

*Term Sheet for Participation*

*in Commercial Solar Projects*

${project-name}



## TERM SHEET SUMMARY

# OVERVIEW

This TERM SHEET (this “**TS**”), dated as of ${todays-date} (the “**Effective Date**”), is prepared by Wiser, LLC, a California limited liability company (“**Wiser**”), for consideration by ${investor-company-name} a ${investor-entity-type} (“**Investor**”), to acquire some or all of an interest in a commercial solar project (“**Project**”), or a portfolio of Projects (“**Portfolio**”), with approximately the following material terms. Wiser and Investor are sometimes referred to individually as a “**Party**” and collectively as the “**Parties**.”

|  |  |
| --- | --- |
| Investor: | ${investor-company-name} |
| Project Entities: | A special purpose entity, typically an LLC (the “**SPE**” or the “**Project Company**”) is created specifically and solely to control, develop and operate a Project as independent entity. |
| Transaction Type: | Acquisition of SPE membership interest, through a Private Placement Memo (**PPM**) or Membership Interest Purchase Agreements (**MIPA**), or alternative transaction type that shall represent the definitive agreements (the “**Definitive** **Agreements**”) that enable Investor to participate in the Project by placing capital into the SPE and achieve returns on that investment. |



## PORTFOLIO DESCRIPTION

|  |  |
| --- | --- |
| Number of Projects | ${number-of-projects} |
| Total Portfolio Size (MW DC) | ${total-kw-size} |
| Anticipated Output (kWh/year) | ${total-production} |
| Gross Revenue Dollars | ${gross-revenue} |
| Term Years | ${total-term} |
| Total Investment Dollars | ${total-investment} |
| ITC Value Dollars | ${total-term} |
| Accelerate Depreciable Basis Dollars | ${total-term} |

# Project List

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  | Name | | City | State | Size (kW DC) | kWh/kW/yr |
| ${site-list} | | ${site-name} | ${site-city} | ${site-state} | ${site-system-size} | ${site-production} |
|  |  | |  |  |  |  |
|  |  | |  |  |  |  |
|  |  | |  |  |  |  |
|  |  | |  |  |  |  |

# Transaction Description

Wiser controls or will control, and/or is the owner or will be the owner of the Projects listed in the Project List, prior to the closing of transactions described in this TS. Wiser seeks Investor’s participation in the Projects through Investor’s acquisition of membership interest in the SPEs created for each Project (the “**Project Interest**”); including the possibility that Wiser’s may retain a minority Project Interest in the SPE after the transaction described in this TS. One or more Investors may acquire Project Interest in exchange for providing capital to the SPE. The total capital contribution to the SPE for the Project Interest shall be sufficient to allow the Project to be constructed, placed into commercial operation such that the SPE then generates revenue, and other benefits, that provide the expected investment returns against the Project Interest to Investor over time.

Investor acquisition of Project Interest from Wiser shall be completed according to appropriate Definitive Agreements that detail the acquisition of Project Interest, the construction and operation of the solar energy system, and the terms and conditions by which a return to Investor is generated by the SPE. Each Project shall have its own SPE and the Project Interests acquired by an Investor shall have its own Definitive Agreements; however, Investor may consider the returns from the aggregated Project Interest to constitute a Portfolio of Projects that blends risks and returns across some number of Projects. Additionally, the Definitive Agreement may be duplicated, where feasible, such that efficiency may be achieved in investing in multiple SPE’s that may roll-up to a single investor.

The Parties agree to work together under this TS and to negotiate in good faith the terms of a Definitive Agreement pursuant to terms described herein, for individual or a portfolio of Projects, such that Investor can acquire Project Interest and therefore achieve the anticipated investment return hurdles.

# Closing Date & Project Funding

Each Project shall have a closing date (the “**Closing Date**”) by which Project Interest will have been acquired by Investor and monies to fund construction will have been made available (the “**Project Funding**”). The Closing Date and Project Funding, if not having otherwise already occurred through Definitive Agreements, or other vehicles that otherwise conform to the material terms of this TS, is anticipated to be on or before \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ , or concurrent with delivery of relevant project level documents including: Power Purchase Agreements (“**PPA**”), applicable Renewable Energy Credit (“**REC**”) contracts, system designs, interconnection agreements and permitting necessary to complete the system, execution of a Definitive Agreements and issuance of a Notice To Proceed (“**NTP**”) to the Engineering, Procurement and Construction (“**EPC**”) contractor responsible for building the system. The Investor acknowledges that the opportunity to participate in the Project and acquire the Project Interest comes with a commitment to perform against Project Funding as described in this TS, including with regard to critical dates associated with the construction or the solar systems, and is ready willing and able to provide the capital needed to acquire the Project Interest under the terms that will be detailed in the Definitive Agreements.

# Project Assets

Each Project consists of certain current and potential tangible and contractual value (the “**Project Assets**”) that are specific assets that are being acquired by Investor through the transaction described in this TS that shall provide Investor with its Project Interest on which its returns are generated. These Project Assets do not include a completed solar energy system, but rather the Project Assets are the contracts, property rights and entitlements to 1) construct the Project and operate it into the future. Wiser currently owns and controls, or will own and control prior to Closing Date for a specific Project, 100% of the Project Assets, and represents and warrants that it has legal right for Project Interest to be acquired by Investor. Investor’s acquisition of the Project Interests will be accomplished through mutual execution of a Definitive Agreement prepared for a Project; the terms of which shall substantially conform to the terms of this TS.

Project Assets shall include, but not limited to, a SPE’s (or Wiser or its affiliates, as may be required on a Project by Project basis, contractual rights, development rights, permits, approvals, consents, licenses, governmental orders, leasehold property rights and titles, site leases, easements, rights-of-way, title reports, solar resource data and reports, PPAs (or equivalent type agreements that direct cash flow to the SPE through the operation of the Project), REC agreements, interconnection agreements and any other data, reports or assets related to the Project, subject to any related liabilities or commitments to be fully detailed in the Definitive Agreement and agreed to be assumed by Investor upon Investor’s acquisition of Project Interests.

# Due Diligence

Wiser shall provide due diligence for each Project on which Investor may reasonably rely to describe risk and mitigations related to a Project. As determined and documented by Wiser’s due diligence on a Project, the Project Assets for each Project shall support the construction, financing and ongoing operation of a Project and its nominal capacity; such that the investment hurdles desired by the Parties shall reasonably be achieved through the Project’s normal operation.

Due Diligence may include Wiser Solar Asset Rating (WSAR) scoring that considers all development and operational risks associated with the Project. Over and above WSAR, the Parties acknowledge that Wiser shall use commercially reasonable efforts to identify Project risks, mitigate them where possible, such that Investor may participate in Projects with understanding of exposures they will take on through acquisition of Project Interest.

Projects in this TS have had due diligence conducted on them, and/or a WSAR score assigned, and to the extent reasonably known, the risks for a Project not to achieve its expected returns have been made available to Investor prior to the issuance of this TS. Additional due diligence may be performed on the Project after this TS is signed, the results of which shall be promptly made available to Investor and, to the extent they represent material changes in the risk associated with the Project, or impact the returns Project Interest may achieve, Investors may rely on this to decline acquisition of a Project Interest. Notwithstanding the foregoing, Investor acknowledges that the acquisition of Project Interest includes certain unknown and unknowable risks that may result in loss of capital, or reduced returns.

Parties agree to rely on Wiser’s Project due diligence, which such due diligence Investor acknowledges provides all reasonable information on which Investor may make an informed investment decision in the acquisition of Project Interest. Wiser shall make reasonable efforts to provide Investor with access to all due diligence collected and conducted for a Project and make take commercially reasonable steps to provide additional due diligence if requested by Investor on a case by cases basis. Project selection and Project Interest pricing, ownership interest values, and investment returns shall be based on investment structures as described in this TS and following Exhibits.

For the avoidance of doubt, Wiser’s Project due diligence shall be reasonably relied on by Investor to support Investor’s acquisition of Project Interests and to the extent such due diligence does not include aspects reasonably requested by Investor, Wiser shall use commercially reasonable efforts to accommodate Investor requests. Notwithstanding the above, Investor requests Wiser’s due diligence include commercially reasonable efforts to:

* Make available all due diligence conducted on a Project including that done according the WSAR scoring methodology (which opportunity has been provided to Investor to examine) that incorporates full Project underwriting and provision of all Project Assets including documents, reports, studies, contracts, or other tangible or electronic items as may exist in respect of the Projects or as may be reasonably acquired to understand and underwrite a Project.
* Provide all contact and management of Project stakeholders including host facility, utility, EPC or other contractors as needed, prior to Investor’s acquisition of Project Interest, and then thereafter on behalf of Investor.
* Provide Project related information in an electronic data room, or otherwise as agreed by the Parties including by conversation, as reasonably requested by Investor to provide assurance the Project shall be developed as represented following Closing, and then for the Project to perform as projected following commercial operations.

# Project Interest Acquisition Price; Transfer Structure

Wiser shall offer Project Interests to Investor at the Purchase Price, and under the structure described, in Exhibit A to this TS.

# Conditions Precedent

Wiser shall make commercially reasonable efforts to obtain the required conditions precedent to Closing as set forth in Exhibit B**,** which shall include certain due diligence, prior to executing a Definitive Agreement.

# Representations and Warranties

The Definitive Agreement, by which Investor shall acquire Project Interest, will include mutually agreed upon representations and warranties as are typically included in similar agreements for transactions of the nature herein described.

# Indemnities

The Definitive Agreement will include indemnities from Wiser and Investor as are typically included in similar agreements for transactions of the nature herein described, including but not limited to, an indemnity from Wiser as to claims made by parties that had prior negotiations with Wiser as to the Project and from Investor as reasonably required by Wiser.

# Exclusivity; Right of First Refusal

The Parties acknowledge that they will spend time and effort in negotiations and transactions necessary for Wiser to prepare, and Investor to acquire, Project Interests, and that the Projects presented in this TS represent opportunities with limited time on which to perform.

As such, and in exchange for a the good-faith efforts to complete the transactions to acquire Project Interest in the Projects listed in the TS, Wiser provides a 30-day Right of First Refusal (the “**ROFR**”) that begins on the mutual execution of this TS. During this Wiser shall provide the first Investor to execute a TS with a specific Project included in it with a ROFR to meet any bona fide offer from an alternative Investor that has included any Project in this TS in their own TS.

In the alternative, the Investor may provide a non-refundable deposit, to be mutually set by the Parties, that shall go towards acquisition of Project Interest upon successful execution of a transaction, to secure exclusivity on any Project listed in the TS for an amount of time determined on a case by case basis. Accordingly, if Investor provides a deposit, neither Wiser, nor any affiliate thereof, or their respective employees, agents, officers, directors or representatives, entertain or enter discussions or negotiations with respect to any transaction that would be inconsistent with the exclusive right of Investor to consummate the Transaction on an identified Project.

In all cases, the Parties agree to remain committed to working diligently and in good faith to execute the Transactions as described in this TS.

# Expenses; Party Costs

The Parties shall bear their own expenses in connection with the preparation for and consummation of the Transaction contemplated by this TS and the Definitive Agreements.

# Termination

Notwithstanding any other provision in this TS to the contrary, except for the “**Confidentiality**” and “**Expenses**” provision, all provisions of this TS shall terminate automatically, with no further action required by either Party, and be of no force or effect on the earlier to occur of:

|  |  |
| --- | --- |
| (i) | the expiration of the Exclusivity Period of this TS or declining of ROFR |
| (ii) | a written termination notice pertaining to this TS |
| (iii) | a written termination notice pertaining to this TS |

# Confidentiality; Non-Circumvention

The Parties agree to maintain confidentiality of all terms in this TS in accordance with the terms of the Terms and Conditions Investor agreed to when accessing Wiser’s Project Platform data room, or any alternative NDA between the Parties (the “**Confidentiality Agreement**”), the stricter of which shall control. Any termination of this TS shall not affect confidentiality obligations provided hereunder and thereunder. Furthermore, Investor expressly agrees not to circumvent Wiser with respect to any Project listed in this TS.

# Binding Effect

Except as to “**Term**”, “**Confidentiality**”, “**Exclusivity**”, and “**Expenses**”, which constitute binding agreements between the Parties, this TS is only intended to be a confirmation of interest between the Parties in arriving at Closing through a MIPA or Definitive Agreements, and shall not constitute a binding agreement between the Parties with respect to the commitment to acquire the Project Interests.

IN WITNESS WHEREOF, the parties have caused this TS to be duly executed and delivered as of Effective Date.

|  |  |
| --- | --- |
| **Wiser Capital LLC** | **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** |
|  |  |
| By: | By: |
| Name: | Name: |
| Title: | Title: |
|  |  |

THE PROPOSED TERMS AND CONDITIONS SET FORTH IN THIS TERM SHEET ARE PROVIDED FOR DISCUSSION PURPOSES ONLY AND DO NOT CONSTITUTE AN OFFER, AGREEMENT OR COMMITMENT TO PURCHASE OR OTHERWISE ACQUIRE PROJECT INTEREST, OR OTHERWISE INVEST IN PROJECTS. EXCEPT AS EXPRESSLY PROVIDED IN ANY BINDING WRITTEN AGREEMENT THE PARTIES MAY ENTER IN THE FUTURE. NO PAST, PRESENT OR FUTURE ACTION, COURSE OF CONDUCT, OR FAILURE TO ACT RELATING TO THE TRANSACTIONS OR PROPOSALS REFERRED TO IN THIS PRELIMINARY TERM SHEET OR RELATING TO THE NEGOTIATION OF THE TERMS OF SUCH TRANSACTIONS OR PROPOSALS WILL GIVE RISE TO OR SERVE AS THE BASIS FOR ANY OBLIGATION OR OTHER LIABILITY ON THE PART OF SUCH PERSONS OR ANY OF THEIR AFFILIATES. THIS INDICATIVE TERM SHEET IS SUBJECT TO, AMONG OTHER THINGS, THE EXECUTION AND DELIVERY OF DEFINITIVE AGREEMENTS. NOTWITHSTANDING THE FOREGOING, THE TERMS AND CONDITIONS SET FORTH ABOVE THAT RELATE TO TERM, CONFIDENTIALITY, EXCLUSIVITY AND EXPENSES ARE INTENDED TO, AND DO CONSTITUTE, LEGALLY BINDING OBLIGATIONS OF THE PARTIES.

## EXHIBIT A

# Project Interest Purchase Price Assumptions

The Purchase Price of Project Interest is based upon assumptions provided by Wiser which are subject to final review by Investor.

# Project Interest; Membership Interests in SPE

Project Interest shall be accomplished by transfer of the agreed upon amount, expressed in % ownership of membership interests in each Project’s SPE to Investor in exchange for capitalization of the SPE. Project Interest transfer shall take place at execution of the Definitive Agreement between Investor and Wiser (the “**Closing**”). Such Closing is anticipated to occur on the Closing Date.

# Project Costs; Gross Transaction Fee (GTF)

In exchange for acquisition of Project Interest, Investor shall fund, or cause to fund, the SPE to the total indicated below equal to the % of the SPE being acquired (that shall equal a $/kW turn-key price) that shall be sufficient for the SPE to in turn pay the EPC cost for construction of the Project, any and all transaction and project related fees, which such fees shall be included in the $/kW turn-key price. Wiser shall retain the responsibility, as detailed in the Definitive Agreements, to diligently manage and ensure the Project is completed, and payments made to the EPC, according to Project’s milestone payments (“the **Milestone Payments**”) and the EPC Contract.

The Milestone Payments typically shall include Wiser’s Gross Transaction Fee (**GTF**) that is included in Investor’s acquisition of Project Interest. The GTF includes is the all-in costs associated with bringing the Project to a point in which Investor can participate, through to commercial operations, and includes both Wiser profit and direct Project soft-costs over and above the EPC or other construction related costs. The GTF is included in the calculations for expected returns to Investor for acquisition of Project Interest. At Wiser’s option, Wiser may defer a portion of its GTF and retain an amount of Project Interest, in position and with return hurdles as described by the Definitive Agreements, provided such Project Interest do not negatively impact Investor’s acquisition of Project Interest or reduce Investors expected returns.

# Project Costs; Project Management

As detailed in the Definitive Agreements, acquisition of Project Interest by Investor shall obligate Investor to fund, or cause to be funded, and otherwise make payments to the SPE, sufficient for Wiser, in its ongoing responsibility to manage the SPE and ensure the Project is duly constructed, to pay the EPC contractor and or other vendors to the SPE contracted to bring the Project to Commercial Operations. The Definitive Agreements shall include Wiser’s rights and duties to disburse the monies provided to the SPE by Investor to make payments to the EPC according to the price and milestone payment schedule for each Project.

Project Costs include all costs paid by the SPE including to the EPC, which shall be made in line with funds disbursement processes outlined in the EPC agreements, and to Wiser for its corporate and Project management services to the SPE, and other agreements included in Project Assets.

Total Project Costs include both the EPC cost and Wiser’s GTF, and shall be, on a $/kW basis, 100% of the Project Interest. The actual all in cost paid by Investors for Project Interest shall be 100% of the Total Project cost to establish the Tax Basis for the Project; and then shall be reduced by the Project Interest Wiser may retain in the SPE as capitalized by the receipt of GTF.

A detailed breakdown of these fixed Turn-Key Costs, including the itemization of all fees, will be provided during due diligence for Buyer determining the Projects’ Investment Tax Credit eligibility as well as their depreciable basis.

## EXHIBIT B

# Conditions Precedent

The Parties must meet the following conditions precedent prior to signing the Definitive Agreements

|  |  |
| --- | --- |
| (i) | Access to due diligence information provided by Wiser to Investor |
| (ii) | Parties indemnification of the other for of all liens and liabilities including any contingent liabilities of each Project SPV. |
| (iii) | Wiser’s representation and Buyer’s verification that all Federal, State and other taxes have been paid and are up to date. |