

Recording Requested by,  
and After Recording, Return to:

Appaloosa Solar I, LLC  
c/o rPlus Energies, LLC  
201 South Main Street, Suite 2100  
Salt Lake City, UT 84111  
Attention: Legal Department

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*Space Above For County Recorder's Use*

### NON-DISTURBANCE AGREEMENT

THIS NON-DISTURBANCE AGREEMENT ("**Agreement**"), entered into this 14th day of September, 2022 ("**Effective Date**"), by and between Three Peaks Oasis, LLC, a Utah limited liability company with an address of 1293 North Ridgeway Drive, Cedar City, Utah 84721 (together with their successors and assigns, collectively the "**Grantor**"); and Appaloosa Solar I, LLC, a Utah limited liability company with an address of 201 South Main Street, Suite 2100, Salt Lake City, Utah 84111 (together with its successors and assigns, the "**Grantee**"); and State Bank of Southern Utah, a Utah corporation with an address of Cedar City Main Branch, 377 North Main Street, P.O. Box 340, Cedar City, Utah 84721 (together with its successors and assigns, the "**Lender**"), with respect to the following:

A. Grantor and Grantee entered into that certain Transmission and Access Easement Agreement dated as of May 23, 2022, and recorded on May 23, 2022 in the Office of the Iron County Recorder, State of Utah, as Entry No. 00791777, Book 1609, Pages 1607-1617 (the "**Easement**"), which Easement covers certain land located in Iron County, Utah as more particularly described on Exhibit A attached hereto ("**Easement Area**") and grants the right to erect, construct, reconstruct, replace, remove, maintain, operate and use transmission lines, poles, and any related facilities on, along, over, under and across any lands within the Easement Area (the "**Improvements**").

B. Lender is the holder of that certain Revolving Credit Deed of Trust dated June 1, 2022, and recorded on June 2, 2022, in the Office of the Iron County Recorder, State of Utah, as Entry No. 00792339, Book 1611, Pages 337-356 ("**Security Instrument**"), executed by Grantor as trustor, covering certain real property located in Iron County, Utah, which includes the Easement Area.

C. Grantee desires to be assured of continued use of and access to the Easement Area and the Improvements under the terms of the Easement.

**NOW, THEREFORE**, for and in consideration of the foregoing and the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lender, Grantor and Grantee hereby agree as follows:

1. Lender hereby acknowledges and consents to (a) Grantor's execution, delivery, and recordation of the Easement and any amendments thereto, and (b) Grantor's rights to erect, construct, reconstruct, replace, remove, maintain, operate and use the Improvements within the Easement Area pursuant to the terms of the Easement.

2. In the event of a foreclosure of the Security Instrument, Lender agrees not to join Grantee in any foreclosure proceedings so long as Grantee is not in material default under any of the terms, covenants or conditions of the Easement; or, if a material default shall exist, so long as Grantee's time to cure such material default has not expired.

3. The terms of the Easement shall not be terminated, modified, disturbed, or diminished in any respect whatsoever nor shall the rights of Grantee thereunder or the occupancy and use of the Easement Area be affected in any way by reason of the Security Instrument or any foreclosure action or other proceeding that may be instituted in connection therewith, provided Grantee is not in material default under any of the terms, covenants or conditions of the Easement, or if a material default shall exist, the applicable cure period provided for in the Easement has not expired.

4. It is the express intent of the parties hereto that a foreclosure of the Security Instrument or the exercise of any other remedies provided therein, or provided in any other instrument securing the indebtedness secured by the Security Instrument, or the delivery of a deed to or including any part of the Easement Area in lieu of foreclosure shall not result in the termination of the Easement, but any purchaser or other grantee upon foreclosure of the Security Instrument or conveyance in lieu of foreclosure shall thereby automatically succeed to the position of Grantor under the Easement.

5. If, by disposition, foreclosure or otherwise, Lender, its successors or assigns, or any purchaser at a foreclosure sale, or otherwise, shall come into possession or become the owner of the Easement Area, such person shall succeed to the interest of Grantor under the Easement, together with all the rights and privileges therein contained, between such person and Grantee for the balance of the term of the Easement between Grantor and Grantee; Grantee agrees to attorn to and accept such person as Grantor under said Easement, and to be bound by and to perform all the obligations imposed by the Easement upon Grantee, and Lender, its successors or assigns, or any purchaser at a foreclosure sale or otherwise, will not disturb the Grantee's use of and access to the Easement Area or the Improvements, and will be bound by all the obligations imposed by the Easement upon Grantor therein.

6. To Lender's knowledge, (i) there are no defaults of Grantor under the Security Instrument, nor in any other instrument evidencing or securing the indebtedness secured by the Security Instrument, nor any existing conditions which, upon the giving of notice or lapse of time or both, would constitute a default by Grantor, (ii) Grantor has fulfilled all of its obligations which are required to be performed by the date hereof under the Security Instrument and any other instrument evidencing or securing the indebtedness secured by the Security Instrument.

7. No termination, amendment or waiver of any provisions of the Security Instrument or any other instrument evidencing or securing the indebtedness secured by the Security Instrument or consent to any departure by Lender from any provisions thereof shall in any event be effective unless the same shall be in writing and signed by Grantee and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which it was given.

8. Lender shall deliver copies to Grantee of any notices given to Grantor, including any notices of default, and Lender shall grant Grantee the right but without obligation to cure any default by Grantor. Lender shall provide Grantee 60 days for the right to cure from the later of (A) the date Grantor has defaulted and exhausted any cure period under the Security Instrument, and (B) the date Lender delivers notice of such default to Grantee. If Grantee is prohibited by any court order or bankruptcy, insolvency or reorganization proceeding or legislation from curing the default or from commencing or prosecuting foreclosure proceedings, the foregoing 60-day period shall be extended day-for-day by the period of such prohibition.

9. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

10. This Agreement shall be construed according to and governed by the laws of the State of Utah.

11. This Agreement cannot be modified in any respect except by a writing executed by all of the parties hereto.


12. This Agreement may be executed in any number of counterpart originals, each of which shall be deemed an original instrument for all purposes, but all of which shall comprise one and the same instrument.

*[signature pages follow]*

IN WITNESS WHEREOF, and intending to be legally bound hereby, the parties have caused this Agreement to be executed and delivered by their duly authorized representatives on the date set forth below the respective signatures, effective as of the Effective Date.

**GRANTOR:**

**THREE PEAKS OASIS, LLC,**  
a Utah limited liability company


By:   
Name: Russell Reber  
Title: Manager

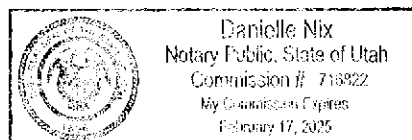
**ACKNOWLEDGMENT**

State of Utah )  
County of Iron )

On this 12<sup>th</sup> day of September, in the year 2022, before me the undersigned Notary Public in and for said State, personally appeared Russell Reber, known or identified to me to be the Manager of the limited liability company that executed the instrument or the person who executed the instrument on behalf of said limited liability company and acknowledged to me that such limited liability company executed the same.

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


  
(notary signature)  
Residing at: Cedar City, UT  
My commission expires: 2-17-2025



IN WITNESS WHEREOF, and intending to be legally bound hereby, the parties have caused this Agreement to be executed and delivered by their duly authorized representatives on the date set forth below the respective signatures, effective as of the Effective Date.

**GRANTEE:**

**APPALOOSA SOLAR I, LLC,**  
a Utah limited liability company

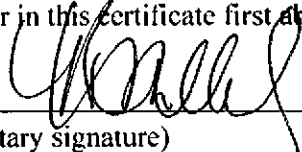
By:   
Name: Luigi Resta  
Title: Authorized Signatory

**ACKNOWLEDGMENT**

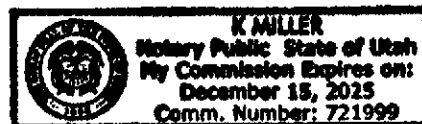
State of Utah )  
County of Salt Lake )

On this 14th day of September, in the year 2022, before me the undersigned Notary Public in and for said State, personally appeared Luigi Resta, known or identified to me to be the Authorized Signatory of the limited liability company that executed the instrument or the person who executed the instrument on behalf of said limited liability company and acknowledged to me that such limited liability company executed the same.

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

  
(notary signature)

Residing at: Sandy, Utah  
My commission expires: Dec. 15, 2025



IN WITNESS WHEREOF, and intending to be legally bound hereby, the parties have caused this Agreement to be executed and delivered by their duly authorized representatives on the date set forth below the respective signatures, effective as of the Effective Date.

**LENDER:**

**STATE BANK OF SOUTHERN UTAH,**  
a Utah corporation

By: [Signature]  
Name: JUSTIN W. BARNES  
Title: V. P. COMMERCIAL LENDING

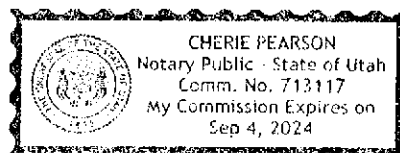
**ACKNOWLEDGMENT**

State of Utah )  
County of Iron )

On this 12 day of Sept, in the year 2022, before me the undersigned Notary Public in and for said State, personally appeared Justin W Barnes, known or identified to me to be the Vice President of the corporation that executed the instrument or the person who executed the instrument on behalf of said corporation by authority of its bylaws or resolution of its Board of Directors and acknowledged to me that such corporation executed the same.

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

[Signature]  
(notary signature)  
Residing at: Cedar City  
My commission expires: 7/4/24



**EXHIBIT A  
TO  
NON-DISTURBANCE AGREEMENT**

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**DESCRIPTION OF EASEMENT AREA**

A strip of land in Iron County, Utah described as follows:

BEGINNING AT A POINT NORTH 00°00'11" EAST ALONG THE SECTION LINE 408.70 FEET AND NORTH 55°55'11" EAST 60.37 FEET FROM THE WEST QUARTER CORNER SECTION 25, TOWNSHIP 34 SOUTH, RANGE 12 WEST, SALT LAKE BASE AND MERIDIAN, RUNNING THENCE NORTH 00°00'11" EAST 181.11 FEET; THENCE RUNNING NORTH 55°55'11" EAST 1814.54 FEET; THENCE NORTH 89°59'31" EAST 2348.62 FEET; THENCE NORTH 83°01'06" EAST 187.40 FEET TO A POINT ON THE WEST RIGHT OF WAY LINE OF LUND HIGHWAY; RUNNING THENCE SOUTH 31°34'56" EAST ALONG SAID WEST LINE 202.77 FEET; THENCE DEPARTING SAID WEST LINE RUNNING SOUTH 89°59'31" WEST 2594.84 FEET; THENCE SOUTH 55°55'11" WEST 1870.07 FEET TO THE POINT OF BEGINNING. CONTAINING 15.25 ACRES.

A portion of APN No. E-0064-0013-0000