## ARTICLE II DECOMMISSIONING SECURITY

2.1 Decommissioning Security. As a condition of the issuance of an ILP and before any construction begins on the Project, Company shall deliver to APC a performance bond in favor of the County entitled Removal and Restoration Performance Bond in substantially similar form and substance to Attachments C-1 and C-2 (the "**Decommissioning Security**") securing performance of the Decommissioning Obligations. The amount of the Decommissioning Security (in U.S. dollars) shall be equal to the estimated cost of performing the Decommissioning

Obligations ("**Removal Costs**") increased to one hundred twenty-five percent (125%) of such amount offset by not more than thirty-five percent (35%) of the net salvage value defined as the gross salvage value of the Generating Units reduced by the total amount of all liens or security interests of lenders or creditors, other than the County, of the Company ("**Net Salvage Value**"), plus reasonable professional fees related thereto. The Removal Costs, Net Salvage Value and reasonable professional fees related thereto may be referred to collectively herein as the "**Decommissioning Cost**".

2.2 Decommissioning Professional. The Company hereby names Westwood Professional Services as the licensed professional engineer with knowledge of the operation and decommissioning of solar photovoltaic electric generation projects (the "**Decommissioning Engineer**") and its detailed estimate of the Decommissioning Cost is \$3,954,866 as calculated pursuant to Attachment D hereto. The Decommissioning Cost may be adjusted by the Company immediately prior to the pre-construction meeting required by Section 153.125 of the Ordinance based on final engineering and any adjustment and supporting calculations shall be presented at least five business days prior to the pre-construction meeting. If the County disagrees with the adjusted Decommissioning Cost, the parties shall work in good faith to resolve the disagreement. The County may, but is not required to, engage its own licensed, experienced professional to review and calculate Decommissioning Costs. In the event the parties cannot agree on the Decommissioning Costs, the average of the Decommissioning Costs as provided by the County and the Company shall serve as the Decommissioning Costs.

2.3 Decommissioning Beneficiaries. The County shall be named as the primary beneficiary of the Decommissioning Security. The Company represents and agrees that all Leases for Generating Units shall contain terms that provide that the Generating Units are properly decommissioned upon expiration or earlier termination of the Project (except as otherwise allowed under Section 1.1 hereof or specifically provided in a Landowner Lease); provided, however, delivery of such terms of the Leases shall not relieve the Company of any of its obligations under this Agreement. The Company represents that it has not granted and shall not grant to the Landowners or any other third-party rights to the Decommissioning Security.

2.4 Decommissioning Security Review and Adjustment Requirements.

2.4.1 Inflation Adjustment. The amount of the Decommissioning Security shall be adjusted annually each January 31 by an amount equal to the increase in the CPI Index as reported for the immediately preceding year ("**Inflation Adjustment**"). The first Inflation Adjustment shall occur on the first January 31 to occur at least 12 months following the delivery of the first Decommissioning Security. "**CPI Index**" means the Consumer Price Index for "All Urban Consumers U.S. City Average, All Items," issued by the Bureau of Labor Statistics of the United States Department of Labor, or if discontinued or no longer published, such other governmental index that most closely matches the manner in which inflation had been previously tracked as selected by the Area Plan Commission. The Inflation Adjustments shall be cumulative through each five year period of the Decommissioning Security and then reset at each Five Year Adjustment (as defined below). The Company shall provide written notice to the County of the amount of the annual Inflation Adjustment and evidence that the amount of the Decommissioning

Security as adjusted by the Inflation Adjustment has been increased not later than March 1 of each applicable year.

2.4.2 Five Year Review. Not later than ninety (90) days before the fifth anniversary of the posting of the Decommissioning Security and on each fifth anniversary thereafter until the Decommissioning Security is released, the Company shall deliver to the County written notice (“**Five Year Review Notice**”) evidencing the Company’s updated calculation of the Removal Costs, Net Salvage Value and related professional fees consistent with formula in Section 1.2 and the name and qualifications of the professional engineer calculating the amount) (“**Five Year Adjustment**”). Unless the County notifies the Company within thirty (30) days of any objection to the Five Year Review Notice, the amount of the Decommissioning Security as calculated in the applicable Five Year Review Notice shall be deemed accepted and the amount of the Decommissioning Security may be adjusted to the amount set forth in the Five Year Review Notice. If the County provides a written objection, the Company shall promptly respond to the County’s objections. If the parties cannot reconcile their differences, the parties shall proceed under the Decommissioning Dispute Process outlined in Section 2.2.

2.4.3 Renewal Notice. The Company shall provide the County with not less than ninety (90) days written notice prior to the expiration of any Decommissioning Security (a “**Renewal Deadline**”). Not later than sixty (60) days prior to the Renewal Deadline, Company shall provide to the County a certificate of continuation, or a new Decommissioning Security based on the current calculated Decommissioning Cost as adjusted for inflation as set out in Section 2.4.1 (each a “**Renewal Certificate**”). Any new Decommissioning Security shall be in form and substance substantially similar Attachments C-1 and C-2.

2.5 Disbursement of Decommissioning Security.

2.5.1 Rights of County. If, in the County’s reasonable discretion, the Company and its lenders, if any, fail to decommission the Project in accordance with the requirements of this Agreement, the County may, in its sole election and following written notice to Company, its lenders, and the Decommissioning Surety Provider, undertake the decommissioning of the Project. Upon such election by the County, the Generating Units shall be deemed abandoned by the Company and the Company shall provide the County with all applicable records including but not limited to make, model and serial numbers of components, engineering drawings and such other plans showing the current design of the Project which the County may need in order to proceed with the decommissioning. The County’s election to decommission all or any portion of the Project shall not create an obligation of the County to the Landowners, the Company or any other third party to complete the decommissioning of the entire Project. In the event the County elects to undertake the decommissioning of the Project, it may make a claim(s) upon the Decommissioning Security to the Decommissioning Security provider for an amount sufficient to perform the Decommissioning Obligations (as defined below) (“**County Decommissioning Costs**”). The County may, but is not required, to market the abandoned Generating Units for salvage or other value and to apply any realized value to the County

Decommissioning Costs or such other costs as the County may incur related to or arising from the Decommissioning Obligations. Any claim made by the County upon the Decommissioning Security shall be limited to such expenses incurred by the County to complete the Decommissioning Obligations plus reasonable professional fees and costs.

2.5.2 County Cooperation. The County and one or more Landowners may enter into one or more “Letter of Understanding” (in recordable form) by which certain Project facilities such as access roads and out buildings, as deemed necessary or useful by Landowners, may be allowed to remain.

2.6 Release of Decommissioning Security. The Decommissioning Security, or a like replacement financial assurance acceptable to the County, shall remain in effect until (a) the Company submits a certificate of compliance certifying that it has completed its Decommissioning Obligations pursuant to this Agreement and the Plan, all waste products have been properly and legally disposed of or recycled, any damage to County roads and/or other public infrastructure resulting from the Company performing its Decommissioning Obligations has been repaired or funded, and drainage in the Project area being decommissioned has not been materially affected (“**Compliance Certificate**”), and (b) the County has not objected in writing to the Compliance Certificate within thirty days of receipt of the Compliance Certificate (“**County Acceptance**”). If the County objects, the parties will in good faith work to promptly resolve the issues. If the Project is partially decommissioned, the Company may submit a partial decommissioning Compliance Certificate and request a reduction in the amount of the Decommissioning Security. Such reduction may take effect if the County does not object in writing within thirty (30) days of receipt of such partial decommissioning Compliance Certificate.

### ARTICLE III PERFORMANCE SECURITY

3.1 Requirement. Pursuant to Section 153.124.03(E) of the Ordinance, the Company is required to provide certain assurances, including posting a performance security (“**Performance Security**”), that evidence the construction and initial operation of the Project shall be properly done and in compliance with all applicable approvals, ordinances, laws, rules and regulations.

3.2 Performance Security Amount and Duration. The Company has disclosed that its ownership shares are subject to that certain build transfer agreement (“**Build Transfer Agreement**”) by and between Posey Solar CEI, LLC (“**Posey CEI**”) and Southern Indiana Gas and Electric Company, Inc. d/b/a CenterPoint Energy Indiana South (“**CenterPoint**”), whereby CenterPoint shall become the sole shareholder of Company at the completion of construction of the Project. As a condition of the Build Transfer Agreement, Posey CEI is required to post a financial assurance instrument (“**Private Bond**”) in favor of CenterPoint assuring the construction and operation of the Project from start of construction through the sixth year from the commercial operation date. Company has included in its final development plan submission an affidavit by CenterPoint that it intends to use the proceeds of the Private Bond, if any, for the benefit of Project including operating the Project in compliance with applicable laws, regulations, and the Ordinance and that it will, as the shareholder of Company, cause the Company to post a Performance Security in the amount of One Hundred Thousand Dollars And No Cents (\$100,000.00) not later than sixty

(60) days prior to the expiration of the Private Bond in favor of the County and covering years seven (7) through ten (10) of commercial operation of the Project. The Performance Security shall be in the form of a surety bond, letter of credit, cash deposit or other form acceptable to the APC. Corporate guarantees are not accepted. A form of the Performance Security is attached hereto at Attachment C-3. Renewals of the Performance Security, if any, shall be as set forth in paragraph 3 of Attachment C-3.

3.3 Performance Obligations. The Performance Surety will secure that the Project is operated in compliance with all applicable approvals, permits, ordinances, rules, regulations, and laws and includes maintaining the Project in safe and workmanlike condition. The County may claim against the Performance Surety if within thirty days after delivery of written notice to the Company by the County of noncompliance or violation, Company does not remedy the noncompliance or violation. The Company may petition the County for an extension to remedy the noncompliance or violation upon good cause and the Company is diligently undertaking to complete the remedy. In the event a noncompliance event or violation results in an emergency situation affecting public health or safety, the County may take such actions to mitigate the effect and claim against the Performance Surety if Company does not reimburse the County within thirty (30) days of delivery of an invoice. Costs incurred by the County may include all costs of enforcement, including but not limited to, attorneys' and other professionals' fees and costs.

3.4 No Waiver. The existence of the Performance Surety does not waive any rights of the County to seek and be reimbursed for any costs it incurs arising from or related to the Project's construction and operation including, without limitation, enforcing its ordinances, rules, and regulations and damages to public works. The County's rights to proceed against the Performance Surety is not subject to the Cure Period referenced in Article V or to any Inflation Adjustment and Five Year Review referenced in Article 2.

#### ARTICLE IV TERM

The term of this Agreement shall commence on the Effective Date and terminates upon the first to occur of (a) County Acceptance a Compliance Certificate from Company certifying full and complete decommissioning of the Project ("**Compliant Decommissioning**") and (b) recovery by the County of all of its County Decommissioning Costs, if any ("**County Decommissioning**"). Upon termination of this Agreement and at the request of the Company, the County shall execute documentation necessary or reasonably required to release and waive all claims of the County to the Decommissioning Security and the salvage value of the Generating Units.

#### ARTICLE V DEFAULT

5.1 Default by Company. The Company's breach of its obligations hereunder shall be a default under this Agreement. Before any such default may be acted upon, the County shall provide written notice to the Company, its lender of record in the County, if any, and the surety, of the pending default identifying the default ("**Notice of Pending Default**"). Company and its

lender shall have thirty (30) days after delivery of the Notice of Pending Default to cure the default (“**Cure Period**”). If Company or lender fails to cure the default within the Cure Period, the County may declare an event of default hereunder take all and any of the following actions: (a) seek any necessary injunctive relief available under applicable law to effect the providing of the Decommissioning Security or any other requirement under this Agreement, (b) pay any premium reasonably necessary to continue the Decommissioning Security, in which case Company shall reimburse the County for the amount of such premium, (c) draw on the Decommissioning Security and deposit the drawn funds in a bank account and, at the County’s election, apply such funds to the decommissioning of the Generating units, and (d) seek all other remedies available at law. Company shall be liable to and shall pay County the County’s reasonable attorney and professional fees and other costs with respect to the pursuit and implementation of its remedies for such an event of default.

In addition to any other rights and remedies granted herein, the County shall have the right to seek any injunctive relief available under applicable law to effect or complete the decommissioning of the Project. In addition, if the County agrees to undertake the decommissioning of the Project, the County shall have the right to seek reimbursement from Company, its successors or assigns, for any reasonable costs of decommissioning the Project incurred by the County in excess of the funds available under the Decommissioning Security and the salvage value of the Generating Units, if such salvage value is paid to the County. This provision shall survive the termination or expiration of this Agreement.

Notwithstanding anything in this Agreement, the County is not agreeing to increase the scope of its obligations or liability in law or equity with respect to the Project, its construction, operation, or decommissioning greater than existed prior to the Project’s approval. The existence of the Decommissioning Security shall not be deemed to obligate the County to decommission the Project in whole or in part, or cause the County to be liable to any third parties. In the event of the Company’s default and the default remains uncured or is not curable, the County may determine to not undertake the decommissioning of the Project and in such case and in its sole discretion enter into one agreement to which all Landowners are a party assigning all of its rights and obligations under this Agreement to the Landowners. Any such assignment shall specify the manner in which the Landowners shall reach a consensus in exercising the rights and obligations under this Agreement. The County shall provide notice to the Company fifteen (15) days prior to any assignment.

ARTICLE VI  
REPRESENTATIONS AND WARRANTIES

Section 6.1 Representations, Warranties and Covenants of County. The County represents and warrants to the Company as follows:

- a. The County has full power and authority, on behalf of the County, to deliver and perform this Agreement and to take all actions necessary to carry out the transactions contemplated by this Agreement.
- b. This Agreement has been duly executed and delivered by the County and

constitutes the legal, valid and binding obligation of the County, enforceable against the County in accordance with its terms.

- c. The execution, delivery, and performance of this Agreement by the County will not, to the best of County's knowledge, violate any applicable law of the State of Indiana.

Section 6.2. Representations, Warranties and Covenants of Company. The Company represents and warrants to the County as follows:

- a. The Company has full power and authority to execute, deliver and perform this Agreement and to take all actions necessary to carry out the transactions contemplated by this Agreement.
- b. This Agreement has been duly executed and delivered by the Company and constitutes the legal, valid and binding obligation of the Company, enforceable against the Company in accordance with its terms.

## ARTICLE VII MISCELLANEOUS

Section 7.1 No Waiver; Remedies Cumulative. No failure on the part of any party hereto to exercise, and no delay in exercising, any right, power or remedy shall operate as a waiver thereof. No single or partial exercise by any party hereto of any such right, power or remedy hereunder shall preclude any other further exercise of any right, power or remedy hereunder. The rights, powers and remedies herein expressly provided are cumulative and not exclusive of any rights, powers or remedies available under applicable law.

Section 7.2 Notices. All notices, requests and other communications provided for herein (including any modifications, or waivers or consents under this Agreement) shall be given or made in writing (including by telecopy) delivered to the intended recipient at the address set forth below or, as to any party, at such other address as shall be designated by such party in a notice to the other party. Except as otherwise provided herein, all notices and communications shall be deemed to have been duly given when transmitted by telecopier with confirmation of receipt received, personally delivered, or in the case of a mailed notice, upon receipt, in each case given or addressed as provided herein.

If to Company:

Posey Solar, LLC  
c/o Arevon Energy, Inc.  
8800 North Gainey Center Drive, Suite 250  
Scottsdale, AZ 85258  
Attn: General Counsel  
Fax number: 480-653-8478

With a copy to:

Dentons Bingham Greenebaum LLP  
10 West Market Street, Suite 2700  
Indianapolis, Indiana 46204  
Attn: Mary E. Solada, Esq.  
Fax number: 317-236-9907

If to the County:

Posey County Commissioners  
c/o Posey County Auditor  
126 E. 3<sup>rd</sup> Street, #220  
Mount Vernon, IN 47620  
Fax number: 812-838-1344

Together with the Posey County Plan Commission Executive Director:

Mindy Bourne  
Executive Director  
Posey County Area Plan Commission  
126 E. 3<sup>rd</sup> Street, Room 132  
Mount Vernon, IN 47620  
Fax number: 812-838-8379

All notices to the County shall include a copy  
to Posey County Attorney(s):

Joseph H. Harrison, Jr., Esq.  
Harrison Law Firm, LLC  
915 Main Street, #205  
Evansville, IN 47708  
Fax number: 812-203-5531

Trent Van Haaften (APC Attorney)  
Van Haaften & Farrar  
204 Main Street  
P.O. Box 1026  
Mount Vernon, IN 47620  
Fax number: 812-838-1401

Section 7.3 Amendments. This Agreement may be amended, supplemented, modified or waived only by an instrument in writing duly executed by each of the parties hereto.

Section 7.4 Successors and Assigns.

- (a) This Agreement shall (i) remain in full force and effect until the termination hereof pursuant to Article IV herein; and (ii) be binding upon and inure to the benefit of the respective successors and assigns of the parties hereto.
- (b) Except as provided in subsections (c), (d) (e). (f) and (g) below, no Party to this Agreement shall assign, transfer, delegate, or encumber this Agreement or any or all of its rights, interests, or obligations under this Agreement without the prior written consent of the other Party. In those instances in which the approval of a proposed assignee or transferee is required or requested: (i) such approval shall not be unreasonably withheld, conditioned, or delayed; and (ii) without limiting the foregoing, the County's approval may not be conditioned on the payment of any sum or the performance of any agreement other than the agreement of the assignee or transferee to perform the obligations of the Company including the cure of any existing defaults pursuant to this Agreement. For the avoidance of doubt, no direct or indirect change of control of the ownership interests of Company, or any other sale of direct or indirect ownership interests in the Company (including any tax equity investment or passive investment) or the foreclosure by any Financing Party on any Collateral Assignment shall constitute an assignment requiring the consent of the County under this Agreement.
- (c) Company may, without the consent of the County, but upon written notice to the County, assign or transfer this Agreement, in whole or in part, or any or all of its rights, interests, and obligations under this Agreement to any affiliate, parent or subsidiary entity or, with the consent of the County (not to be unreasonably withheld), a company or other entity that acquires substantially all of the assets of the Company. Notwithstanding the above, with prior written notice to the County but without the need for consent of the County, Company may assign or transfer this Agreement in whole to a (i) public utility or (ii) any other company or other entity, provided in either instance that such assignee that assumes the obligations shall have experience comparable to the Company's in constructing and operating a solar photovoltaic electric generation project in the United States and a net worth of a minimum of \$10,000,000 as confirmed by audited financial statements as of the most recent fiscal year or comparable finan'ial statement. So long as an assignee assumes in writing all assigned obligations under this Agreement including the cure of any then existing defaults, Company may (with the consent of the County, not to be unreasonably withheld) be released from liability for the assigned obligations hereunder effective as of the applicable assignment date.
- (d) Company will not be required to obtain consent of the County for or in connection with (i) a corporate reorganization of Company or any of its direct or indirect affiliates, or (ii) a sale or transfer of an equity interest of any direct or indirect affiliate of Company.
- (e) Any transfer or assignment pursuant to this Section shall be subject to the assignee agreeing in writing to be bound by the terms of this Agreement. Any assignment

of this Agreement by Company to an assignee shall be subject to Company assigning its rights and obligations under the Road Use Agreement, between the County and Company and dated of even date herewith (the “**Road Use Agreement**”) to the same assignee and subject to any conditions under any permit or approval of the Project by a governmental entity if such conditions are applicable to the obligations of the Company under this Agreement. Any notice of assignment required to be delivered by Company pursuant to this Section shall be in writing, shall set forth the basis for the assignment, including such supporting information as may be necessary to demonstrate compliance with this Section, and shall be delivered to the County not less than thirty (30) days prior to the effective date of the assignment.

- (f) Company may, also, without the prior approval of the County, enter into any partnership or contractual arrangement, including but not limited to, a partial or conditional collateral assignment of equitable interest in the Company or its parent to any person or entity, including but not limited to tax equity investors, or by security, charge or otherwise encumber its interest under this Agreement for the purposes of financing the development, construction and/or operation of the Project (any of the foregoing actions, a “**Collateral Assignment**”) and County shall agree to execute and deliver any reasonably requested estoppels related to a Collateral Assignment. Promptly after making such encumbrance, Company shall notify the County in writing of the name, address, and telephone and facsimile numbers of each party in favor of which Company’s interest under this Agreement has been encumbered (each such party, a “**Financing Party**” and together, the “**Financing Parties**”). Such notices shall include the names of the account managers or other representatives of the Financing Parties to whom all written and telephonic communications may be addressed. After giving the County such initial notice regarding either an Assignment or a Collateral Assignment, Company shall promptly give the County notice of any subsequent change in the information provided in the initial notice or any revised notice. The Company shall, in the event of any such Collateral Assignment, remain bound to the terms of this Agreement unless otherwise agreed by the County.
- (g) If Company is in default under this Agreement and the default remains uncured or is not curable, County may without the need for consent of Company assign this Agreement to the Landowners in accordance with Section 5.1.

Section 7.5 Counterparts; Effectiveness. This Agreement may be executed in any number of counterparts, all of which when taken together shall constitute one and the same instrument and any of the parties hereto may execute this Agreement by signing any such counterpart. This Agreement and all its Attachments constitutes the entire agreement and understanding among the parties hereto with respect to matters covered by this Agreement and supersedes any and all prior agreements and understandings, written or oral, relating to decommissioning of the Project.

Section 7.6. Severability. If any provision hereof is invalid or unenforceable in any

jurisdiction, then, to the fullest extent permitted by applicable law: (a) the other provisions hereof shall remain in full force and effect in such jurisdiction in order to carry out the intentions of the parties hereto as nearly as may be possible; and (b) the invalidity or unenforceability of any provision hereof in any jurisdiction shall not affect the validity or enforceability of such provision in any other jurisdiction.

Section 7.7 Headings. Headings appearing herein are used solely for convenience of reference and are not intended to affect the interpretation of any provision of this Agreement.

Section 7.8 Governing Law. This Agreement shall be governed by, and construed in accordance with the laws of the State of Indiana, without regard to its conflicts of laws provisions. Venue for any action related to this Agreement shall be in a court of appropriate jurisdiction located in Posey County, Indiana.

*[Remainder of page intentionally left blank; signature page to follow]*

IN WITNESS WHEREOF, this Agreement has been duly executed on the date and year first written above.

**“Company”**

**Posey Solar, LLC**

By: \_\_\_\_\_  
Aron Branam  
Authorized Person

STATE OF ARIZONA        )  
  ) SS:  
COUNTY OF MARICOPA )

Before me, a Notary Public in and for said County and State, personally appeared Aron Branam, Authorized Person of Posey Solar, LLC, an Indiana Limited Liability Company, who, in such capacity, acknowledged the execution of the foregoing Posey County Decommissioning Plan Agreement on behalf of said limited liability company.

Witness my hand and Notarial Seal this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
(signature)

\_\_\_\_\_  
(printed name)        Notary Public

My Commission Expires: \_\_\_\_\_ County of Residence: \_\_\_\_\_

This instrument was prepared by Mary E. Solada, Dentons Bingham Greenebaum, 2700 Market Tower, 10 West Market Street, Indianapolis, Indiana 46204.

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law. *Mary E. Solada, Esq.*

## ATTACHMENT A

### POSEY COUNTY SOLAR FACILITY — DECOMMISSIONING PLAN

Posey Solar, LLC (the “Project”) shall adhere to the following decommissioning plan.

The procedures outlined herein are formulated to ensure public health and safety, environmental protection, and compliance with applicable laws and regulations. The procedures described identify the proposed activities to restore the site upon operation completion. This plan is in addition to and not in place of the obligations of Company under the Decommissioning Agreement.

- 1) The Decommissioning Plan for the project shall consist of the following major elements:

Decommissioning includes removing the solar array equipment to a depth of five (5) feet. Access roads and drainage structures will be removed unless requested to remain in place by the landowner. Standard decommissioning practices would be utilized, including dismantling and repurposing, salvaging/recycling, or disposing of the solar energy improvements and disposal of hazardous material. Access roads and other compacted areas would be decompacted and topsoil replaced. Final restoration shall include re-vegetation as pasture, returning the site to agricultural use, or returning the site as close as possible to its pre-construction condition. Subject to the provisions of Decommissioning Agreement, the decommissioning activities shall be completed within twelve (12) months following the cessation of energy generation by the Project, weather permitting.

- 2) The plan includes provisions for removal of all the following equipment:

- Solar modules
- Solar trackers
- Tracker foundation piles
- Inverters
- Transformers
- Overhead and underground cables
- Equipment pads and foundations,
- Equipment cabinets,
- Access roads
- Security fence
- Drainage structures provided that such removal will not adversely affect drainage
- Collector substation
- Overhead gen-tie line
- Substations, unless same are on owned land or the Landowner requests that they not be removed

- 3) The plan includes proper disposal of all hazardous material and the delivery of any applicable disposal certificates.

- 4) The Company will comply with best practices concerning erosion control during

decommissioning including coordinating with any applicable governmental entities.

- 5) The plan includes a contractor cost estimate from a licensed engineer with experience in these matters for demolition and removal of similar facilities as set forth on Attachment D, as may be updated pursuant to the Decommissioning Agreement.
- 6) The plan includes provisions for restoration of the following:

The owner/operator will restore and reclaim the site based upon the pre-construction use. The Company assumes that most of the site will be utilized for agriculture after decommissioning and appropriate measures will be implemented to facilitate agricultural use. Since the solar array will have perennial vegetation in place at the time of decommissioning, seeding and decompaction activities will be focused on areas where access roads and equipment pads are removed. Best management practices (BMP's) to minimize erosion and contain sediment to the extent practicable that will be employed on the Project include:

- a. Minimizing new disturbance and removal of vegetation to the greatest extent practicable.
  - b. Removing solar equipment and access roads up to five (5) feet below surrounding grade, backfill with subgrade material and cover with suitable topsoil.
  - c. Stockpiling any topsoil that is removed from the surface for decommissioning to be reused when restoring plant communities once decommissioning activity is complete.
  - d. Decompacting and stabilizing soils as needed to re-vegetate with perennial prairie plants appropriate for the soil conditions and adjacent habitat using local seed sources where feasible, consistent with landowner objectives. Reseeding with perennial prairie plants will not be performed for areas that will be returned to agricultural use or other more intensive beneficial uses.
- 7) The Company will comply with the Road Use Agreement, including notification and financial assurance provisions to clean and repair any public roads affected by the decommissioning activities.

*The more detailed Attachment D shall control to the extent of any conflict with the terms above.*

## **ATTACHMENT B**

### **POSEY COUNTY SOLAR FACILITY – AGRICULTURAL SOIL RECLAMATION PLAN**

The construction, design, and operation of the Project will not significantly reduce the quality or amount of agricultural soils on the Project site. Fallow ground allowed to rejuvenate and rebuild nutrient base may improve soil quality over the 30+ year Project life. Drainage will be maintained in its current state or may be improved through additional stormwater and drainage requirements according to local and State law and the submitted Agricultural Drainage Plan.

#### **Construction Phase:**

Erosion and sediment control practices will be implemented in accordance with the state general permit for construction activities to minimize soil loss from the site. Topsoil stripped for access road construction will be spread on-site. Topsoil stripped for temporary features such as laydown will be stockpiled and replaced at the end of construction.

#### **Operational/Maintenance Phase:**

Limited areas of the site will have aggregate or other hard surfaces, including access roads, equipment pad working areas, and substation and O&M facility areas. Prudent vegetation management practices will be considered to minimize soil erosion. Regular maintenance of this vegetation will be performed as per required standards.

#### **Decommissioning Phase:**

During decommissioning phase, aggregate surfaces referenced above will be removed (unless requested by the landowner to remain), graded, and topsoil will be spread back into those areas. Traffic areas such as access roads will be decompacted prior to seeding or return to agricultural use.

#### **Agricultural Soil Restoration Phase:**

See item 6(c) in Attachment A.

In sum, the developed areas will be restored to a land use equivalent to the land use existing immediately prior to construction. To ensure that the quality and amount of agricultural soils are not materially adversely affected, topsoil will not be removed from the Project site or materially redistributed amongst participating Project parcels. Topsoil will be stripped and stockpiled prior to any mass grading activities and then replaced over the graded areas prior to seeding and stabilization. Erosion and sediment control practices will be implemented in accordance with required state permits for construction activities to minimize soil loss from the site.

*The more detailed Attachment D shall control to the extent of any conflict with the terms above.*

**ATTACHMENT C-1**  
**FORM OF CNP BOND**

**REMOVAL AND RESTORATION  
PERFORMANCE BOND**

**Bond No.** \_\_\_\_\_

**Amount \$** \_\_\_\_\_

**Know All Men By These Presents**, that we, \_\_\_\_\_ (hereinafter the “Principal”), as Principal, and **Travelers Casualty and Surety Company of America**, One Tower Square, **Hartford, Connecticut 06183**, a corporation duly organized under the laws of the State of **Connecticut** (hereinafter the “Surety”), as Surety, are held and firmly bound unto \_\_\_\_\_ **Posey County Indiana** (hereinafter the “Obligee”), in the maximum penal sum of \_\_\_\_\_ **and 00/100 Dollars (\$\_\_\_\_\_ .00)** (hereinafter the “Maximum Penal Sum”), the said Principal and the said Surety, bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has received final approval from the Area Plan Commission of Posey County acting on behalf of the Obligee, dated the \_\_\_\_\_ day of \_\_\_\_\_, **20\_\_\_\_**, to construct and operate a solar farm facility including solar modules, related equipment and roadways and as a condition of that approval has entered into that certain Decommissioning Agreement dated the \_\_\_\_\_ day of \_\_\_\_\_, 2022 (hereinafter the “Agreement”), which is hereby referred to and made a part hereof as if fully set forth herein.

AND, WHEREAS, Section \_\_\_\_\_ of the Agreement requires the Principal to secure a Bond to secure the Principal’s obligation for removal of all improvements by the Principal and restoration of the solar farm site (“**Bond**”).

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the above bounden Principal shall well and truly keep, do and perform each and every, all and singular, the matters and things in the Agreement and specified to be by said Principal kept, done and performed, at the times and in the manner in the Agreement specified, or shall pay over, make good and reimburse to the above named Obligee, all costs, loss and damage which said Obligee may sustain by reason of failure or default on the part of said Principal so to do, then this obligation shall be null and void; otherwise shall remain in full force and effect, subject, however, to the following conditions:

1. Excepting the Surety’s decision to proceed under Paragraph 2(b) below, Surety’s liability under this Bond shall in no event exceed the Maximum Penal Sums set forth in this bond or in any additions, riders, or endorsements properly issued by the Surety as supplements thereto.
2. The Surety’s obligation under this Bond shall arise after the Obligee, has notified the Principal and its lenders of their failure to abide by the terms and conditions of Section \_\_\_\_\_ of the Agreement. Upon notice of the Principal’s and its lenders’ default under the Agreement the Surety may take one of the following actions:
  - a) Undertake and perform the decommissioning itself, or through its agents or its independent contractors, in accordance with all the terms and conditions of the Agreement, or,

- b) Waive its rights to perform and complete decommissioning under the Agreement and upon written request of Obligee pay the proceeds of the Bond to Obligee.

No claim, action, suit or proceeding, except as hereinafter set forth, shall be had or maintained against the Surety on this instrument unless such claim, action, suit or proceeding is brought or instituted upon the Surety within one year from termination of the Bond, provided however, that this limitation shall not apply if the Surety elects to proceed under 2(b) above.

3. Notwithstanding anything contained in the Agreement to the contrary, the liability of the Principal and Surety under this bond is for the term beginning the \_\_\_ day of \_\_\_\_\_, 20\_\_\_ and expiring the \_\_\_ day of \_\_\_\_\_, 20\_\_\_. The Bond will automatically renew annually without amendment (as adjusted for inflation per the terms of the Agreement) on January 31<sup>st</sup> of each year, unless canceled by the Surety by providing the Principal and Obligee not less than (90) calendar days written notice of cancellation. Such notice of cancellation will not nullify or void any liability or indebtedness incurred or accrued by the Principal and the Surety prior to said date of cancellation. However, neither: (a) the Surety's decision to cancel the Bond nor (c) the failure or inability of the Principal to file a replacement Bond or other security in the event the Surety exercises its right to cancel the Bond, shall itself constitute a loss to the Obligee recoverable under this Bond or any extension thereof.
4. No right of action shall accrue on this Bond to or for the use of any person or corporation other than the Obligee named herein, or their heirs, successors or assigns.
5. If any conflict or inconsistency exists between the Surety's obligations or undertakings as described in this Bond and as described in the underlying Agreement, then the terms of this Bond shall prevail.

Signed, sealed and dated this [redacted] day of [redacted], 20 [redacted].

**Principal**

[redacted]

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

[redacted]

Its [redacted], Duly Authorized

TRAVELERS CASUALTY AND SURETY COMPANY  
OF AMERICA

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

[redacted], Attorney-in-Fact

**THE ABOVE TERMS AND CONDITIONS OF THIS BOND HAVE BEEN REVIEWED  
AND ACCEPTED BY THE OBLIGEE**

ACKNOWLEDGED AND ACCEPTED BY OBLIGEE:

BY: \_\_\_\_\_

PRINTED NAME/TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

**AN ACKNOWLEDGED ORIGINAL OF THIS BOND MUST BE RETURNED TO:**

**Travelers Casualty and Surety Company of America, One Tower Square, Hartford,  
Connecticut 06183**

**ATTACHMENT C-2**  
**FORM OF AREVON BOND**

**REMOVAL AND RESTORATION  
PERFORMANCE BOND**

**Bond No.** \_\_\_\_\_

**Amount \$** \_\_\_\_\_

**Know All Men By These Presents**, that we, \_\_\_\_\_(hereinafter the “Principal”), as Principal, and **Philadelphia Indemnity Insurance Company**, One Bala Plaza, **Suite 100, Bala Cynwyd, PA 19004**, a corporation duly organized under the laws of the State of Connecticut (hereinafter the “Surety”), as Surety, are held and firmly bound unto \_\_Posey County Indiana\_\_\_\_\_ (hereinafter the “Obligee”), in the maximum penal sum of \_\_\_\_\_ **and 00/100 Dollars (\$\_\_\_\_\_00)** (hereinafter the “Maximum Penal Sum”), the said Principal and the said Surety, bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has received final approval from the Area Plan Commission of Posey County acting on behalf of the Obligee, dated the \_\_\_ day of \_\_\_\_\_, **20\_\_**, to construct and operate a solar farm facility including solar modules, related equipment and roadways and as a condition of that approval has entered into that certain Decommissioning Agreement dated the \_\_\_ day of \_\_\_\_\_, 2022 (hereinafter the “Agreement”), which is hereby referred to and made a part hereof as if fully set forth herein.

AND, WHEREAS, the Agreement requires the Principal to secure a bond to secure the Principal’s obligation for removal of all improvements by the Principal and restoration of the solar farm site (“**Bond**”).

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the above bounden Principal shall well and truly keep, do and perform each and every, all and singular, the matters and things in the Agreement and specified to be by said Principal kept, done and performed, at the times and in the manner in the Agreement specified, or shall pay over, make good and reimburse to the above named Obligee, all costs, loss and damage which said Obligee may sustain by reason of failure or default on the part of said Principal so to do, then this obligation shall be null and void; otherwise shall remain in full force and effect, subject, however, to the following conditions:

1. Excepting the Surety’s decision to proceed under Paragraph 2(b) below, Surety’s liability under this bond shall in no event exceed the Maximum Penal Sum as set forth in this Bond or in any additions, riders, or endorsements properly issued by the Surety as supplements thereto.
2. The Surety’s obligation under this Bond shall arise after the Obligee, has notified the Principal and its lenders of their failure to abide by the terms and conditions of the Agreement. Upon notice of the Principal’s and its lenders’ default under the Agreement the Surety may take one

of the following actions:

- a) Arrange for the Principal's performance under the Agreement, or,
- b) Undertake and perform decommissioning itself, or through its agents or its independent contractors, in accordance with all the terms and conditions of the Agreement, or,
- c) Waive its rights to perform and complete decommissioning under the Agreement and upon written request of Obligees pay the proceeds of the Bond to Obligees.

No claim, action, suit or proceeding, except as hereinafter set forth, shall be had or maintained against the Surety on this instrument unless such claim, action, suit or proceeding is brought or instituted upon the Surety within one year from termination of the Bond, provided however, that this limitation shall not apply if the Surety elects to proceed under 2(a) or 2(b) above.

3. Notwithstanding anything contained in the Agreement to the contrary, the liability of the Principal and Surety under this Bond is for the term beginning the \_\_\_ day of \_\_\_\_\_, 20\_\_ and expiring the \_\_\_ day of \_\_\_\_\_, 20\_\_. The Bond will automatically renew annually without amendment (as adjusted for inflation per the terms of the Agreement) on January 31<sup>st</sup> of each year, unless canceled by the Surety by providing the Principal and Obligees not less than (90) calendar days written notice of cancellation. Such notice of cancellation will not nullify or void any liability or indebtedness incurred or accrued by the Principal and the Surety prior to said date of cancellation. However, neither: (a) the Surety's decision to cancel the Bond nor (b) the failure or inability of the Principal to file a replacement Bond or other security in the event the Surety exercises its right to cancel the Bond, shall itself constitute a loss to the Obligees recoverable under this Bond or any extension thereof.
4. No right of action shall accrue on this Bond to or for the use of any person or corporation other than the Obligees named herein, or their heirs, successors or assigns.

5. If any conflict or inconsistency exists between the Surety's obligations or undertakings as described in this Bond and as described in the underlying, then the terms of this Bond shall prevail.

Signed, sealed and dated this \_\_\_ day of \_\_\_\_\_, 20\_\_.

**Principal**

\_\_\_\_\_

By: \_\_\_\_\_  
Its \_\_\_\_\_, Duly Authorized

Philadelphia Indemnity Insurance Company

By: \_\_\_\_\_  
Its \_\_\_\_\_, Attorney-in-Fact

**THE ABOVE TERMS AND CONDITIONS OF THIS BOND HAVE BEEN REVIEWED  
AND ACCEPTED BY THE OBLIGEE**

ACKNOWLEDGED AND ACCEPTED BY OBLIGEE:

BY: \_\_\_\_\_  
PRINTED NAME/TITLE: \_\_\_\_\_  
DATE: \_\_\_\_\_

**AN ACKNOWLEDGED ORIGINAL OF THIS BOND MUST BE RETURNED TO:**

Philadelphia Insurance Companies, Attn. Surety Dept., 800 E Colorado Blvd, 6<sup>th</sup> Floor,  
Pasadena, CA 91101

**ATTACHMENT C-3**  
**FORM OF SURETY BOND**

**PERFORMANCE BOND**

Bond No.           

Amount \$ 100,000

**Know All Men By These Presents**, that we, **Centerpoint Energy Company (or other named principal)** (hereinafter the “Principal”), as Principal, and **Travelers Casualty and Surety Company of America**, One Tower Square, **Hartford, Connecticut 06183**, a corporation duly organized under the laws of the State of **Connecticut** (hereinafter the “Surety”), as Surety, are held and firmly bound unto **Posey County, Indiana** (hereinafter the “Obligee”), in the maximum penal sum of **One Hundred Thousand and 00/100 Dollars (\$100,000.00)** (hereinafter the “Maximum Penal Sum”), the said Principal and the said Surety, bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has received final approval from the Area Plan Commission of Posey County acting on behalf of the Obligee, dated the     day of           , **20**, to construct and operate a solar farm facility including solar modules, related equipment and roadways (the “Project”) and as a condition of that approval has entered into that certain Decommissioning Agreement dated the     day of           , 2022 (hereinafter the “Agreement”), which is hereby referred to and made a part hereof as if fully set forth herein.

AND, WHEREAS, Article III of the Agreement requires the posting of a “Performance Surety”—hereinafter the “Bond”—assuring the commercial operation of the Project by Principal during years 7-10 of the Project:

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the above bound Principal shall well and truly keep, do and perform each and every, all and singular, the matters and things in said Article III of the Agreement and specified to be by said Principal kept, done and performed, at the times and in the manner in said Article III of the Agreement specified, or shall pay over, make good and reimburse to the above named Obligee, all loss and damage which said Obligee may sustain by reason of failure or default on the part of said Principal so to do, then this obligation shall be null and void; otherwise shall remain in full force and effect, subject, however, to the following conditions:

- 1) Surety’s liability under this bond shall in no event exceed the Maximum Penal Sum as set forth in this Bond or in any additions, riders, or endorsements properly issued by the Surety as supplements thereto.
  
- 2) The Surety’s obligation under this Bond shall arise after the Obligee, has notified the Principal and its lenders of their failure to abide by the terms and conditions of Article III of the Agreement. Upon notice of the Principal’s and its lenders’ default under the Agreement the Surety shall:

- a. upon written request of Obligee pay the proceeds of the Bond to Obligee in the amount requested up to the Maximum Penal Sum.

No claim, action, suit or proceeding, except as hereinafter set forth, shall be had or maintained against the Surety on this instrument unless such claim, action, suit or proceeding is brought or instituted upon the Surety within one year from termination of the bond.

- 3) Notwithstanding anything contained in the Agreement to the contrary, the liability of the Principal and Surety under this Bond is for the term beginning the \_\_\_ day of \_\_\_\_\_, 20\_\_ and expiring the \_\_\_ day of \_\_\_\_\_, 20\_\_. The Bond will remain in full force and effect unless canceled by the Surety by providing the Principal and Obligee not less than (90) calendar days written notice of cancellation. Such notice of cancellation will not nullify or void any liability or indebtedness incurred or accrued by the Principal and the Surety prior to said date of cancellation. However, neither: (a) the Surety's decision to cancel the Bond nor (b) the failure or inability of the Principal to file a replacement Bond or other security in the event the Surety exercises its right to cancel the Bond, shall itself constitute a loss to the Obligee recoverable under this Bond or any extension thereof.
- 4) No right of action shall accrue on this Bond to or for the use of any person or corporation other than the Obligee named herein, or their heirs, successors or assigns.

5) If any conflict or inconsistency exists between the Surety's obligations or undertakings as described in this Bond and as described in the underlying Decommissioning Plan Agreement, then the terms of this Bond shall prevail.

Signed, sealed and dated this [ ] day of [ ], 20 [ ].

**Principal**

[ ]  
By: \_\_\_\_\_

Its [ ], Duly Authorized

TRAVELERS CASUALTY AND SURETY COMPANY  
OF AMERICA

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

[ ], Attorney-in-Fact

**ATTACHMENT D**  
**DECOMMISSIONING CALCULATION**

[see attached]