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9 Attorneys for Plaintiffs

10 UNITED STATES DISTRICT COURT

11 FOR THE CENTRAL DISTRICT OF CALIFORNIA

12 BULLOCH COUNTY GA S1, LLC,
FRANKLIN COUNTY GA S1, LLC,
13 GREENE COUNTY GA S1, LLC,
LOWNDES COUNTY GA S1, LLC,
14 LOWNDES COUNTY GA S2, LLC,
MERIWETHER COUNTY GA S1,
15 LLC, MURRAY COUNTY GA S1,
LLC, PUTNAM COUNTY GA S1,
16 LLC, TERRELL COUNTY GA S1,
LLC, TROUP COUNTY GA S1, LLC,
17 WARE COUNTY GA S1, LLC, WARE
COUNTY GA S2, LLC, AND
18 WILKINSON COUNTY GA S1, LLC,

19 Plaintiffs,

20 vs.

21 CHINT POWER SYSTEMS
AMERICA CO.,

22 Defendant.
23

Case No. 2:22-cv-1522

**COMPLAINT FOR:
(1) NEGLIGENCE; (2) BREACH OF
EXPRESS WARRANTY; AND (3)
BREACH OF IMPLIED WARRANTY
OF MERCHANTABILITY**

DEMAND FOR JURY TRIAL

1 Plaintiffs BULLOCH COUNTY GA S1, LLC, FRANKLIN COUNTY GA
2 S1, LLC, GREENE COUNTY GA S1, LLC, LOWNDES COUNTY GA S1, LLC,
3 LOWNDES COUNTY GA S2, LLC, MERIWETHER COUNTY GA S1, LLC,
4 MURRAY COUNTY GA S1, LLC, PUTNAM COUNTY GA S1, LLC, TERRELL
5 COUNTY GA S1, LLC, TROUP COUNTY GA S1, LLC, WARE COUNTY GA
6 S1, LLC, WARE COUNTY GA S2, LLC, AND WILKINSON COUNTY GA S1,
7 LLC (collectively, “Plaintiffs”) allege against Defendant CHINT POWER
8 SYSTEMS AMERICA CO. (“Defendant” or “Chint”) as follows:

9 **The Parties and Venue**

10 1. Plaintiff BULLOCH COUNTY GA S1, LLC is a Delaware LLC with
11 its principal place of business in New York, New York. BULLOCH COUNTY GA
12 S1, LLC does not conduct business in the State of California.

13 2. Plaintiff FRANKLIN COUNTY GA S1, LLC is a Delaware LLC with
14 its principal place of business in New York, New York. FRANKLIN COUNTY GA
15 S1, LLC does not conduct business in the State of California.

16 3. Plaintiff GREENE COUNTY GA S1, LLC is a Delaware LLC with its
17 principal place of business in New York, New York. GREENE COUNTY GA S1,
18 LLC does not conduct business in the State of California.

19 4. Plaintiff LOWNDES COUNTY GA S1, LLC is a Delaware LLC with
20 its principal place of business in New York, New York. LOWNDES COUNTY GA
21 S1, LLC does not conduct business in the State of California.

22 5. Plaintiff LOWNDES COUNTY GA S2, LLC is a Delaware LLC with
23 its principal place of business in New York, New York. LOWNDES COUNTY GA
24 S2, LLC does not conduct business in the State of California.

25 6. Plaintiff MERIWETHER COUNTY GA S1, LLC is a Delaware LLC
26 with its principal place of business in New York, New York. MERIWETHER
27 COUNTY GA S1, LLC does not conduct business in the State of California.

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1 7. Plaintiff MURRAY COUNTY GA S1, LLC is a Delaware LLC with its
2 principal place of business in New York, New York. MURRAY COUNTY GA S1,
3 LLC does not conduct business in the State of California.

4 8. Plaintiff PUTNAM COUNTY GA S1, LLC is a Delaware LLC with its
5 principal place of business in New York, New York. PUTNAM COUNTY GA S1,
6 LLC does not conduct business in the State of California.

7 9. Plaintiff TERRELL COUNTY GA S1, LLC is a Delaware LLC with its
8 principal place of business in New York, New York. TERRELL COUNTY GA S1,
9 LLC does not conduct business in the State of California.

10 10. Plaintiff TROUP COUNTY GA S1, LLC is a Delaware LLC with its
11 principal place of business in New York, New York. TROUP COUNTY GA S1,
12 LLC does not conduct business in the State of California.

13 11. Plaintiff WARE COUNTY GA S1, LLC is a Delaware LLC with its
14 principal place of business in New York, New York. WARE COUNTY GA S1,
15 LLC does not conduct business in the State of California.

16 12. Plaintiff WARE COUNTY GA S2, LLC is a Delaware LLC with its
17 principal place of business in New York, New York. WARE COUNTY GA S2,
18 LLC does not conduct business in the State of California.

19 13. Plaintiff WILKINSON COUNTY GA S1, LLC is a Delaware LLC
20 with its principal place of business in New York, New York. WILKINSON
21 COUNTY GA S1, LLC does not conduct business in the State of California.

22 14. The sole member (equity owner) of each of the Plaintiffs is Safari
23 Energy Investments 1, LLC, which is a Delaware LLC with its principal place of
24 business in New York, New York. The sole member (equity owner) of Safari
25 Energy Investments 1, LLC is Safari Energy, LLC, which is a Delaware LLC with
26 its principal place of business in New York, New York. Safari Energy, LLC's
27 ultimate parent company is PPL Corp., which is a Pennsylvania corporation with its
28 principal place of business in Allentown, Pennsylvania. PPL Corp. holds its

1 ownership of Safari Energy, LLC through a series of intermediate holding
2 companies that are all Delaware LLCs with their principal place of business in
3 Allentown, Pennsylvania.

4 15. On information and belief, Defendant Chint is a Texas corporation with
5 its principal place of business in Pomona, California.

6 **Jurisdiction and Venue**

7 16. This Court has diversity jurisdiction under 28 U.S.C. § 1332, because
8 there is complete diversity of citizenship between the Plaintiffs and the Defendant,
9 and the amount in controversy exceeds \$75,000 as to each of the Plaintiffs.

10 17. Defendant is subject to personal jurisdiction in this Court because
11 Defendant’s principal place of business is located in this district.

12 18. Venue is proper in this Court under 28 U.S.C. § 1391(b)(1) and 28
13 U.S.C. § 1391(d) because Defendant’s principal place of business is located in this
14 district.

15 **Plaintiffs’ Solar Facilities**

16 19. Each of the Plaintiffs owns and operates a solar photovoltaic power
17 generation facility located in the State of Georgia. Those facilities supply electricity
18 to Georgia Power Company (“Georgia Power”), which is the largest electric utility
19 in Georgia, serving more than 2 million customers in the vast majority of the state’s
20 counties.

21 20. Devices known as “inverters” are a critical piece of equipment used in
22 a solar photovoltaic power generation facility. Inverters convert direct current
23 (“DC”) electricity into alternating current (“AC”) electricity. Because solar power
24 generation facilities generate DC electricity and the electrical grid distributes AC
25 electricity, it is necessary to use inverters to convert the DC electricity from the
26 solar panels into AC electricity so that it can be fed into the grid and distributed to
27 end-users.

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1 **Chint’s Defective Inverters**

2 21. Chint supplied the inverters used in each of Plaintiffs’ solar facilities.
3 On information and belief, the inverters were manufactured in China by (or for)
4 Chint’s ultimate parent company, which is located there. The inverters are utility-
5 grade inverters that are intended to be used in connection with generating electricity
6 to supply to the grid. Plaintiffs’ facilities collectively use more than 250 of these
7 Chint inverters.

8 22. Plaintiffs have not entered into any agreements with Chint. Rather, on
9 information and belief, Chint supplied the inverters to the engineering, procurement,
10 and construction contractor (*i.e.*, general contractor), SolAmerica Energy Services,
11 LLC, which oversaw construction of each of Plaintiffs’ facilities. SolAmerica
12 Energy Services assigned its right, title, and interest in the inverters to Plaintiffs
13 through its construction contracts with Plaintiffs.

14 23. On information and belief, Chint knew or should have known that the
15 inverters it was supplying to SolAmerica Energy Services would be used in solar
16 facilities such as Plaintiffs’.

17 24. The inverters Chint supplied for each of Plaintiffs’ solar facilities are
18 defective.

19 25. Due to the defects in Chint’s inverters, Plaintiffs’ solar facilities have
20 collectively experienced approximately three dozen fires in less than a two-year
21 period.

22 26. Each of the inverter fires occurred suddenly and unexpectedly. As a
23 result of the fires, each of the subject inverters was destroyed. Other property and
24 equipment at Plaintiffs’ facilities were damaged by the fires as well, including but
25 not limited to electrical and communications cables that were not supplied by Chint.

26 27. Despite being aware of the hazardous nature of its equipment for nearly
27 two years, Chint has failed to identify the root cause of the fire problem or develop
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1 and implement a solution to the fire problem. Instead, Chint has engaged in
2 excessive delays in responding to Plaintiffs' complaints and requests for assistance.

3 28. Chint's equipment poses an ongoing danger to persons and property at
4 each of Plaintiffs' solar facilities, and Chint has failed to take reasonable and
5 appropriate steps to address that ongoing danger.

6 29. Chint's inverters have also suffered (and continue to suffer) other types
7 of outages that have been excessive in both number and length. These outages have
8 resulted from excessive "clipping" due to poor equipment performance (which is
9 when the inverter reaches its maximum capacity and is unable to convert additional
10 watts of DC electricity to AC), fan failures, and software problems. These issues
11 may be related to the fires that have occurred, but Chint has failed to identify the
12 root cause of any of the problems Plaintiffs have experienced.

13 30. On information and belief, Chint's inverters installed at other solar
14 facilities around the country have experienced fires and other problems similar to
15 what Plaintiffs have experienced.

16 **Plaintiffs' PPAs with Georgia Power**

17 31. Plaintiffs have entered power purchase agreements ("PPAs") with
18 Georgia Power under which Georgia Power agrees to pay Plaintiffs a specified
19 amount for the electricity Plaintiffs generate. If Plaintiffs fail to deliver a specified
20 amount of electricity to Georgia Power for a specified period of time, Georgia
21 Power may attempt to terminate the PPAs.

22 32. Chint is aware of Plaintiffs' PPAs with Georgia Power. Chint is also
23 aware that Plaintiffs' continuing ability to sell electricity pursuant to those PPAs
24 could be terminated if Plaintiffs are unable to deliver sufficient levels of electricity.

25 **Plaintiffs' Losses**

26 33. As a result of the fires and other defects in Chint's inverters, Plaintiffs'
27 solar facilities have collectively lost over 2.5 million kilowatt hours of electricity
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1 generation over the last two years—enough electricity to power 250 homes for an
2 entire year.

3 34. Plaintiffs have already lost substantial revenue and incurred substantial
4 expenses (in excess of \$300,000, combined) as a result of Chint’s defective
5 inverters. Plaintiffs are reasonably likely to lose additional revenue in the future as
6 a result of future lost generating capacity, and incur additional costs in responding to
7 problems caused by Chint’s defective inverters.

8 35. If Chint continues to be unwilling or unable to repair and/or replace its
9 defective inverters at Plaintiffs’ facilities, Plaintiffs may have no choice but to incur
10 in excess of \$2,500,000 to purchase and install replacement inverters.

11 36. In light of Chint’s failure to provide a solution to avoid the fires and
12 other problems Plaintiffs have been experiencing, in November 2021, Plaintiff
13 Lowndes County GA S1, LLC completed a pilot project to replace all of the Chint
14 inverters at the Lowndes IDA project with inverters from another manufacturer.
15 Performance at the Lowndes IDA project improved as a result of such measures, and
16 the spare inverters were all retained as spare inventory to be used in the event of
17 future failures at other facilities.

18 **Chint’s Standard Product Warranty**

19 37. On information and belief, in the standard product warranty in effect at
20 the time Chint supplied inverters for use in Plaintiffs’ solar facilities, Chint agreed to
21 repair, replace, or refund the purchase price for any defective inverters it has
22 supplied. The warranty promises that Chint will respond to customer inquiries
23 within 24 hours and propose a resolution plan within 48 hours.

24 38. In a letter dated January 18, 2020 addressed to its “customers and
25 owners,” Chint agreed that its standard warranties remain “in full effect” after
26 ownership of its inverters is transferred.

27 39. Chint has failed to repair, replace, or refund the purchase price of all of
28 the defective units at Plaintiffs’ facilities, as required under its warranty.

1 40. It is particularly critical for Chint to provide a comprehensive solution
2 to Plaintiffs before the spring and summer seasons. As Chint is or should be aware,
3 Plaintiffs generate an outsized portion of their revenue during the spring and
4 summer as a result of greater insolation (*i.e.*, the amount of solar radiation) during
5 that time of year. Nevertheless, despite repeated requests by Plaintiffs, Chint has
6 failed to identify a root cause or propose any solutions in advance of the upcoming
7 peak production season.

8 41. In its standard warranty, Chint purports to limit its own liability to the
9 purchase price of the product and purports to exclude consequential losses. There
10 are a number of reasons why this warranty does not limit Plaintiffs' rights or
11 remedies under contract or tort law, including but not limited to the following.

12 42. First, the warranty's language does not clearly and unambiguously limit
13 Chint's liability, in contract and/or tort, to third parties such as Plaintiffs.

14 43. Second, the warranty's limitations of liability are unconscionable if
15 they are being used to limit Chint's liability to third parties such as Plaintiffs who
16 never assented to such limitations and whose remedies would be severely restricted
17 in a one-sided manner if such limitations were to be applied.

18 44. Third, the warranty's limitations of liability are inapplicable because
19 the particular remedy provided under the warranty—repair, replacement, or refund
20 of purchase price—has failed of its essential purpose on account of Chint's ongoing
21 inability to develop a solution to remedy the hazardous defects in each of the
22 inverters it supplied for use in Plaintiffs' facilities.

23 45. Fourth, and in the alternative to the foregoing, the warranty's
24 limitations of liability do not apply here because Plaintiffs are not parties to the
25 warranty and did not assent to be bound by the warranty's terms.

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First Cause of Action – Negligence
(By Plaintiffs Against Chint)

46. Plaintiffs hereby reallege and incorporate by reference each and every allegation contained in Paragraphs 1 through 45 of this Complaint.

47. Chint had a duty to exercise reasonable care in designing, manufacturing, and/or recalling or retrofitting the inverters it supplied for use in Plaintiffs’ solar facilities.

48. Approximately three dozen of Chint’s inverters used at Plaintiffs’ solar facilities caught fire suddenly and unexpectedly when the inverters were used for their intended purpose. These fires have damaged property and equipment at Plaintiffs’ facilities other than Chint’s inverters.

49. On information and belief, the fires resulted from Chint’s failure to exercise reasonable care in designing, manufacturing, and/or recalling or retrofitting the inverters it supplied for use in Plaintiffs’ solar facilities.

50. Plaintiffs have been unable to perform a forensic examination of the inverters destroyed by fire because Chint has taken possession of them. Chint has been unable to identify a root cause of the fires. Among other things, the prevalence, frequency, and extent of the fires in Chint’s inverters—including at other facilities around the country—gives rise to a strong inference that Chint failed to exercise reasonable care in designing and/or manufacturing them. A properly designed and/or manufactured inverter does not spontaneously combust when used in its intended fashion.

51. After becoming aware of such spontaneous combustion, a reasonable manufacturer would proceed promptly with recalling and/or retrofitting its products to prevent future harm. While Chint has replaced certain units that have caught fire or otherwise failed, it has not retrofitted or recalled the multitude of other units that are at risk of fire or other failure.

1 52. As a result of the fires, Plaintiffs have suffered out of pocket expenses
2 to respond to the fires and equipment damage, and lost revenue from the reduction
3 in their capacity to generate electricity and sell it to Georgia Power.

4 53. Chint's failure to exercise reasonable care in designing and/or
5 manufacturing the inverters it supplied for use in Plaintiffs' solar facilities, and/or in
6 recalling or retrofitting those inverters, has foreseeably resulted in economic harm to
7 Plaintiffs, as Plaintiffs are unable to maximize the revenue from their PPAs with
8 Georgia Power when Plaintiffs' solar facilities are not operating at full capacity.

9 54. Chint's deficient design and/or manufacturing of its inverters, and its
10 failure to adequately recall or retrofit those inverters, has created an unjustifiable
11 and continuing risk of injury to persons and property.

12 55. Plaintiffs have suffered damages, including but not limited to increased
13 expenses and lost profits, as a result of Chint's defective inverters.

14 56. Chint's acts and omissions were a substantial factor in causing
15 Plaintiffs' injuries set forth herein.

16 **Second Cause of Action – Breach of Warranty**

17 **(By Plaintiffs Against Chint)**

18 57. Plaintiffs hereby reallege and incorporate by reference each and every
19 allegation contained in Paragraphs 1 through 45 of this Complaint.

20 58. Plaintiffs have used Chint's inverters for their intended purpose, but the
21 inverters have experienced fires and the other problems described herein.

22 59. In the event that Plaintiffs are deemed to be bound by Chint's standard
23 written warranty in place at the time it supplied inverters for use in Plaintiffs' solar
24 facilities, Chint has breached that warranty by (1) failing to repair, replace, or refund
25 the purchase price of its defective inverters and (2) failing to respond to Plaintiffs'
26 inquiries within 24 hours and propose remediation plans within 48 hours.

27 60. Plaintiffs timely notified Chint of the defects in its inverters.

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1 61. While Chint has replaced certain units that have caught fire or
2 otherwise failed, it has not repaired, replaced, or refunded the purchase price of the
3 multitude of other units that are defective but have not yet spontaneously combusted
4 or otherwise failed.

5 62. Chint's breaches of its standard written warranty were a substantial
6 factor causing Plaintiffs to incur damages, including but not limited to increased
7 expenses and lost profits, as a result of Chint's defective inverters.

8 63. At the time Chint supplied inverters for use in Plaintiffs' solar facilities,
9 Chint knew or reasonably could have foreseen that Plaintiffs' harm was likely to
10 occur in the ordinary course of events if Chint failed to perform its obligations under
11 the warranty.

12 **Third Cause of Action – Breach of Implied Warranty of Merchantability**

13 **(By Plaintiffs Against Chint)**

14 64. Plaintiffs hereby reallege and incorporate by reference each and every
15 allegation contained in Paragraphs 1 through 45 of this Complaint.

16 65. Because Chint regularly deals in equipment such as the inverters it
17 provided to Plaintiffs' solar facilities, Chint's products are subject to the implied
18 warranty of merchantability. Chint has not effectively disclaimed this (or any other)
19 implied warranty in any instrument that is binding on Plaintiffs.

20 66. Plaintiffs have used Chint's inverters for their intended purpose, but the
21 inverters have experienced fires and the other problems described herein.

22 67. In the event that Plaintiffs are deemed to be in privity with Chint under
23 applicable law, Chint has breached the implied warranty of merchantability by
24 supplying defective inverters for use in Plaintiffs' solar facilities, including inverters
25 that have spontaneously caught fire or otherwise failed to perform as intended.
26 Inverters that fail to perform as expected and are at risk of spontaneously
27 combusting are not fit for the ordinary purposes for which inverters are used.

28 68. Plaintiffs timely notified Chint of the defects in its inverters.

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DATED: March 7, 2022

MUNGER, TOLLES & OLSON LLP

By: /s/ Jeremy A. Lawrence
 JEREMY A. LAWRENCE

Attorneys for Plaintiffs
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COUNTY GA S2, LLC, MERIWETHER
COUNTY GA S1, LLC, MURRAY COUNTY
GA S1, LLC, PUTNAM COUNTY GA S1,
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COUNTY GA S1, LLC, WARE COUNTY GA
S2, LLC, and WILKINSON COUNTY GA S1,
LLC

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DEMAND FOR JURY TRIAL

Plaintiffs BULLOCH COUNTY GA S1, LLC, FRANKLIN COUNTY GA S1, LLC, GREENE COUNTY GA S1, LLC, LOWNDES COUNTY GA S1, LLC, LOWNDES COUNTY GA S2, LLC, MERIWETHER COUNTY GA S1, LLC, MURRAY COUNTY GA S1, LLC, PUTNAM COUNTY GA S1, LLC, TERRELL COUNTY GA S1, LLC, TROUP COUNTY GA S1, LLC, WARE COUNTY GA S1, LLC, WARE COUNTY GA S2, LLC, and WILKINSON COUNTY GA S1, LLC hereby demand a trial by jury on all issues triable to a jury.

DATED: March 7, 2022

MUNGER, TOLLES & OLSON LLP

By: /s/ Jeremy A. Lawrence
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