IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	Chapter 11
TONOPAH SOLAR ENERGY, LLC,[1]	Case No. 26-10060 (JKS)
Debtor.	**Related D.I.: 18, 80, 131, 133 & 134**

NOTICE OF PROPOSED SUCCESSFUL BIDDER & CANCELLATION OF AUCTION

1. On January 21, 2026, the above-captioned debtor and debtor in possession (the "Debtor") filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the "Bankruptcy Code") in the United States Bankruptcy Court for the District of Delaware (the "Court").

2. On February 10, 2026, the Court entered an order [D.I. 80] (the "Bidding Procedures Order"), approving certain dates, deadlines, and procedures for the potential sale of the Debtor's assets, attached to the Bidding Procedures Order as Exhibit 1 (the "Bidding Procedures").[2] The Bidding Procedures Order established February 27, 2026, at 4:00 p.m. (prevailing Eastern Time) as the deadline by which Bids must be submitted (the "Bid Deadline").

3. On February 20, 2026, the Debtor filed a supplement to the Bidding Procedures Motion [D.I. 131], requesting, among other things, approval of Sons of Liberty Construction, Inc. ("SOLC") as the Stalking Horse Bidder, and designation of SOLC's bid as the Stalking Horse Bid.

4. As no Qualified Bids other than the Stalking Horse Bid were received prior to the Bid Deadline, the Debtor cancelled the Auction. Under the Bidding Procedures, **the Debtor hereby provides notice that SOLC is the Successful Bidder (the "Successful Bidder").**

5. The asset purchase agreement by and among the Debtor and the Successful Bidder (the "APA") is attached hereto as **Exhibit A**.

6. A hearing to consider approval of the Successful Bid (the "Sale Hearing") will take place on **March 19, 2026, at 1:00 p.m. (prevailing Eastern Time)**, at the United States Bankruptcy Court for the District of Delaware, 824 N. Market Street, Wilmington, Delaware 19801. At the Sale Hearing, the Debtor will present the Successful Bid to the Court for approval.

[1] The Debtor in this chapter 11 case, along with the last four digits of its federal tax identification number, is Tonopah Solar Energy, LLC (1316). The Debtor's headquarters is located at 11 Gabbs Pole Line Road, Box 1071, Tonopah, NV 89049.

[2] Capitalized terms used but not otherwise defined herein have the meanings given to them in the Bidding Procedures Order or Bidding Procedures, as applicable.

7. The Sale Hearing may be adjourned from time to time without further notice other than by announcement in open court on the date scheduled for the Sale Hearing, on the Court's calendar, through the filing of a notice, or in the applicable hearing agenda.

8. Objections, if any, to the Sale to the Successful Bidder must be filed with the Court and served on the parties listed below so as to be **actually received by March 11, 2026, at 4:00 p.m. (ET).** All objections must: (a) be in writing; (b) conform to the applicable provisions of the Bankruptcy Rules, the Local Rules, and any orders of the Court; (c) state with particularity the legal and factual bases for the objection and the specific grounds therefor; and (d) be filed with the Court and served on: (i) the Debtor, 11 Gabbs Pole Line Road, Box 1071, Tonopah, NV 89049 (Attn.: Yale Scott Bogen, proposed Chief Restructuring Officer of the Debtor, at ybogen@dsiconsulting.com); (ii) counsel to the Debtor, DLA Piper LLP (US) (A) 1201 North Market Street, Suite 2100 Wilmington, Delaware 19801 (Attn.: Aaron S. Applebaum [aaron.applebaum@us.dlapiper.com]); and (B) 1251 Avenue of the Americas, New York, New York 10020 (Attn.: David M. Riley [david.riley@us.dlapiper.com]); (iii) proposed co-counsel to the Debtor, Debevoise & Plimpton LLP, 66 Hudson Boulevard, New York, New York 10001 (Attn.: Rachel Ehrlich Albanese [ralbanese@debevoise.com]); (iv) counsel to the Prepetition Lender and proposed DIP, (a) Lender, Kelley Drye & Warren LLP, 3 World Trade Center, 175 Greenwich Street, New York, New York 10007 (Attn.: Joel S. Rublin [jrublin@kelleydrye.com], Eric R. Wilson[ewilson@kelleydrye.com], and Nathan Greenberg [ngreenberg@kelleydrye.com]), and (b) Potter Anderson & Corroon LLP, 1313 North Market Street, 6th Floor, Wilmington, Delaware 19801 (Attn.: R. Stephen McNeill [rmcneill@potteranderson.com]); (v) the Office of the United States Trustee for Region 3, J. Caleb Boggs Federal Building, 844 King St., Lockbox 35, Wilmington, Delaware 19801 (Attn.: Benjamin Hackman [Benjamin.A.Hackman@usdoj.gov]); and (vi) counsel to the Successful Bidder, Butler Snow LLP, 6075 Poplar Avenue, Suite 500, Memphis, TN 38119 (Attn.: James E. Bailey III [Jeb.Bailey@butlersnow.com], R. Campbell Hillyer [Cam.Hillyer@butlersnow.com], and Kenneth A. Primos III [Kap.Primos@butlersnow.com]) (collectively, the "Successful Bidder Notice Parties"). **Any party who fails to timely file an objection to entry of the Sale Order (i) will be forever barred from objecting thereto, (ii) will be deemed to consent to the Sale of the Assets as approved by any Sale Order, and (iii) will be deemed to "consent" for purposes of Section 363(f)(2) of the Bankruptcy Code.**

9. **The Debtor encourages parties in interest to review all related documents in their entirety. Parties interested in receiving more information regarding the Sale and/or copies of any related document, including the Bidding Procedures Motion or the Bidding Procedures Order, may make a written request to counsel for the Debtor. Copies of referenced documents, including the Bidding Procedures Motion, the Bidding Procedures Order and this notice can be found (i) at https://dm.epiq11.com/TonopahSolar (free of charge), (ii) through PACER on the Court's website, https://ecf.deb.uscourts.gov (at a fee, registration required) and (iii) on file with the Clerk of the Court, 824 N. Market Street, Wilmington, Delaware 19801.**

Dated: March 2, 2026
Wilmington, Delaware

Respectfully submitted,

DLA PIPER LLP (US)

/s/ Aaron S. Applebaum

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Counsel to the Debtor

Exhibit A

APA

Execution Version

ASSET PURCHASE AGREEMENT

BY AND BETWEEN

TONOPAH SOLAR ENERGY, LLC,
a Delaware limited liability company,

and

SONS OF LIBERTY CONSTRUCTION, INC.,
a Texas corporation

Dated as of February 20, 2026

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ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (this "Agreement"), dated as of February 20, 2026 (the "Agreement Date"), is by and between Tonopah Solar Energy, LLC, a Delaware limited liability company ("Seller"), and Sons of Liberty Construction, Inc., a Texas corporation, ("Purchaser"). Seller and Purchaser are each sometimes referred to individually as a "Party" and collectively as the "Parties".

RECITALS

WHEREAS, Seller owns the Crescent Dunes concentrated solar energy plant (together with all related activities, the "Business") located in Nye county, Nevada (the "Plant");

WHEREAS, on January 21, 2026, Seller filed a voluntary petition for relief (the "Bankruptcy Case") under chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Court"), which Bankruptcy Case is currently pending under case no. 26-10060;

WHEREAS, Seller desires to sell and assign to Purchaser, and Purchaser desires to buy and assume from Seller, certain assets and liabilities used in Seller's Business on an as-is, where-is basis, free and clear of all Liens and Claims other than Assumed Liabilities and Permitted Liens, under sections 105, 363(b), 363(f) and 365 of the Bankruptcy Code, subject to higher or otherwise better offers that Seller may receive, and on the terms and conditions set forth herein and with the approval of the Bankruptcy Court; and

WHEREAS, Seller's ability and obligation to consummate the Transactions, and Purchaser's obligation to consummate the Transactions, are subject to, among other things, the entry of the Sale Order.

AGREEMENTS

In consideration of the mutual covenants of the Parties as hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

ARTICLE I

DEFINITIONS

1.1 Defined Terms. The following capitalized terms shall have the meanings specified in this Article I.

"Affiliate" means, with respect to any Person, any other Person that directly or indirectly controls, is controlled by or is under common control with such Person. As used herein, the term "control" means the possession, directly or indirectly, of any other power to direct or cause the direction of the management and policies of such a Person, whether through ownership of voting securities, by contract or otherwise.

"Agreement Date" shall have the meaning set forth in the preamble.

"Allocation Schedule" shall have the meaning set forth in Section 2.8.

"Alternative Bidder" means any Person that makes an alternative bid for the Purchased Assets in accordance with the Bidding Procedures and the Bidding Procedures Order.

"Antitrust Law" means, individually and collectively, the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, the U.S. Sherman Act, the U.S. Clayton Act, the U.S. Federal Trade Commission Act, and other applicable U.S. federal or state, or foreign, statutes, rules, regulations, orders or decrees that are designed to restrict or regulate actions having the purpose or effect of monopolization or restraint of trade.

"Assigned Contracts" shall have the meaning set forth in Section 2.12(a)(ii).

"Assignment and Assumption Agreement" shall have the meaning set forth in Section 3.2(e).

"Assumed Liabilities" shall have the meaning set forth in Section 2.2.

"Auction" means the auction for the sale of the Purchased Assets, if any, to be conducted in accordance with the Bidding Procedures and the Bidding Procedures Order.

"Available Contracts" means, collectively, the contracts listed on **Schedule 2.12(a)(i)**, as may be amended, modified and/or supplemented from time to time in accordance with the provisions of this Agreement.

"Backup Bidder" shall have the meaning set forth in Section 6.1(e).

"Bankruptcy Case" shall have the meaning set forth in the recitals.

"Bankruptcy Code" means Title 11 of the United States Code, as amended.

"Bankruptcy Court" shall have the meaning set forth in the recitals.

"Bidding Procedures" means the bidding procedures set forth in an exhibit to the Bidding Procedures Order and which shall govern and control the process by which Seller may consider bids for the Purchased Assets and conduct the Auction.

"Bidding Procedures Order" means an order of the Bankruptcy Court approving the Bidding Procedures.

"BLM" means the United States Department of the Interior's Bureau of Land Management.

"BLM 2026 Rent and Fees" means an amount, at Closing, equal to the sum of all rental fees paid by Seller under the BLM ROWs with respect to all periods from and after the Closing Date, that had been previously paid by Seller.

"BLM Consents" means the BLM's prior written consent to (i) Seller's transfer and assignment of the BLM Contracts to Purchaser, (ii) Purchaser's assumption of Seller's obligations under the BLM Contracts, and (iii) the release or termination of any further obligations of Seller under the BLM Contracts.

"BLM Contract" means any contract to which the Seller is a party with the BLM, including but not limited to the BLM ROWs, as set forth on **Schedule 2.1(a)**.

"BLM Deposit Amount" means the amount, as of Closing, of cash held by the BLM in connection with the performance and reclamation bond provisions of Section 4 of the BLM Right-of-Way Grant No. N-86292 to Seller, dated December 21, 2010, as amended on November 20, 2014. As of the Agreement Date, the BLM Deposit Amount is $13,192,019.00.

"BLM Prepayment Amount" means the amount, as of Closing, of prepaid monitoring fees paid by Seller to the BLM in connection with the BLM Right-of-Way Grant No. N-86292 to Seller, dated December 21, 2010, as amended on November 20, 2014. As of the Agreement Date, the BLM Prepayment Amount is $30,503.00.

"BLM ROWs" means the BLM rights-of-way listed on **Schedule 2.1(a)**.

"Business" shall have the meaning set forth in the recitals.

"Business Day" means a day other than Saturday, Sunday or a public holiday on which banks are authorized or required to be closed under the laws of the State of New York or federal law.

"CFIUS" means the Committee on Foreign Investment in the United States or any member agency thereof acting in such capacity.

"Claim" means all actions, claims, counterclaims, complaints, suits, Proceedings, rights of action, causes of action, Liabilities, losses, damages, remedies, penalties, judgments, settlements, costs, expenses, fines, disbursements, demands, reasonable costs, fees and expenses of counsel, including in respect of investigation, interest, demands and actions of any nature or any kind whatsoever, known or unknown, disclosed or undisclosed, accrued or unaccrued, matured or unmatured, choate or inchoate, legal or equitable, and arising in tort, contract or otherwise, including any "claim" as defined in section 101(5) the Bankruptcy Code.

"Closing" shall have the meaning set forth in Section 3.1.

"Closing Date" shall have the meaning set forth in Section 3.1.

"Code" means the Internal Revenue Code of 1986, as amended.

"Confidentiality Agreement" means that certain Confidentiality Agreement dated as of November 20, 2025, between Seller and Purchaser.

"Confidential Information" means any information that is not generally known to the public and that is or has been used, developed or obtained by Seller and its Affiliates to the extent it relates to the Business, the Purchased Assets or the Assumed Liabilities, except that the term "Confidential Information" will not include any information that has been published in a form generally available to the public, other than as a result of a disclosure by the Parties or their respective Representatives.

"Contracts" means any written contracts, commitments, mortgages, instruments, indentures, licenses, leases and other agreements.

"Cure Costs" means, with respect to all Assigned Contracts, the cure and reinstatement costs or expenses, if any, that are required to be paid to effectuate the assumption and assignment by Seller to Purchaser under section 365 of the Bankruptcy Code of such Contracts.

"Data Room" shall have the meaning set forth in Section 10.12.

"Deposit" shall have the meaning set forth in Section 2.6.

"Designation Notice Schedule" shall have the meaning set forth in Section 2.12(a)(ii).

"DPA" means Section 721 of the Defense Production Act of 1950, as amended (50 U.S.C. § 4565), including all implementing regulations thereof.

"Enforceability Exceptions" means, with respect to enforcement of the terms and provisions of this Agreement (a) the effect of any applicable Law of general application relating to bankruptcy, reorganization, insolvency, moratorium or similar Laws affecting creditors' rights and relief of debtors generally and (b) the effect of general principles of equity, including general principles of equity governing specific performance, injunctive relief and other equitable remedies (regardless of whether such enforceability is considered in a Proceeding in equity or at law).

"Excluded Contracts" shall have the meaning set forth in Section 2.12(a)(ii).

"Excluded Liabilities" shall have the meaning set forth in Section 2.3.

"FERC" means the Federal Energy Regulatory Commission.

"FERC Application" means the Purchaser's application with FERC to transfer any and all rights and obligations of the Seller under any agreement subject to FERC's jurisdiction.

"FERC Approval" means the approval of FERC required pursuant to the Federal Power Act (16 U.S.C. §§ 791a–828c) for the transfer of certain rights and obligations under this Agreement and other jurisdictional agreements related to the Purchased Assets.

"FPA" means the Federal Power Act, as amended, and the implementing regulations of FERC thereunder.

"GAAP" means U.S. generally accepted accounting principles, consistently applied.

"Governmental Approval" means any authorization, consent, approval, ruling, tariff, rate, certification, waiver, exception, filing, variance or Order of, or any notice to or registration with, any Governmental Authority, including, without limitation, with respect to the assignment of the BLM Contracts.

"Governmental Authority" means any federal, state, local or foreign government or political subdivision thereof, or any agency or instrumentality of such government or political subdivision, or any quasi-governmental authority (to the extent that the rules, regulations or orders of such organization or authority have the force of Law), or any arbitrator, court or tribunal of competent jurisdiction.

"Governmental Order" means any order, writ, judgment, injunction, decree, stipulation, determination or award entered by or with any Governmental Authority.

"Indebtedness" means, with respect to any Person, without duplication (a) all obligations of such Person for borrowed money, whether current or funded, secured or unsecured, (b) all obligations of such Person for the deferred purchase price of any property or

services that have been delivered (other than, trade accounts payable and accrued expenses arising in the ordinary course of the business of such Person), (c) all obligations under leases required by GAAP to be recorded as capital leases in respect of which such Person is liable as lessee, (d) all obligations of such Person in respect of bankers' acceptances or letters of credit, surety bonds and other similar instruments, to the extent drawn, (e) all obligations evidenced by notes, bonds, debentures or similar instruments, including obligations so evidenced incurred in connection with the acquisition of property, assets or businesses, and (f) all obligations of a type referred to in clauses (a) through (e) above which are directly or indirectly guaranteed by such Person.

"Intellectual Property" means all intellectual property and rights therein protected in any jurisdiction throughout the world, including all (a) patents, patent applications, invention disclosures and all related continuations, continuations-in-part, divisionals, reissues, re-examinations, substitutions and extensions thereof, (b) trademarks, service marks, corporate names, domain names, logos, slogans, trade dress, design rights, and other similar designations of source or origin, (c) copyrights and designs, (d) trade secrets and know-how, (e) to the extent not included in the foregoing, software (including source code) and related documentation and data and (f) all applications and registrations for any of the foregoing.

"Interim Period" shall have the meaning set forth in Section 7.2(a).

"Inventory" means any inventory (including inventory of spare parts and tools) of Seller related to the Business as of Closing.

"IP Assignment Agreement" shall have the meaning set forth in Section 3.2(e).

"Law" means the common law of any state, or any provision of any foreign, federal, state or local law, statute, code, rule, regulation, Governmental Order or Permit legally binding on the relevant Person or its properties.

"Liabilities" means, as to any Person, any indebtedness (including any Indebtedness), liabilities, Claims, commitments, responsibilities, reimbursements, costs and expenses, assessments, losses, damages (compensatory, punitive or other) and obligations of any kind or nature whatsoever or obligations of any nature (whether accrued, absolute, contingent, direct, indirect, known, unknown, perfected, inchoate, unliquidated or otherwise, due or to become due, vested or otherwise, liquidated or unliquidated, including without limitation where applicable interest and penalties, whether known or unknown, including all costs and expenses related thereto, and whether or not actually reflected, or required to be reflected, in such Person's balance sheet or other books and records).

"Lien" means any possessory or non-possessory lien, license (other than those assigned to Purchaser hereunder), encumbrance or charge of any kind or nature against or other interest in any property or assets, whether voluntary or involuntary and whether statutory or contractual, including any mortgage, right-of-way, easement, encroachment, deed of trust, deed to secure debt, pledge, assignment, hypothecation, security interest, interest, claim, claim, pledge, charge, attachment, judgment, levy, servitude, transfer restriction, right of first refusal, right of first offer, statutory lien or right, and/or any other consensual or non-consensual lien, claim or encumbrance of any kind, whenever granted, including, without limitation, those charges or interests in property within the meaning of "lien" under section 101(37) of the Bankruptcy Code, and including any agreement to give, grant or provide any of the foregoing..

"Long Stop Date" shall have the meaning set forth in Section 3.5.

"Losses" means all direct or indirect losses, Liabilities, damages, Taxes, penalties, fines, assessments, judgments, damages, settlement amounts, forfeitures, fees, payments (including any indemnification or reimbursement payments), costs and expenses (including the reasonable and documented fees and expenses of counsel and experts and their staffs); provided, however, that Losses shall not include any punitive or exemplary damages except to the extent awarded in a Third-Party Claim.

"Material Adverse Effect" means any change, effect, event, circumstance, occurrence, state of facts or development (each, an "Effect") that causes Seller to elect to suspend Plant operations or terminate the Switch PPA, and such suspension or termination: (a) has had a material adverse effect on the Purchased Assets or the Assumed Liabilities, or the business, condition (financial or otherwise), or results of operations of the Business, taken as a whole; or (b) prevents or materially impairs, the ability of the Seller to perform its obligations under this Agreement or to consummate the Transactions; provided, however, that in no event shall any Effect that results from or arises out of any of the following be deemed to constitute, or be taken into account in determining whether there has been, or would be, a Material Adverse Effect:

(i) any change generally affecting the electric generating, transmission or distribution industry (including (1) the solar energy industry and the concentrated solar power industry, (2) the wholesale or retail markets for electric power, and (3) any change in the electrical power market design, pricing or rules (including rules, systems, procedures, guidelines or requirements promulgated or modified by any RTO/ISO, NERC or any similar organization));

(ii) any change in general regulatory or political conditions, including any engagements of hostilities, acts of war, terrorist activities or cyber-attacks, or changes imposed by a Governmental Authority;

(iii) any change in any Laws (including environmental related laws), GAAP, regulatory accounting principles or industry standards, or the policies or guidance of any Governmental Authority;

(iv) any change in the financial condition or results of operations of Purchaser or its Affiliates, including its ability to access capital and equity markets or changes due to a change in the credit rating of Purchaser or its Affiliates;

(v) any change in financial, banking, securities or currency markets (including any increased costs for financing or suspension of trading in, or limitation on prices for, securities on any domestic or international securities exchange);

(vi) actions required to be taken pursuant to or in accordance with the express terms of this Agreement;

(vii) the announcement, pendency or consummation of the Transactions, including the identity of the Purchaser and its Affiliates or financing sources;

(viii) any labor strike, request for representation, organizing campaign, work stoppage, slowdown, lockout or other labor dispute;

(ix) any effects of natural disasters, weather events or other acts of God, including earthquakes, hurricanes, tsunamis, typhoons, lightning, hailstorms, blizzards, tornadoes, droughts, floods, cyclones, arctic frosts, mudslides, wildfires, pandemics or epidemics;

(x) acts taken or not taken at the request of, or with the written consent of, Purchaser;

(xi) (1) the filing of the Bankruptcy Case, (2) the Auction and any announced sale of any of Seller's assets in accordance with this Agreement, (3) any objections in the Bankruptcy Court, including, related to this Agreement or any of the Transactions, the Bidding Procedures Order, the Sale Order, or the assumption or rejection of any Contract otherwise in compliance with this Agreement, or (4) any Order of the Bankruptcy Court or any actions or omissions of Seller or their Affiliates required to be taken (or not taken) to comply therewith or with the Bankruptcy Code;

(xii) any matter set forth in the Schedules, or any filings in the Bankruptcy Case, as of the Agreement Date; or

(xiii) the termination or non-renewal of the Switch PPA by Switch; provided that such termination was not the result of a breach of the Switch PPA by the Seller.

"MBR Authority" means the authorization issued by FERC pursuant to Section 205 of the FPA to sell electric energy, capacity and certain ancillary services at market-based rates, acceptance by FERC of a tariff providing for such sales, and approval by FERC of such regulatory waivers and blanket authorizations as are customarily granted by FERC to "persons," as defined in the FPA, authorized to sell electric power at market-based rates, including blanket authorization under Section 204 of the FPA and FERC's regulations at 18 C.F.R. Part 34 to issue securities and assume liabilities.

"Operator" means ACS Industrial Activities, Inc. (together with its successors, assigns, affiliates and predecessors).

"Order" means any writ, judgment, decree, injunction or similar order, writ, ruling, directive or other requirement of any Governmental Authority (in each case whether preliminary or final).

"Organizational Documents" means (a) in the case of any Person organized as a corporation, the certificate or articles of incorporation of such corporation and the bylaws of such corporation, (b) in the case of any Person organized as a limited liability company, the certificate of formation or organization and the limited liability company agreement or operating agreement, (c) in the case of any Person organized as a limited partnership, the certificate of limited partnership and partnership agreement of such limited partnership, (d) in the case of any other Person, all constitutive or organizational documents of such Person which address matters relating to the business and affairs of such Person similar to the matters addressed by the documents referred to in clauses (a) through (c) above in the case of Persons organized as corporations, limited liability companies or limited partnerships and (e) any amendment to any of the foregoing.

"Payment Statement" shall have the meaning set forth in Section 2.7.

"Permit" or "Permits" means all permits, licenses, certifications, approvals, authorizations, consents or similar authorizations issued by any Governmental Authority, including vehicle and business licenses.

"Permitted Liens" means, with respect to any Purchased Asset, any (a) Liens for Taxes not yet due and payable or not yet delinquent or which are being contested in good faith, as set forth on **Schedule 1.1(a)**, (b) statutory Liens or other Liens arising by operation of law securing payments not yet due or which are being contested in good faith, including mechanics, carriers, workmen's, repairmen's or other like Liens arising or incurred in the ordinary course of business or in amounts that are not delinquent and which are not, individually or in the aggregate, material to the business of Seller, and as set forth on **Schedule 1.1(b)**, (c) Liens affecting real property including (i) easements, rights or way, servitudes, licenses, ground leases to utilities, and municipal agreements, (ii) street, alley, highway, telephone line, gas pipeline, power line, and other easements and rights of way of public record on, over or in respect of any such real property, (iii) encroachments and other matters that would be shown in an accurate survey or physical inspection of such real property, and as set forth on **Schedule 1.1(b)** and (iv) Liens in favor of the lessors under leases to real property or encumbering the interests of the lessors in such real property, (d) Liens arising under original purchase price conditional sales contracts and equipment leases with third parties, and (e) other imperfections of title or Liens, if any.

"Person" means any individual, sole proprietorship, general partnership, limited partnership, limited liability company, joint venture, trust, unincorporated association, corporation, Governmental Authority or other entity.

"Petition Date" means January 21, 2026.

"Plant" shall have the meaning set forth in the recitals.

"Proceeding" means any governmental, judicial or adversarial proceeding, litigation, arbitration, or investigation.

"Purchase Price" shall have the meaning set forth in Section 2.5(a).

"Purchased Assets" shall have the meaning set forth in Section 2.1.

"Representative" means, with respect to a particular Person, any director, officer, manager, management committee member, employee, agent, consultant, advisor or other representative of such Person, including legal counsel, accountants and financial advisors.

"Required Permits" are listed on **Schedule 3.3(d)**.

"Sale" means a sale of the Purchased Assets to Purchaser as contemplated by this Agreement and the Sale Order.

"Sale Hearing" means any hearing of the Bankruptcy Court to consider entry of the Sale Order and approval of the Transaction Documents and Transactions.

"Sale Order" has the meaning set forth in Section 6.3, and shall be reasonably acceptable in form and substance to Purchaser and Seller.

"Schedules" means the disclosure schedules and any other schedule to this Agreement.

"Sierra Deposit" means the amount, as of Closing, of the cash balance of the deposit made by Seller to Sierra in connection with the Agreement for Standby Electric Service, dated October 27, 2016, between Seller and Sierra. As of the Agreement Date, the Sierra Deposit is $158,000.

"Sierra" means Sierra Pacific Power Company d/b/a NV Energy.

"Subsidiary" means, with respect to any Person, any other Person of which the specified Person, either directly or through or together with any other of its Subsidiaries, owns more than (a) fifty percent (50%) of the equity interests or (b) fifty percent (50%) of the voting power in the election of directors or their equivalents, other than as effected by events of default.

"Switch PPA" means that certain *Power Confirmation*, dated as of May 30, 2025, by and between Seller and Switched On, LLC, a Nevada limited liability company ("Switch"), as may be renewed, amended or extended, from time to time.

"Tenaska Management Agreement" means that certain Energy Management Agreement, dated September 18, 2025, by and between Seller and Tenaska Power Service Co., as may be renewed, amended or extended, from time to time.

"Tangible Personal Property" means all machinery, mobile or otherwise, equipment, spare parts, vehicles, pumps, fittings, tools, furniture or furnishings, meter equipment and other tangible personal property owned by Seller for use or consumption primarily at the Plant in connection with the Business.

"Tawny Point Consulting Agreement" means that certain *Consulting Agreement*, dated February 27, 2025, by and between Seller and Tawny Point, LLC, including all addendums and amendments thereto, as may be renewed, amended or extended, from time to time.

"Tax" means any foreign, federal, state or local income, gross receipts, franchise, estimated, alternative minimum, add-on minimum, sales, use, highway use, transfer, registration, vehicle registration, value added, excise, natural resources, severance, stamp, occupation, occupancy, ad valorem, premium, windfall profit, environmental, customs, duties, real property, personal property, property, capital stock, social security, unemployment, disability, payroll, license, employee or other withholding, or other tax, of any kind whatsoever, including any interest, penalties or additions to tax (whether disputed or not) in respect of the foregoing.

"Tax Returns" means returns, declarations, reports, claims for refund, information returns or other documents (including any related or supporting schedules, statements or information) and any amendment to any of the foregoing filed or required to be filed in connection with the determination, assessment or collection of any Taxes of any party or the administration of any Laws relating to any Taxes.

"Third Party Prepayment and Deposit Amounts" means (a) the BLM Deposit Amount, (b) the BLM Prepayment Amount, (c) the Sierra Deposit, and (d) the BLM 2026 Rent and Fees.

"Transaction Documents" means this Agreement, the Transition Services Agreement, the Bill of Sale, Assignment and Assumption Agreement and IP Assignment Agreement and any agreement, instrument or other document entered into pursuant to the terms hereof in connection with the Transactions.

"Transactions" means the transactions contemplated by this Agreement and the Transaction Documents, including the Sale of the Purchased Assets as provided for in this Agreement and the Sale Order.

"Transition Services Agreement" means any transition services agreement that may be entered into by and between Purchaser and the Operator.

"Transfer Tax" means any stamp or other sales, transfer, use, recordation, documentary, stamp, value added, excise or similar transaction Tax of any nature whatsoever, applicable to or arising as a result of the consummation of any of the Transactions.

ARTICLE II

TRANSACTIONS

2.1 Purchase and Sale. Pursuant to sections 105, 363 and 365 of the Bankruptcy Code, subject to the terms and conditions of this Agreement and to the entry and terms of the Sale Order, at the Closing, Seller shall sell, transfer, assign, convey and deliver to Purchaser, and Purchaser shall purchase, acquire and accept from Seller, on an as-is, where-is basis, all of Seller's right, title and interest in, to and under, all of Seller's properties, rights, interests and assets, whether real or personal and whether tangible or intangible, which exist as of, or acquired by Seller after, the Agreement Date, but excluding in all cases the Excluded Assets (collectively, the "Purchased Assets"). Without limiting the foregoing, the Purchased Assets include, but are not limited to, the following:

(a) all right, title and interest of Seller in and to the real property leased by Seller from the BLM ROW grants listed on **Schedule 2.1(a)**;

(b) to the extent transferrable under applicable Law, all interests of Seller in and to easements, water rights and water permits related to the Plant, as set forth on **Schedule 2.1(b)**;

(c) to the extent assignable under applicable Law, the Assigned Contracts;

(d) to the extent assignable or transferrable under applicable Law, all rights and interests of Seller in and to all Permits related to the Purchased Assets and/or operation of the Business as set forth on **Schedule 2.1(d)**;

(e) to the extent assignable or transferrable under applicable Law, the Intellectual Property license granted by Cobra Thermosolar Plants, Inc. to Tonopah Solar Energy, LLC in Section 37.3 of the Contract for the Engineering, Procurement and Construction of the 110MW Nominal Capacity Thermosolar Electrical Generation Facility in Tonopah, Nevada, USA, dated as of September 14, 2011, by and between Tonopah Solar Energy, LLC and Cobra Thermosolar Plants, Inc.;

(f) the domain name registration for crescentdunessolar.com;

(g) all right, title and interest of Seller in and to the Plant, as set forth on **Schedule 2.1(g)**;

(h) all Inventory;

(i) all rights and interests of Seller in and to the Third Party Prepayment and Deposit Amounts;

(j) subject to the Confidentiality Restrictions and Section 7.3, and solely to the extent directly related to the operation, maintenance, repair and regulatory compliance of the Purchased Assets since December 18, 2020, copies (but not originals) of (in whatever format they exist, whether in hard copy or electronic format) such documents, manuals, and records in hand of Seller as are reasonably necessary for the continued use, operation, and maintenance of the Plant and operation of the Business following the Closing, including the following: historical customer files, test results, product specifications, plans, data, studies, drawings, diagrams, training manuals, safety and environmental reports and documents, operating, maintenance, repair and safety manuals, environmental and regulatory permits and filings; technical drawings and as-built plans; and maintenance logs (collectively, the "Books and Records"). For the avoidance of doubt, Seller shall not be required to deliver the following which shall be Excluded Assets: (i) any financial models, tax records, internal correspondence or memoranda, or pricing or strategic plans; (ii) any records subject to attorney-client privilege of the Seller; (iii) any privileged or confidential materials unrelated to the Purchased Assets; or (iv) any documents not customarily transferred in an asset sale of this nature; and

(k) to the extent not listed above, and except for the Tangible Personal Property listed on **Schedule 2.3(c)**, all Tangible Personal Property, substantially as listed on **Schedule 2.1(k)**, that is located at the Plant as of the Closing, and, solely to the extent related to the Tangible Personal Property listed on **Schedule 2.1(k),** any and all rights of the Seller to the warranties and licenses received from manufacturers and/or sellers of Tangible Personal Property listed on **Schedule 2.1(k).**

2.2 Assumed Liabilities. Subject to the terms and conditions set forth herein, Purchaser shall assume and agree to pay, perform and discharge when due the following Liabilities (collectively, the "Assumed Liabilities"):

(a) all Liabilities and obligations of Seller under the Assigned Contracts arising from and after the Closing Date;

(b) any and all Liabilities arising out of the conduct of the Business, from and after the Closing Date, including surety bond and all other obligations under the BLM ROWs and any Post-Closing Permit; and

(c) 50% of all Transfer Taxes;

2.3 Excluded Assets. Notwithstanding anything to the contrary in this Agreement, in no event shall Seller be deemed to sell, transfer, assign, convey or deliver, and Seller shall retain all right, title, interest and Liabilities, in, to, and under the following properties, rights, interests and other assets of Seller (collectively, the "Excluded Assets");

(a) Seller's rights under this Agreement (including the right to receive the Purchase Price) and under any Transaction Documents to be entered into in connection with the Transactions;

(b) all Excluded Contracts, including, without limitation, the Contracts listed on **Schedule 2.3(b)** and all deposits related to such Excluded Contracts;

(c) Seller's Tangible Personal Property listed on **Schedule 2.3(c)**.

(d) all of the Debtor's rights and interests in the Indemnification Escrow Account established in *Findings of Fact, Conclusions of Law and Order Confirming Chapter 11 Plan for Tonopah Solar Energy, LLC* entered in the Debtor's chapter 11 bankruptcy case commenced on June 30, 2020, in the United States Bankruptcy Court for the District of Delaware. *See In re Tonopah Solar Energy, LLC*, Case No. 20-11884 (KBO) (Bankr. D. Del. Dec. 9, 2020)."

(e) all cash and cash equivalents including, but not limited to, refunds, accounts receivable, owned by or owing to Seller arising out of the operation of the Plant or the Business;

(f) all shares of capital stock or other equity interests of Seller or its Affiliates or securities convertible into or exchangeable or exercisable for shares of capital stock or other equity interests of Seller or its Affiliates;

(g) all insurance policies relating to the Purchased Assets, including all insurance recoveries and return of premiums, claim deposits, letters of credit, guarantees, other securities, and security deposits due thereunder, rights to assert claims with respect to any such policies and proceeds thereof;

(h) all Books and Records except as set forth in Section 2.1(j);

(i) any Organizational Documents, qualifications to do business as a foreign corporation, arrangements with registered agents relating to foreign qualifications, taxpayer and other identification numbers, seals, minute books, blank stock certificates and other documents relating to the organization, maintenance and existence of Seller or its Affiliates, whether before, on or after the Closing Date;

(j) all claims or causes of action that Seller may have against any third party with respect to any Excluded Assets or Excluded Liabilities;

(k) all Tax refunds, credits, abatements or similar offsets against Taxes of Seller attributable to any period prior to the Closing Date;

(l) all bank accounts (including, without limitation, any deposit, savings or investment accounts) of Seller;

(m) all cash and all proceeds received from the sale or liquidation of any Excluded Asset;

(n) all deposits and expenses that have been prepaid by Seller or on its behalf by its Affiliates to the extent attributable to the ownership and operation of any Excluded Assets or Excluded Liabilities; provided, that the Third Party Prepayment and Deposit Amounts are not Excluded Assets; and

(o) all claims or causes of action of any kind or character, including those arising under Chapter 5 of the Bankruptcy Code or similar state laws, that Seller may have against any third party with respect to any Purchased Assets or Assumed Liabilities.

2.4 Excluded Liabilities. Other than the Assumed Liabilities, Purchaser shall not assume and shall not be responsible to pay, perform or discharge any Liabilities of Seller (collectively, the "Excluded Liabilities"). Without limiting the foregoing, Excluded Liabilities shall include, but not be limited to, the following:

(a) all Cure Costs;

(b) 50% of all Transfer Taxes; and

(c) all Liabilities of Seller for the costs and expenses, including attorneys' fees, incurred by Seller in connection with obtaining the approvals listed on **Schedule 7.10(a)**, as further set forth in Section 10.3.

2.5 Purchase Price.

(a) The aggregate consideration to be paid by Purchaser for the purchase of the Purchased Assets shall be the sum of the following (the "Purchase Price"): (i) cash in the amount of $7,000,000 ("Cash Payment"), *plus* (ii) the assumption of the Assumed Liabilities. Notwithstanding the foregoing and for avoidance of doubt, the Cash Payment is the only cash consideration to be provided by Purchaser for the Purchased Assets, inclusive of any Cure Costs and under no circumstance shall the consideration from Purchaser for the Transactions exceed the Purchase Price.

2.6 Deposit.

(a) Upon execution of this Agreement, Purchaser shall deliver to Synovus Bank, as escrow agent (the "Escrow Agent"), a deposit in the amount of $700,000 (the "Deposit").

(b) The Deposit shall be held in a segregated escrow account established with the Escrow Agent and invested in a manner mutually agreed upon by the Parties in accordance with the terms of this Agreement and the applicable escrow agreement (the "Escrow Agreement"). The Deposit shall be released and delivered (together with all accrued investment income thereon) by the Escrow Agent to either Purchaser or Seller, as applicable, as follows, in each case, in accordance with the Escrow Agreement:

(i) if the Closing shall occur, the Deposit shall be released to Seller;

(ii) if this Agreement is terminated in accordance with the terms of Section 9.2(d), the Deposit shall be released to Seller; or

(iii) if this Agreement is terminated in accordance with Section 9.2(f), the Deposit shall be released to Purchaser.

2.7 Closing Payment. No later than two (2) Business Days prior to the Closing Date, Seller shall deliver a written statement (a "Payment Statement") to Purchaser setting forth wiring instructions for the payment of the Purchase Price. At the Closing, Purchaser shall pay to Seller (i) the Cash Payment (including the Deposit), plus (ii) the Assumed Liabilities, by wire transfer of immediately available funds to an account designated by Seller on the Payment Statement.

2.8 Allocation of Purchase Price. Within thirty (30) days following Closing, and notwithstanding Section 3.8 (regarding the allocation of costs for the Post-Closing Permits), Seller shall prepare and provide a proposed allocation of the Purchase Price to Purchaser (including any Assumed Liabilities treated as consideration for the Purchased Assets for Tax purposes) (the "Allocation Schedule") in accordance with Code Section 1060 and Treasury regulations thereunder (and any similar provision of state, local, or non-U.S. law, as appropriate). If Purchaser delivers any written comments within ten (10) business days of receipt of the draft Allocation Schedule proposed by Seller, the Parties shall use commercially reasonable efforts to resolve such comments in good faith. If the Parties cannot resolve the comments, the Allocation Schedule shall be subject to review and approval by the Bankruptcy Court. Seller and Purchaser and their Affiliates shall report, act, and file Tax Returns (including, but not limited to, Internal Revenue Service Forms 8594) in all respects and for all purposes consistent with such allocation prepared by Seller. Purchaser shall timely and properly prepare, execute, file, and deliver all such documents, forms, and other information as Seller may reasonably request in preparing such allocation. Neither Seller nor Purchaser shall take any position (whether in audit, Tax Return, or otherwise) that is inconsistent with such allocation unless required to do so by applicable Law.

2.9 Non-Assignable Assets.

(a) Notwithstanding anything to the contrary in this Agreement, and subject to the provisions of this Section 2.9, to the extent that the sale, assignment, transfer, conveyance or delivery, or attempted sale, assignment, transfer, conveyance or delivery, to Purchaser of any Purchased Asset would result in a violation of applicable Law, or would require the consent, authorization, approval or waiver of a Person who is not party to this Agreement or an Affiliate of a party to this Agreement (including any Governmental Authority), and such consent, authorization, approval or waiver shall not have been obtained prior to the Closing, this Agreement shall not constitute a sale, assignment, transfer, conveyance or delivery, or an attempted sale, assignment, transfer, conveyance or delivery thereof; provided, however, that subject to the satisfaction or waiver of the conditions contained in Article III, the Closing shall occur notwithstanding the foregoing without any adjustment to the Purchase Price on account thereof. Following the Closing, Seller and Purchaser shall use commercially reasonable efforts, and shall cooperate with each other, to obtain any such required consent, authorization, approval or waiver, or any release, substitution or amendment required to novate all liabilities and obligations under any and all Assigned Contracts or other liabilities that constitute Assumed Liabilities or to obtain in writing the unconditional release of all parties to such arrangements, so that, in any case, Purchaser shall be solely responsible for such liabilities and obligations from and after the Closing Date; provided, however, that neither Seller nor Purchaser shall be required to pay any consideration therefor. Once such consent, authorization, approval, waiver, release, substitution or amendment is obtained, Seller shall sell, assign, transfer, convey and deliver to Purchaser the relevant Purchased Asset to which such consent, authorization, approval, waiver, release, substitution or amendment relates for no additional consideration. Applicable sales, transfer and other similar Taxes in connection with such sale, assignment, transfer, conveyance or license shall be paid by Purchaser.

(b) To the extent that any Purchased Asset and/or Assumed Liability cannot be transferred to Purchaser following the Closing pursuant to this Section 2.9, Purchaser and Seller shall use commercially reasonable efforts to enter into such arrangements (such as subleasing, sublicensing or subcontracting) to provide to the Parties the economic and, to the extent permitted under applicable Law, operational equivalent of the transfer of such Purchased

Asset and/or Assumed Liability to Purchaser as of the Closing and the performance by Purchaser of its obligations with respect thereto. Purchaser shall, as agent or subcontractor for Seller pay, perform and discharge fully the liabilities and obligations of Seller thereunder from and after the Closing Date. To the extent permitted under applicable Law, Seller shall, at Purchaser's expense, hold in trust for and pay to Purchaser promptly upon receipt thereof, such Purchased Asset and all income, proceeds and other monies received by Seller to the extent related to such Purchased Asset in connection with the arrangements under this Section 2.9. Seller shall be permitted to set off against such amounts all direct costs associated with the retention and maintenance of such Purchased Assets. Notwithstanding anything herein to the contrary, the provisions of this Section 2.9 shall not apply to any consent or approval required under any Antitrust Law or competition or trade regulation Law.

2.10 Withholding Rights. If Purchaser intends to deduct or withhold from any amount otherwise payable to Seller under this Agreement, Purchaser shall notify Seller as soon as reasonably possible, but in no event less than ten (10) Business Days prior to the date on which such amount is to be paid of such intention to deduct or withhold, which notice shall include a statement of the amounts to be deducted or withheld in respect of such payment and the basis for the withholding obligation, and Purchaser shall reasonably cooperate with Seller to reduce or eliminate such deduction or withholding.

2.11 Receipt of Misdirected Assets; Liabilities. If after the Closing (a) Purchaser or any of its Affiliates holds or receives any Excluded Assets or Excluded Liabilities or (b) Seller holds or receives any Purchased Assets or Assumed Liabilities, Purchaser or Seller, as applicable, will promptly transfer (or cause to be transferred) such assets or assume (or cause to be assumed) such Liabilities to or from (as the case may be) the other Party. Prior to any such transfer, the Party holding, receiving or possessing any such asset will hold it in trust for such other Party.

2.12 Assumption/Rejection of Certain Contracts.

(a) Assumption and Assignment of Executory Contracts.

(i) **Schedule 2.12(a)(i)** sets forth a true and complete list, as of the date of this Agreement, of all executory Contracts to which the Seller is a party that are subject to assumption or rejection pursuant to Section 365 of the Bankruptcy Code (the "Available Contracts") and the estimated Cure Costs for each Available Contract (which shall be determined by Seller in good faith based on Seller's books and records).

(ii) Subject to the terms and conditions of this Agreement and the Sale Order, Purchaser may designate for assumption by Seller and assignment to Purchaser, pursuant to sections 363 and 365 of the Bankruptcy Code, any Available Contract. Set forth on **Schedule 2.12(a)(ii)**, is a list of the Available Contracts that Purchaser elects to have assumed and assigned (the "Assigned Contracts") to Purchaser (the "Designation Notice Schedule"), which must be included with Purchaser's submission of its bid under the Bidding Procedures Order. Any executory contract or unexpired lease not identified on the Designation Notice Schedule shall be deemed an "Excluded Contract" and shall not be assumed by Seller and assigned to Purchaser at the Closing. Notwithstanding anything contained herein to the contrary, the Switch PPA will not be an Assigned Contract, or otherwise assigned to Purchaser, unless both of the following Contracts are also Assigned Contracts, or otherwise assigned to Purchaser, and concurrently assigned to Purchaser with any assignment of the Switch

PPA: (1) the Tenaska Management Agreement, and (2) the Tawny Point Consulting Agreement.

(iii) Seller shall be solely responsible for, and shall promptly pay or cause to be paid, all cure amounts required under section 365 of the Bankruptcy Code to assume and assign each Assigned Contract (the "Cure Costs"), including any Cure Costs determined or increased by the Bankruptcy Court after Closing, together with any transfer, assignment, or consent fees and all other out-of-pocket costs of obtaining any necessary third-party consents to assignment. As a condition to Seller's obligation to seek assumption and assignment of any Assigned Contract, Purchaser shall provide to Seller, sufficiently in advance of the Sale Hearing, such financial and other information regarding Purchaser and its proposed performance as is reasonably necessary to demonstrate "adequate assurance of future performance" within the meaning of section 365(b)(1) and (f)(2) of the Bankruptcy Code. Purchaser shall cooperate in good faith with Seller to prepare, file, and serve any required notices on counterparties and to resolve objections relating to Cure Costs and adequate assurance; provided, that Purchaser shall have no obligation to pay any Cure Costs, consent fees, or other amounts to counterparties, and Purchaser shall advance (or escrow at Seller's request) disputed or estimated Cure Costs as a condition to assumption and assignment; provided that any such advanced funds shall be credited to the Purchase Price.

(iv) Seller shall not be required to assume or assign any contract or lease that (a) is not listed on **Schedule 2.12(a)**, (b) is not designated in accordance with **Section 2.12(a)(ii)** on the Designation Notice Schedule attached hereto as **Schedule 2.12(a)(ii)**, (c) requires a nonbankruptcy-law consent that is not obtained prior to Closing (and as to which the Sale Order does not authorize assignment free and clear), or (d) would impose on Seller any obligation, expense, or liability other than ministerial filing and service obligations; provided, that if such consent is obtained after Closing but prior to the Outside Date, Seller shall, at Purchaser's sole cost and expense and without material obligation to Seller, promptly effect assignment of such contract or lease to Purchaser. Purchaser may withdraw an Assigned Contract from the Designation Notice Schedule with respect to an Assigned Contract prior to two (2) Business Days before the Sale Hearing; thereafter, no de-designation shall be permitted absent Seller's written consent.

(v) Nothing herein shall obligate Seller to (i) commence or prosecute any adversary proceeding or contested matter, (ii) agree to any modification of any contract or lease, or (iii) assume or assign any contract or lease that, in the reasonable judgment of Seller (after consultation with Purchaser), would impose material obligations on Seller beyond those contemplated by this Agreement and the Sale Order. To the extent of any inconsistency between this Section and the Sale Order, the Sale Order shall control.

(b) Non-Assignment.

(i) Notwithstanding anything to the contrary in this Agreement, a Contract will not be an Assigned Contract hereunder and will not be assigned to, or assumed by, Purchaser to the extent that such Contract (a) is rejected by Seller under section 365 of the Bankruptcy Code, or (b) terminates or expires by its terms, on or prior to such time as it is to be assumed by Purchaser as an Assigned Contract hereunder.

(ii) The Sale Order shall provide, pursuant to sections 365(e) and 365(f) of the Bankruptcy Code, that any provision in any Assigned Contract that purports to prohibit, restrict, or condition Seller's assignment of such Assigned Contract to Purchaser or provide for the termination or modification of such Assigned Contract based on the filing of a bankruptcy case, the financial condition of Seller or similar circumstances is unenforceable and of no force and effect.

ARTICLE III

CLOSING

3.1 Time and Place. The closing of the Transactions (the "Closing") shall take place on the date which is no later than two (2) Business Days after the date on which the full satisfaction or due waiver of all of the closing conditions set forth in Sections 3.2, 3.3 and 3.4 (other than those to be satisfied at the Closing, but subject to the satisfaction or waiver of those conditions at Closing) occurs or on such other date as is mutually agreed to in writing by the Parties. In lieu of a physical closing, the Parties agree that all requisite closing documents may be exchanged electronically at the Closing, and that documents so exchanged shall be binding for all purposes. The date on which the Closing occurs is referred to herein as the "Closing Date" and for accounting purposes the effective time of the Closing shall be deemed to be 12:01 a.m. prevailing Eastern Time on the Closing Date.

3.2 Conditions Precedent to Obligations of All Parties. The obligations of each Party to consummate the Transactions are subject to the fulfillment, at or prior to the Closing, of each of the following conditions precedent:

(a) No Governmental Prohibition. No Governmental Authority shall have enacted, issued, promulgated, enforced or entered any Governmental Order which is in effect and has the effect of making the Transactions illegal, otherwise restraining or prohibiting consummation of such Transactions or causing any of the Transactions to be rescinded following completion thereof.

(b) Consents, Authorizations and Approvals. The Parties shall have received the consents, authorizations and approvals listed on **Schedule 3.2(b)**, including the FERC Approval.

(c) Sale Order. The final Sale Order shall have been entered by the Bankruptcy Court and shall not have been stayed, modified, reversed, amended, or be subject to appeal. The Sale Order shall include a finding that Purchaser is a "good faith" purchaser and entitled to the protections under section 363(m) of the Bankruptcy Code.

(d) Bill of Sale. The Parties shall have duly executed and delivered a bill of sale to convey the Purchased Assets to Purchaser (the "Bill of Sale"), in form and substance reasonably acceptable to the Parties.

(e) Assignment and Assumption Agreement. The Parties shall have duly executed and delivered (i) an assignment and assumption of the Purchased Assets that are Assigned Contracts (the "Assignment and Assumption Agreement"), in form and substance reasonably acceptable to the Parties, and (ii) an Intellectual Property assignment agreement (the "IP Assignment Agreement"), in form and substance reasonably acceptable to the Parties.

(f) Escrow Agreement. The Parties and Escrow Agent shall have duly executed and delivered countersignatures to the Escrow Agreement

3.3 Conditions of Seller's Obligations at the Closing. Seller's obligation to consummate the Closing is subject to the satisfaction, or waiver by Seller, at or prior to the Closing of each of the following conditions precedent:

(a) Purchaser Representations and Warranties. The representations and warranties of Purchaser contained in Article V shall be true and correct as of the Closing Date with the same effect as though made at and as of such date (except those representations and warranties that address matters only as of a specified date, which shall be true and correct in all respects as of that specified date).

(b) Purchaser Covenants. Purchaser shall have duly performed and complied in all material respects with all agreements, covenants and conditions required by this Agreement to be performed or complied by it prior to or on the Closing Date.

(c) Purchase Price. Seller shall have received the Purchase Price.

(d) Required Permits. As applicable, Seller shall have received evidence that each Required Permit has been (1) assigned to Purchaser, effective as of Closing, or (2) replaced by an equivalent permit obtained by Purchaser, in each case including a full release of Seller from all obligations and liabilities under such Required Permit.

(e) Officer's Certificate. Purchaser shall have duly executed and delivered to Seller an officer's certificate, dated as of the Closing Date, executed by a duly authorized officer of Purchaser certifying that the conditions set forth in Sections 3.3(a) and (b) have been satisfied, in a form reasonably acceptable to Seller.

3.4 Conditions of Purchaser's Obligations at the Closing. Purchaser's obligation to consummate the Transactions is subject to the satisfaction, or waiver by Purchaser, at or prior to the Closing of each of the following conditions precedent:

(a) Seller Representations and Warranties. The representations and warranties of Seller contained in Article IV shall be true and correct as of the Closing Date (other than de minimis inaccuracies) with the same effect as though made at and as of such date (except those representations and warranties that address matters only as of a specified date, which shall be true and correct in all respects as of that specified date).

(b) Seller Covenants. Seller shall have duly performed and complied in all material respects with all agreements, covenants and conditions required by this Agreement to be performed or complied by it prior to or on the Closing Date.

(c) Officer's Certificate. Seller shall have duly executed and delivered to Purchaser an officer's certificate, dated as of the Closing Date, executed by a duly authorized officer of Seller certifying that the conditions set forth in Sections 3.3(a) and (b) have been satisfied, in a form reasonably acceptable to Purchaser.

(d) Material Adverse Effect. No Material Adverse Effect shall have occurred since the Agreement Date and then be continuing.

3.5 Long Stop Date. Notwithstanding anything to the contrary set forth in this Agreement, if the Closing has not occurred on or before June 19, 2026 (the "Long Stop Date"), Seller shall have the right to terminate this Agreement, unless the Long Stop Date is extended as agreed in writing by the Parties; provided, however, that if FERC Approval has not been obtained by June 19, 2026, and FERC Approval is the only outstanding condition to closing, the Long Stop Date shall be automatically extended to the date that is 180 days from the date that the Sale Order is entered.

3.6 Post-Closing Transition Period. The Parties acknowledge that certain licenses and permits necessary for the operation of the Business (the "Post-Closing Permits") may not be transferable or obtained prior to the Closing. Accordingly, the Parties agree to collaborate in good faith during the Post-Closing Permits Transfer Period to complete the transfer, assignment, or procurement of any such Post-Closing Permits as listed on **Schedule 3.6**; provided, however, Purchaser shall have the primary responsibility for securing the Post-Closing Permits at its sole cost and expense, as set forth in Section 3.8, including engaging with the relevant Governmental Authorities and fulfilling any additional administrative or compliance requirements. Purchaser shall ensure that all operational activities comply with applicable laws and regulations during the Post-Closing Permits Transfer Period.

3.7 Effect on Closing Validity.

(a) The inability to obtain or transfer any Post-Closing Permit prior to the Closing shall not:

(i) delay or invalidate the Closing;

(ii) constitute a breach of this Agreement by Seller; or

(iii) impose any additional Liability or penalty on Seller.

(b) Any delays in the transfer or procurement of Post-Closing Permits shall be managed in accordance with the cooperation obligations outlined in this Section and shall not affect Purchaser's obligation to consummate the Transaction.

3.8 Allocation of Costs. All costs and expenses associated with the transfer or procurement of the Post-Closing Permits listed on **Schedule 3.6** shall be borne by the party incurring such costs and expenses.

3.9 Duration of Cooperation. The Parties agree to collaborate in good faith for a period of up to two (2) months following the Closing Date to complete the transfer or procurement of the Post-Closing Permits (the "Post-Closing Permits Transfer Period"). After this period, Seller shall have no further obligation with respect to such permits, except as expressly required by law.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES OF SELLER

Except as set forth in the Schedules hereto, Seller hereby represents and warrants to Purchaser that the statements contained in this Article IV are true and correct as of the date hereof and as of the Closing:

4.1 Organization and Authorization.

(a) Seller is duly organized, validly existing and in good standing under the Laws of the State of Delaware. Seller has all necessary limited liability company power and authority to own, operate or lease the properties and assets now owned, operated or leased by it and to carry on its business as it is currently conducted. Seller is duly licensed or qualified to do business in the State of Nevada.

(b) Subject to entry of the Sale Order, Seller has all necessary limited liability company power and authority to enter into this Agreement and the other Transaction Documents to carry out its obligations hereunder and thereunder and to consummate the Transactions. The execution and delivery by Seller of this Agreement, the performance by Seller of its obligations hereunder and the consummation by Seller of the Transactions have been duly authorized by all requisite limited liability company action on the part of Seller. This Agreement has been duly executed and delivered by Seller, and (assuming due authorization, execution and delivery by the other Parties) this Agreement constitutes a legal, valid and binding obligation of Seller, enforceable against Seller in accordance with its terms, subject to the Enforceability Exceptions.

4.2 No Conflicts; Consents. Subject to the Sale Order having been entered by the Bankruptcy Court, the execution, delivery and performance by Seller of this Agreement do not and will not: (a) result in a violation or breach of any provision of Seller's Organizational Documents, or (b) result in a violation of any Law.

4.3 Title to Purchased Assets. Except as set forth on **Schedule 4.3**, Seller has good and valid title to, or, in the case of any leased or subleased property, valid and subsisting leasehold interests in the Purchased Assets.

4.4 Legal Proceedings. Except as set forth on **Schedule 4.4**, there are no actions pending, or to the knowledge of the Seller, threatened against or by Seller relating to or affecting the Business, the Plant, the Purchased Assets, and/or Assumed Liabilities, except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

4.5 Compliance with Laws. Except as set forth on **Schedule 4.5**, Seller has complied, and is in compliance with all Laws applicable to the conduct of the Business as currently conducted or the ownership of the Purchased Assets, except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

4.6 Employee Matters. Seller does not have any employees.

4.7 Brokers. Except as listed on **Schedule 4.7**, no agent, broker, investment banker or other Person acting on behalf of Seller, or under the authority thereof, is or will be entitled

to any fee or commission directly or indirectly from any of the Parties in connection with any of the Transactions.

4.8 No Other Representations and Warranties. Except for the representations and warranties contained in this Article IV, neither Seller nor any other Person has made or makes any other express or implied representation or warranty, either written or oral, on behalf of Seller, including any representation or warranty as to the accuracy or completeness of any information furnished or made available to Purchaser and its Representatives (including any information, documents or material made available to Purchaser in the Data Room, management discussions or in any other form in expectation of the Transactions) or as to the future revenue, profitability or success of Seller or the Business, or any representation or warranty arising from statute or otherwise in law.

ARTICLE V

REPRESENTATIONS AND WARRANTIES CONCERNING PURCHASER

Purchaser hereby represents and warrants to Seller that the statements contained in this Article V are true and correct as of the date hereof and as of the Closing:

5.1 Organization and Authorization.

(a) Purchaser is duly organized, validly existing and in good standing under the Laws of the jurisdiction of its organization or formation.

(b) Purchaser has all necessary corporate power and authority to enter into this Agreement and the other Transaction Documents, to carry out its obligations hereunder and thereunder and to consummate the Transactions. The execution and delivery by Purchaser of this Agreement to which it is party, the performance by Purchaser of its obligations hereunder and thereunder and the consummation by Purchaser of the Transactions have been duly authorized by all requisite corporate action on the part of Purchaser. This Agreement has been duly executed and delivered by Purchaser, and (assuming due authorization, execution and delivery by the other Parties) this Agreement constitutes a legal, valid and binding obligation of Purchaser, enforceable against Purchaser in accordance with its terms, subject to the Enforceability Exceptions. Each of the other Transaction Documents to be executed and delivered by or on behalf of Purchaser will be duly executed and delivered by Purchaser, and, (assuming due authorization, execution and delivery by the other parties to each such Transaction Document) when so executed and delivered, will constitute the legal, valid and binding obligation of Purchaser, enforceable against Purchaser in accordance with its terms, subject to the Enforceability Exceptions.

(c) No notice to, consent, approval or authorization of or designation, declaration or filing with any Governmental Authority or any other Person is required by Purchaser with respect to Purchaser's execution and delivery of any Transaction Document to which it is (or will become at Closing) a party or the consummation of the Transactions, except (i) the Sale Order having been entered by the Bankruptcy Court, (ii) the consents, approvals and authorizations set forth on **Schedule 5.1(c)** and (iii) any consent, approval or authorization of or designation, declaration or filing with any Governmental Authority the failure of which to be made or obtained would not, individually or in the aggregate, be reasonably expected to result in a material breach of this Agreement.

5.2 No Conflicts. The execution, delivery and performance by Purchaser of this Agreement and the other Transaction Documents, and the consummation of the Transactions by Purchaser, do not and will not:

(a) result in a violation or breach of any provision of Purchaser's Organizational Documents;

(b) result in a violation of any Law; or

(c) result in a violation or breach of, constitute a default under or result in the acceleration, payment, cancellation or termination of or under any Contract to which Purchaser is a party.

5.3 Litigation. There are no Proceedings pending or, to Purchaser's knowledge, threatened in writing against Purchaser before any Governmental Authority nor any sanctions, embargoes, or restrictions under applicable Law, including but not limited to those administered by the U.S. Office of Foreign Assets Control or any equivalent foreign authority nor any material Liens, encumbrances, attachments, judgments, or similar proceedings against them, that challenges or seeks to prevent, enjoin, hinder, alter or delay the Transactions or, if adversely determined would reasonably be expected to impair the ability of Purchaser to consummate the Transactions on the terms and conditions set forth in this Agreement.

5.4 Brokers' or Finders' Fees. Except as listed on **Schedule 5.4**, no agent, broker, investment banker or other Person acting on behalf of Purchaser, or under the authority thereof, is or will be entitled to any fee or commission directly or indirectly from any of the Parties in connection with any of the Transactions.

5.5 Access to and Evaluation of Information Concerning the Business and the Purchased Assets. Purchaser:

(a) has sufficient knowledge, sophistication and experience in business and financial matters and similar investments so as to be capable of evaluating the merits and risks of purchasing the Purchased Assets; and

(b) has become familiar with the business, financial condition and operations of the Business, has been given access to and an opportunity to examine such documents, materials and information concerning the Business as Purchaser deems to be necessary or advisable in order to reach an informed decision regarding its purchase of the Purchased Assets and has had answered to Purchaser's full satisfaction any and all questions regarding such information.

5.6 BLM Consents.

(a) Purchaser has reviewed and understands the requirement for obtaining the BLM Consents.

(b) Purchaser has the financial, technical, and organizational capacity to comply with any obligations or conditions that may be imposed by the BLM in connection with obtaining the BLM Consents.

(c) Purchaser is not aware of any fact or circumstance within its control, including its ownership structure or past conduct, that would reasonably be expected to result in a denial of the BLM Consents.

(d) Purchaser has conducted its own due diligence with respect to the BLM Contracts and acknowledges (i) the specific terms and obligations, including any dismantling or restoration requirements associated with the BLM Contracts and (ii) the Seller has not provided any guarantees or assurances regarding the future renegotiation or amendment of the BLM Contracts by Purchaser.

5.7 No CFIUS Approval. CFIUS does not have jurisdiction over Purchaser's acquisition of the Purchased Assets. Purchaser is ultimately owned and controlled by U.S. persons and is therefore not a "foreign person" for CFIUS purposes.

5.8 FERC Approval.

(a) Purchaser has reviewed and understands the requirements to obtain prior FERC Approval under Section 203 of the Federal Power Act to transfer control of FERC jurisdictional assets and the procedures to obtain FERC Approval prior to the transfer of control of any and all FERC jurisdictional assets.

(b) Purchaser has the financial, technical, and organizational capacity to obtain FERC Approval.

(c) Purchaser is not aware of any fact or circumstance within its control, including its ownership structure or past conduct, that would reasonably be expected to result in a denial of FERC Approval.

5.9 Sufficiency of Funds. Purchaser has, and as of the Closing will have, sufficient cash on hand or other sources of immediately available funds to (a) enable it to make payment of the Purchase Price, (b) provide adequate assurance of future performance as required under section 365 of the Bankruptcy Code with respect to the Assigned Contracts, and (c) ensure the continued operation and maintenance of the Business, including meeting all ordinary course expenses, Assumed Liabilities and future obligations and/or Liabilities, from the Closing Date onwards. Purchaser acknowledges and agrees that its obligations to consummate the Transactions contemplated by this Agreement, including the payment of the Purchase Price, are not subject to or contingent upon (a) Purchaser's ability to obtain any financing, (b) the receipt of proceeds from any financing, or (c) any financing condition or similar contingency. Purchaser further acknowledges and agrees that in no event shall the failure of Purchaser to have sufficient funds available to consummate the Transactions contemplated hereby be a defense to any claim by Seller for Purchaser's failure to perform its obligations hereunder or otherwise relieve Purchaser of any liability or obligation with respect to this Agreement.

5.10 Solvency. Immediately after giving effect to the Transactions, Purchaser shall be solvent and shall: (a) be able to pay its debts as they become due; (b) own property that has a fair saleable value greater than the amounts required to pay its debts (including a reasonable estimate of the amount of all contingent liabilities); and (c) have adequate capital to carry on its business. No transfer of property is being made and no obligation is being incurred in connection with the Transactions with the intent to hinder, delay or defraud either present or future creditors of Purchaser and its Affiliates. In connection with the Transactions, Purchaser

has not incurred, and does not plan to incur, debts beyond its ability to pay as they become absolute and matured.

5.11 Independent Investigation. Purchaser has conducted its own independent investigation, review and analysis of the results of operations, prospects, condition (financial or otherwise) and assets of Seller, and acknowledges that it has been provided adequate access to the personnel, properties, assets, premises, Books and Records, and other documents and data of Seller for such purpose. Purchaser acknowledges that (a) none of Seller nor any other Person on behalf of Seller, has made any representation or warranty, expressed or implied, as to Seller, or the accuracy or completeness of any information regarding the Business or the Purchased Assets, furnished or made available to Purchaser and its Representatives, or any other matter related to the Transactions, except as expressly set forth in Article IV of this Agreement and the Schedules, (b) Purchaser has not relied on any representation or warranty from Seller or any other Person on behalf of Seller in determining to enter into this Agreement, except as expressly set forth in Article IV of this Agreement and the Schedules, and (c) neither Seller nor any other Person acting on behalf of Seller shall have any Liability to Purchaser or any other Person with respect to any projections, forecasts, estimates, plans or budgets of future revenue, expenses or expenditures, future results of operations, future cash flows or the future financial condition of the Business.

ARTICLE VI

BANKRUPTCY COURT MATTERS

6.1 Bankruptcy Actions.

(a) Seller's obligations under this Agreement and in connection with the Transactions are subject to entry of the Bidding Procedures Order and the Sale Order.

(b) The bidding procedures to be employed with respect to this Agreement shall be those reflected in the Bidding Procedures Order. Purchaser agrees and acknowledges that Seller, including through its representatives, are and may continue soliciting inquiries, proposals or offers from third parties pursuant to the terms of the Bidding Procedures Order. Seller may modify the bidding procedures as permitted in the Bidding Procedures Order.

(c) Purchaser shall promptly take all actions as are reasonably requested by Seller to assist in obtaining the Bankruptcy Court's entry of the Sale Order and any other Governmental Order reasonably necessary to consummate the Transactions, including for the purposes of providing assurances of performance by Purchaser under this Agreement and demonstrating that Purchaser is a "good faith" purchaser under section 363(m) of the Bankruptcy Code, as well as reasonably demonstrating Purchaser's ability to pay and perform or otherwise satisfy any Assumed Liabilities following the Closing.

(d) Seller and Purchaser each shall (i) appear formally in the Bankruptcy Court if reasonably requested by the other Party or required by the Bankruptcy Court in connection with the Transactions and (ii) keep the other reasonably apprised of the status of material matters related to this Agreement, including, upon reasonable request promptly furnishing the other with copies of notices or other communications received from the Bankruptcy Court or any third party and/or any Governmental Authority with respect to the Transactions.

(e) If an Auction is conducted, and Purchaser is not the prevailing party at the conclusion of such Auction (such prevailing party, the "Successful Bidder") but is the next highest bidder at the Auction, Purchaser shall be required to serve as a back-up bidder (the "Backup Bidder"). If Purchaser is the Backup Bidder, Purchaser's bid to consummate the Transactions on the terms and conditions set forth in this Agreement shall remain open and irrevocable until the earlier of (i) consummation of a sale to the Successful Bidder, and (ii) Seller's release of Purchaser from the requirement to serve as a Backup Bidder. If the Successful Bidder fails to consummate its acquisition of the Purchased Assets as a result of a breach or failure to perform on the part of such Successful Bidder, the Backup Bidder will be deemed to have the new prevailing bid. In such event, Seller may consummate the Transactions on the terms and conditions set forth in this Agreement.

(f) Seller shall file such motions or pleadings as may be appropriate or necessary to assume and assign to Purchaser the Assigned Contracts and to determine the amount of the Cure Costs.

(g) Seller shall use commercially reasonable efforts to cooperate with Purchaser concerning the Sale Order, any other orders of the Bankruptcy Court relating to the Transactions, and the bankruptcy proceedings in connection therewith.

(h) In compliance with the terms of the Bidding Procedures Order, Seller and Purchaser acknowledge that this Agreement and the sale of the Purchased Assets are subject to higher or otherwise better bids and Bankruptcy Court approval.

(i) Purchaser shall provide adequate assurance of future performance as required under section 365 of the Bankruptcy Code for each Assigned Contract. Purchaser agrees that it will take all commercially reasonable actions reasonably required to assist Seller in obtaining a Bankruptcy Court finding in the Sale Order or otherwise that there has been a sufficient demonstration of adequate assurance of future performance by Purchaser with respect to the Assigned Contracts, such as furnishing affidavits, non-confidential financial information and other documents or information for filing with the Bankruptcy Court.

6.2 Cure Costs. Subject to entry of the Sale Order, on or prior to the Closing, Seller shall pay the Cure Costs so that the Assigned Contracts may be assumed by Seller and assigned to Purchaser in accordance with the provisions of section 365 of the Bankruptcy Code, this Agreement and the Sale Order.

6.3 Sale Order. Pursuant to sections 105, 363 and 365 of the Bankruptcy Code, the order authorizing and approving the Transactions (the "Sale Order") shall, among other things: (a) approve (i) the execution, delivery and performance by Seller of this Agreement, (ii) the sale of the Purchased Assets to Purchaser on the terms set forth in this Agreement free and clear of all Liens (and Claims other than the Assumed Liabilities and the Permitted Liens), and (iii) the performance by Seller of its obligations under this Agreement; and (b) authorize and empower Seller to assume and assign to Purchaser the Assigned Contracts.

6.4 Notices and Consents. Each of the Parties will use its commercially reasonable efforts to give any notices and obtain any third-party consents, authorizations, Permits or sublicenses, in each case, as are necessary and appropriate to consummate the Transactions. Seller shall control all correspondence and negotiations with third parties regarding any such matters. Seller shall not be obligated to initiate any legal proceedings to obtain such consent authorization, Permit or approval.

6.5 Fiduciary Obligations. Nothing in this Agreement will require the board of managers of Seller to take any action, or to refrain from taking any action, with respect to the Sale or the Bidding Procedures, to the extent such board of managers reasonably determines in good faith, in consultation with counsel, that taking such action, or refraining from taking such action, as applicable, is required to comply with applicable law or its fiduciary obligations under applicable law.

6.6 Stalking Horse Bid Protections. Purchaser has been designated by Seller as the Stalking Horse Bidder and Seller agrees to certain Bid Protections (each as defined in the *Order (I) Approving Bidding Procedures, (II) Scheduling Certain Dates with Respect Thereto (III) Approving the Form and Manner of Notice Thereof, (IV) Approving Assumption and Assignment Procedures, (V) Authorizing the Sale of Assets and (VI) Granting Related Relief* (the "Bidding Procedures Order") (Doc. No. 80)), subject to Court approval, in the amount of up to $175,000.00 as an administrative expense under section 503(b) of the Bankruptcy Code.

ARTICLE VII

OTHER AGREEMENTS AND COVENANTS

7.1 Tax Matters. All Transfer Taxes resulting from the Transactions shall be borne equally by Seller and Purchaser when due, and Purchaser shall, at its expense, file all necessary Tax Returns and other documentation with respect to all such Transfer Taxes and other Taxes and fees, and if required by applicable Law, Seller and Purchaser shall, and shall cause its Affiliates to (if applicable), to join in the execution of any such Tax Returns and other documentation.

7.2 Conduct of Business Prior to the Closing.

(A) From the Agreement Date until the earlier of the Closing and the date that this Agreement is terminated in accordance with its terms (the "Interim Period"), Seller shall continue to conduct the Business and during the Interim Period, Seller shall use commercially reasonable efforts to conduct the Business in the ordinary course of business consistent with past practices, including proper maintenance of the Plant and equipment; provided that the foregoing shall not prohibit Seller from taking, or failing to take, any actions as may be required by applicable Law or Order (including the Bankruptcy Code and any Orders entered by the Bankruptcy Court in the Bankruptcy Case); provided, further, that Seller shall act in good faith and use commercially reasonable efforts to maintain in full force and effect the Switch PPA (including, to the extent commercially reasonable, renewing the Switch PPA in accordance with its terms) until the earlier of (i) the Closing and (ii) such time as Purchaser has negotiated and entered into a definitive agreement with Switch; provided, however, that nothing herein shall prohibit Seller from terminating, amending, or electing not to renew the Switch PPA in accordance with its terms or as required by applicable Law or Order (including the Bankruptcy Code and any Orders entered by the Bankruptcy Court in the Bankruptcy Case); provided further that Seller is not obligated to make or arrange for, or incur costs associated with, repairs to the Plant or any of its components outside of the ordinary course of business (assuming prior proper maintenance of the Plant and equipment in the ordinary course of business). Notwithstanding the foregoing, nothing contained in this paragraph shall be deemed to exclude any such act or action from constituting a Material Adverse Effect. Seller hereby agrees to promptly notify the Purchaser prior to terminating the Switch PPA as provided for in this Section 7.2 and further agrees to promptly notify the Purchaser in the event that the Plant or any of its components are in need of repairs that are outside the ordinary course of business.

(b) Purchaser acknowledges and understands that during the Interim Period Plant operations may be suspended in the event there is no offtake agreement for energy generated by the Plant and that operation of the Plant may include a partial or entire Plant maintenance shutdown at any point prior to the Closing. In this event, Seller will use reasonable efforts to perform such operations without causing material harm to the Purchased Assets, and Seller shall follow all of the Seller's procedures that would be required in the event of such suspension or shutdown.

(c) Purchaser further acknowledges and understands during the Interim Period, in the ordinary course of operations, there could be a failure of, and/or damage to, components or equipment located in the Plant that may necessitate (i) a cessation of ordinary operations until such component or equipment is repaired and/or (ii) significant repairs to such component, equipment or the Plant (for example, including but not limited to, the occurrence of a leak in one or more of the Plant's hot salt tanks).

(d) Notwithstanding the foregoing or anything else contained in this Agreement to the contrary, nothing in this Agreement shall give Purchaser, directly or indirectly, the right to control or direct the operations of the Business during the Interim Period, except that, after the Agreement Date, the Parties shall jointly review and discuss any significant events or extraordinary incidents that impact the ordinary operation of the Plant, as reasonably determined by Seller. In the event of suspension or cessation of Business operations as set forth in clauses (b) and (c) above, Purchaser acknowledges and agrees that the Purchased Assets are being sold on an "as-is, where-is" basis and that there shall be no reduction to the Purchase Price, including, without limitation, in the event (i) that Seller elects not to conduct the Business during the Interim Period, (ii) that Plant Operations are suspended, and/or (iii) of any failure of, and/or damage to, components or equipment located in the Plant.

(e) Neither Seller or its Affiliates shall take any action, or fail to take any action, that would cause a reduction in the Third Party Prepayment and Deposit Amounts.

7.3 Confidentiality / Books and Records.

(a) Purchaser acknowledges and agrees that the Confidentiality Agreement remains in full force and effect and, in addition, covenants and agrees to keep confidential, in accordance with the provisions of the Confidentiality Agreement, information provided to Purchaser pursuant to this Agreement. If this Agreement is, for any reason, terminated prior to the Closing, the Confidentiality Agreement and the provisions of this Section 7.3 shall nonetheless continue in full force and effect.

(b) Purchaser acknowledges that, following the Closing Date, Seller may maintain, in its discretion, originals or copies of all Books and Records, including without limitation, as Seller determines may be necessary for ongoing litigation.

(c) Purchaser agrees to maintain all Books and Records as Highly Confidential under the Confidentiality Agreement, and not to disclose or publish any Books and Records other than as necessary to employees and advisors of Purchaser who need access to such Books and Records to maintain operations of the Plant. If Purchaser receives a subpoena or other legal process requesting disclosure of any Books and Records, Purchaser shall notify Seller of such request as required by the Confidentiality Agreement and not disclose any Books and Records until Seller consents to such disclosure in writing, declines to

seek a protective order as permitted by the Confidentiality Agreement, or a court enters a final order directing disclosure over Seller's objection.

7.4 Communications. Under no circumstances shall Purchaser engage in any direct or indirect communication with any third party related in any way to the Business or operations of the Plant without Seller's prior written consent.

7.5 Support Obligations.

(a) From and after the Agreement Date, Purchaser shall use commercially reasonable efforts to cause Seller and its Affiliates to be fully released, effective as of the Closing Date, from all Liabilities under all guarantees, indemnity agreements, deposits, letters of credit, trust funds, bid bonds, performance bonds, reclamation bonds, surety bonds, and all such similar credit support obligations in relation to the Plant, the Purchased Assets and the Business (such Liabilities, the "Support Obligations"), including, to the extent reasonably necessary in furtherance of obtaining such releases, arranging for and providing substitute credit support for the Support Obligations on terms and conditions reasonably satisfactory to the beneficiaries thereof; provided however, Purchaser shall not be obligated to provide any additional cash payment or to provide substitute credit support for the Third Party Prepayment and Deposit Amounts.

(b) If, as of the Closing, Seller and its Affiliates have not been fully released from all Liabilities under the Support Obligations (any Support Obligation for which Seller and its Affiliates have not been fully released, a "Continuing Support Obligation"), then, from and after the Closing, Purchaser shall cause Seller and its Affiliates to be fully released from all Liabilities under the Continuing Support Obligations, including, in furtherance of obtaining such releases, arranging for and providing substitute credit support for the Continuing Support Obligations.

7.6 Real Property. Purchaser shall, at Purchaser's sole cost and expense, obtain a commitment for an Owner's Policy of Title Insurance along with a copy of each instrument listed as an exception thereon (the "Title Commitment") on the Owned Real Property (as such term is defined in **Schedule 7.6**) issued by a title company reasonably acceptable to the Parties. Purchaser shall provide a copy of the Title Commitment to Seller within three (3) Business Days of receipt. Prior to the Closing Date, Purchaser shall have the right to obtain, at its sole cost and expense, any desired endorsements to the Title Commitment which are available. Purchaser may, at Purchaser's sole cost and expense, obtain an ALTA survey (the "Survey") of the Owned Real Property. Purchaser shall have until the date which is five (5) days after receipt of the Title Commitment and Survey, if obtained (such date being referred to as the "Title Review Date") for examination of the Title Commitment and Survey and the making of any objections thereto, said objections to be made in writing and delivered to Seller on or before the Title Review Date. If Purchaser shall fail to make any objections on or before the Title Review Date, Purchaser shall be deemed to have accepted all exceptions to the Title Commitment and the form and substance of the Survey and all matters shown thereon. If any objections to the Title Commitment or Survey are made on or before the Title Review Date, then Seller shall have the right, but not the obligation, to cure (by removal, endorsement or otherwise) such objections on or before the Closing Date.

7.7 Further Assurances. Prior to Closing, each Party shall do and perform, or cause to be done and performed, all such further acts and things and shall execute and deliver all such other agreements, certificates, instruments and documents, as any other Party may reasonably

request in order to carry out the intent and accomplish the purposes of this Agreement and the consummation of the Transactions.

7.8 Closing Conditions. From the date hereof until the Closing, each Party shall, use commercially reasonable efforts to take such actions as are necessary to satisfy the closing conditions set forth in Section 3.2, 3.3 and 3.4 as applicable, hereof.

7.9 Purchaser's Ownership. Purchaser agrees that from the date hereof until the Closing, except with the prior written consent of Seller, Purchaser shall not and shall cause its Affiliates not to enter into any agreement pursuant to which Purchaser's equity will be issued or transferred, directly or indirectly, to any Person, enter into any agreement that provides a Person control over Purchaser's management, or otherwise take any action that would cause the Transaction to become subject to the jurisdiction of the Committee on Foreign Investment in the United States per the regulations at 31 C.F.R. Part 800. Purchaser agrees to notify Seller in writing of any breach of this Section within two (2) Business Days of determining a breach has occurred.

7.10 Consents and Authorizations.

(a) Each Party shall, as promptly as possible, (i) make, or cause or be made, all filings and submissions required under any Law applicable to such Party or any of its Affiliates listed on **Schedule 7.10(a)**; and (ii) use reasonable best efforts to obtain, or cause to be obtained, all consents, authorizations, orders and approvals from all Governmental Authorities that may be or become necessary for its execution and delivery of this Agreement and the performance of its obligations pursuant to this Agreement and the Transaction Documents.

(b) Seller shall be solely responsible for Seller's attorneys' and consulting fees and other out-of-pocket administrative costs related to, any consent, authorization, orders or approvals, including, but not limited to, those listed on **Schedule 7.10(a)**. As applicable, Purchaser shall be solely responsible for Purchaser's attorneys' and consulting fees and other out-of-pocket administrative costs related to, any consent, authorization, orders or approvals, including, but not limited to, those listed on **Schedule 7.10(a)**

(c) Each Party shall cooperate fully with the other Party and its Affiliates in promptly seeking to obtain all such consents, authorizations, orders and approvals. The Parties shall not willfully take any action that will have the effect of delaying, impairing or impeding the receipt of any required consents, authorizations, orders and approvals. Without limiting the generality of Purchaser's undertaking pursuant to this Section, Purchaser agrees to use its best efforts to take any and all steps necessary to avoid or eliminate each and every impediment under any applicable antitrust, competition, foreign investment or trade regulation Law that may be asserted by any Governmental Authority or any other party so as to enable the Parties to close the Transactions as promptly as possible, which would otherwise have the effect of materially delaying or preventing the consummation of the Transactions. Purchaser hereby agrees to mitigation measures required to obtain approval by a Governmental Authority in any foreign investment review of the Transaction, including but not limited to imposing restrictions on foreign ownership, control, and influence and executing national security agreements proposed by a Governmental Authority. In addition, Purchaser shall use its reasonable best efforts to defend through litigation on the merits any claim asserted in court by any party in order to avoid entry of, or have vacated or terminated, any Governmental Order (whether temporary, preliminary or permanent) that would prevent the consummation of the Closing.

(d) FERC Approval.

(i) The Parties shall act in good faith and with due diligence to secure the FERC Approval. Seller and Purchaser jointly shall prepare and file a complete and accurate FERC Application within fifteen (15) Business Days following execution of this Agreement (subject to extension by mutual agreement of the Parties, which agreement to extend shall not be unreasonably withheld, conditioned or delayed by either Party). The Parties shall use reasonable best efforts to secure the FERC Approval of the FERC Application. In the event of any delays or issues raised by FERC or third party intervenors in the FERC Application docket, the Parties shall take all reasonable steps to promptly resolve such issues, including but not limited to modifying or supplementing the FERC Application or responding to FERC.

(ii) Within fifteen (15) Business Days following the date of this Agreement, Purchaser shall take all actions reasonably necessary to file with FERC (A) to either succeed to, or to replace, the Plant's FERC tariff regarding reactive power and voltage control service and (B) to obtain MBR Authority with respect to the Plant.

(e) BLM Consents. The Parties shall cooperate with the BLM to obtain the BLM Consents to the assignment of the BLM ROWs, which result in the release and termination of any further obligations of Seller under the BLM ROWs. In connection with the foregoing, the Parties shall coordinate and cooperate with one another, and each Party shall (i) supply such assistance as may be reasonably requested by the other Party, and (ii) reasonably inform the other Party of any material communication it has with BLM.

ARTICLE VIII

INDEMNIFICATION

8.1 Survival; Nonreliance.

(a) None of the representations or warranties of Seller herein shall survive, and all such representations and warranties shall terminate automatically upon the Closing. None of the covenants and agreements of Seller herein shall survive, and all such covenants and agreements shall terminate automatically upon, the Closing, except that any covenant or agreement that, by its terms, is required to be performed or complied with, in whole or in part, at or after the Closing shall survive the Closing in accordance with its terms solely to the extent such covenant or agreement, by its terms, requires performance or compliance, in whole or in part, at or after the Closing. Purchaser shall have no rights or causes of action (whether in contract or in tort or otherwise, or whether at law (including at common law or by statute) or in equity), based on or related to any inaccuracy in, or breach of, any representation or warranty expressly made in Article IV (collectively, the "Sell-Side Representations"), except prior to the Closing, as provided in Section 9.1.

(b) Other than the representations and warranties expressly made in Article V, Seller acknowledges and agrees that none of Purchaser or any of its Representatives or direct or indirect equity holders make, or have made, any other express or implied representation or warranty whatsoever (whether at law (including at common law or by statute) or in equity) in connection with or related to the Transactions.

(c) Other than the Sell-Side Representations, Seller (on behalf of itself and its Affiliates) disclaims (i) any other express or implied representation or warranty whatsoever (whether at law (including at common law or by statute) or in equity) in connection with or related to the Transactions contemplated hereby, including any other instrument or Contract entered into in connection herewith, including related to (1) Seller and the Business and their assets, employees, Permits, Liabilities, operations, prospects or condition (financial or otherwise) or (2) any opinion, projection, forecast, statement (including any forward-looking statement), budget, estimate, advice or other similar information (including information related to the future revenues, earnings, results or operations (or any component thereof)), cash flows, financial condition (or any component thereof) or the future business and operations, as well as any other business plan and cost-related plan information of or related to the foregoing (collectively, "Projections"), in each case, (A) with respect to Seller and the Business and their assets, employees, Permits, Liabilities, operations, prospects or condition (financial or otherwise), (B) whether made, communicated or furnished (orally or in writing), or to be made, communicated or furnished (orally or in writing), to Purchaser or any of its Representatives and (C) whether made by Seller or any of its respective Representatives or direct or indirect equity holders or any other Person and (ii) all liability for any such other representation or warranty or any Projection.

(d) Other than the Sell-Side Representations, Purchaser (i) (1) acknowledges and agrees that none of Seller or any of its Affiliates or Representatives or direct or indirect equity holders or any other Person make, or have made, any other express or implied representation or warranty whatsoever (whether at law (including at common law or by statute) or in equity) in connection with or related to the Transactions, including related to Seller or the Business or its respective assets, employees, Permits, Liabilities, operations, prospects, condition (financial or otherwise) or any Projection, and (2) irrevocably and unconditionally waives and relinquishes all rights, claims or causes of action (in each case, whether accrued, absolute, contingent or otherwise, known or unknown, or due or to become due, express or implied, in law or in equity, or based on contract, tort or otherwise) based on or related to any such other representation or warranty or any Projection, (ii) acknowledges and agrees to Seller's disclaimer of any such other representation or warranty or any Projection and of all liability and responsibility for any such other representation or warranty or any Projection, (iii) irrevocably and unconditionally waives and relinquishes all rights, claims and causes of action (in each case, whether accrued, absolute, contingent or otherwise, known or unknown, or due or to become due, express or implied, in law or in equity, or based on contract, tort or otherwise) against (1) Seller in connection with the accuracy, completeness or materiality of any Projection and (2) any Representative or direct or indirect equity holder of Seller or any Seller Affiliate for any such other representation or warranty and (iv) acknowledges and agrees that none of Seller or any of its Representatives or direct or indirect equity holders shall have any liability for any alleged nondisclosure or misrepresentation made by any such Person or in connection with the accuracy, completeness or materiality of any Projection. Purchaser acknowledges and agrees that (A) it has conducted to its satisfaction its own independent investigation of the Transactions contemplated hereby (including, as applicable, related to Seller and the Business and their assets, employees, Permits, liabilities, operations, prospects, condition (financial or otherwise) and any Projection), including reviewing all information and documents accessible by it or its Representatives in the Data Room, and, in making its determination to enter into this Agreement and proceed with the Transactions contemplated hereby, has relied solely on the results of such independent investigation and the Sell-Side Representations and (B) except for the Sell-Side Representations, it has not relied on, or been induced by, any representation, warranty or other statement of or by Seller, any of its respective

Representatives or direct or indirect equity holders or any other Person, including any Projection, in making its determination to enter into this Agreement and proceed with the Transactions contemplated hereby.

8.2 Indemnification by Purchaser. The representations and warranties of the Purchaser contained herein shall survive the Closing and remain in full force and effect until one (1) year from the Closing Date. All covenants and agreements of the Purchaser contained herein shall survive indefinitely or for the period explicitly specified therein. Subject to the other terms and conditions of this Article, from and after Closing, Purchaser shall indemnify Seller for, and shall defend and hold harmless Seller and its Representatives (the "Seller Indemnitees") from and against, all Losses incurred by Seller Indemnitees arising out of the following:

(a) any breach by Purchaser of any of the representations or warranties in Article V;

(b) any breach by Purchaser of any covenant or agreement herein;

(c) any liabilities, obligations or taxes of any kind of Purchaser whenever arising or accruing; and

(d) any liabilities, obligations or taxes of any kind related to the Purchased Assets arising or accruing after the Closing Date.

8.3 Indemnification Procedures.

(a) As soon as reasonably possible after a Seller Indemnitee becomes aware of any allegation, arbitration, criminal charge, Claim, dispute, lawsuit, notice of violation or legal proceeding by a Person who is not a Seller Indemnitee (a "Third Party") that may give rise to a Claim for indemnification under this Article VIII (a "Third-Party Claim"), Seller (in the case of a Seller Indemnitee becoming aware) (the "Indemnified Party") shall promptly notify the other Party (the "Indemnifying Party") thereof in writing (a "Claim Notice"); provided, however, that no delay on the part of the Indemnified Party in notifying the Indemnifying Party shall relieve the Indemnifying Party from any obligation hereunder. Each Claim Notice shall describe in reasonable detail the nature of the Third-Party Claim and attach copies of all material written evidence thereof that the Indemnified Party or any of its Representatives has received from a Third Party.

(b) Any Indemnifying Party shall be entitled to assume and have sole control over the defense and investigation of, and negotiate and enter into a settlement or compromise of, or consent to the entry of an order with respect to, a Third-Party Claim at its sole cost and expense and with counsel of its own choosing so long as (i) the Indemnifying Party notifies the Indemnified Party in writing within thirty (30) days after the Indemnified Party has received the Claim Notice with regard to such Third-Party Claim, and (ii) the Third-Party Claim does not seek an injunction or other equitable relief against an Indemnified Party (other than an injunction or other equitable relief that is immaterial and is incidental to monetary remedies). Notwithstanding the foregoing, the Indemnifying Party shall not consent to any settlement, compromise or consent of such Third-Party Claim without the prior written consent of such Indemnified Party (whether or not such Indemnified Party is an actual or potential party to such Third-Party Claim), which consent shall not be unreasonably withheld, conditioned or delayed, unless such settlement, compromise or consent includes a release by

the applicable Third Party of the Indemnified Party or its applicable Representatives for all Losses with respect to such Third-Party Claim. In connection with any Third-Party Claim, the Indemnified Party and the Indemnifying Party and their applicable Representatives shall reasonably cooperate with one another and use their commercially reasonable efforts to make available to the other all relevant information in their possession or under their control and shall take such other steps as are reasonably necessary to enable the Indemnifying Party and/or Indemnified Party to conduct such defense.

(c) If the Indemnifying Party assumes the defense of a Third-Party Claim in accordance with Section 8.3(b) above, the Indemnified Party may retain separate co-counsel at its sole cost and expense and participate in (but not control) the defense of the Third-Party Claim; provided that, if in the reasonable opinion of counsel to the Indemnified Party, (i) there are legal defenses available to an Indemnified Party that are different from or additional to those available to the Indemnifying Party or (ii) there exists a conflict of interest between the Indemnifying Party and the Indemnified Party that cannot be waived, the Indemnifying Party shall be liable for the reasonable fees and expenses of counsel to the Indemnified Party in each jurisdiction for which the Indemnified Party determines counsel is required.

(d) If, within thirty (30) days after the Indemnifying Party receives the Claim Notice with respect to a Third-Party Claim, the Indemnifying Party (i) notifies such Indemnified Party in writing that the Indemnifying Party does not elect to defend and investigate such Third-Party Claim, (ii) fails to deliver to the Indemnified Party a written election to assume the defense and investigation of such Third-Party Claim or (iii) is not entitled to assume the defense or investigation of such Third-Party Claim in accordance herewith, then (1) such Indemnified Party or its applicable Representatives may, at their option, defend, investigate, settle or compromise, or consent to an entry of an order with respect to, such Third-Party Claim; provided that any such settlement, compromise or consent shall be permitted only with the written consent of the Indemnifying Party (whether or not the Indemnifying Party is an actual or potential party to such Third-Party Claim), which consent shall not be unreasonably withheld, conditioned or delayed and (2) the Indemnifying Party may participate in (but not control) any such defense and investigation at its sole cost and expense.

8.4 Release. Effective as of the Closing, other than any rights or remedies arising under the Transaction Documents or under the covenants and agreements hereunder that survive the Closing, Purchaser, on behalf of itself and its Affiliates and its and their respective past, present and future officers, directors, employees, agents, general or limited partners, managers, management companies, members, advisors, attorneys, direct or indirect equity holders, controlling Persons, other representatives or Affiliates and any heir, executor, administrator, successor or assign of any of the foregoing (collectively, the "Releasing Parties"), hereby irrevocably and unconditionally releases and forever discharges Seller and its Affiliates, and Seller's and such Affiliates' respective past, present and future officers, directors, employees, agents, general or limited partners, managers, management companies, members, advisors, direct or indirect equity holders, controlling Persons, other representatives or Affiliates, and any heir, executor, administrator, successor or assign of any of the foregoing (collectively, the "Released Parties") of and from, and irrevocably and unconditionally waives and relinquishes any rights, Claims or remedies arising from or related to, all Claims, causes of action, Governmental Orders, assessments, damages, deficiencies, losses, fines, interest, Liabilities (including any Indebtedness), obligations, penalties, executions and covenants whatsoever (in each case, whether accrued, absolute, contingent or otherwise, known or unknown, or due or to become due, express or implied, in law or in equity, or based on contract,

tort or otherwise) that any Releasing Party may have against any of the Released Parties, now or in the future, in each case related to (a) the Purchased Assets, (b) the Business and/or any contract related to the Business with third parties, (c) this Agreement, (d) any actions taken or failed to be taken by any Released Party in any capacity related to or affecting the Purchased Assets occurring or arising on or prior to, or related to any period prior to, the Closing Date or (e) any other cause, matter or thing related to the Purchased Assets or the Transactions contemplated hereby, including any claim for breach of contract, breach of representation or warranty or negligent misrepresentation. Purchaser, on behalf of the Releasing Parties, understands that the Releasing Parties currently have sustained, or currently have or are subject to, or may in the future sustain or have or be subject to, as applicable, Claims, causes of action, Governmental Orders, assessments, damages, deficiencies, losses, fines, interest, liabilities (including any indebtedness), obligations, penalties, executions and covenants for which they might otherwise have made a Claim, or sought a right or remedy, that are presently unknown or unsuspected. Purchaser, on behalf of the Releasing Parties, acknowledges that the releases and waivers in this Section 8.4 have been agreed upon and given in light of such facts and that the releases and waivers are intended to apply to all Claims, causes of action, Governmental Orders, assessments, damages, deficiencies, losses, fines, interest, liabilities (including any indebtedness), obligations, penalties, executions and covenants. The Released Parties are intended third-party beneficiaries of this Section 8.4, with full rights of enforcement of this Section 8.4 as if a party hereto.

8.5 As-Is. PURCHASER ACKNOWLEDGES THAT THE CONVEYANCE OF THE PURCHASED ASSETS IS MADE "AS-IS" AND "WHERE-IS", WITHOUT ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES OF FITNESS FOR ANY PARTICULAR PURPOSE OR MERCHANTABILITY OR ANY OTHER WARRANTIES.

ARTICLE IX

TERMINATION

9.1 Termination. This Agreement may be terminated, and the Transactions may be abandoned, prior to the Closing:

(a) by mutual written agreement of all the Parties;

(b) by Purchaser or Seller upon written notice if there shall be any Law that makes consummation of the Transactions illegal or otherwise prohibited, or if any Governmental Order permanently restraining, prohibiting or enjoining Purchaser or Seller from consummating the Transactions is entered and such Governmental Order shall become final, provided, however, that no termination may be made by a Party under this Section 9.1(b) if the issuance of such Governmental Order was caused by the material breach of any representations, warranties, covenants or agreements contained in this Agreement by such Party;

(c) by Purchaser or Seller upon written notice, if an Auction occurs and Purchaser is not the Successful Bidder or the Backup Bidder at the Auction; provided that in the event Purchaser is the Backup Bidder, this Agreement shall automatically terminate upon a closing of the sale by Seller of the Purchased Assets to the Successful Bidder;

(d) by Seller upon written notice if: (i) Purchaser has breached or failed to perform and comply with any covenant, agreement or condition contained in this Agreement

required to be complied with by Purchaser such that the satisfaction of the conditions precedent is or becomes incapable of fulfillment prior to the Long Stop Date, or (ii) there exists a breach of any representation or warranty of Purchaser contained in this Agreement such that the satisfaction of the conditions precedent is or becomes incapable of fulfillment prior to the Long Stop Date; or

(e) by Purchaser upon written notice (i) if a Material Adverse Effect has occurred and is continuing such that satisfaction of the condition set forth in Section 3.4(d) is incapable of fulfillment prior to the Closing, (ii) if Seller has breached or failed to perform and comply with any covenant, agreement or condition contained in this Agreement required to be complied with by Seller such that the satisfaction of the conditions precedent is or becomes incapable of fulfillment prior to the Long Stop Date, or (iii) that there exists a breach of any representation or warranty of Seller contained in this Agreement such that the satisfaction of the conditions precedent is or becomes incapable of fulfillment prior to the Long Stop Date.

(f) by Seller upon written notice if the governing body of Seller determines, upon advice from outside legal counsel, that proceeding with the Transactions or failing to terminate this Agreement would violate its or such governing body's fiduciary obligations or applicable Law, including to pursue a bid from an Alternative Bidder.

9.2 Effect of Termination. In the event of termination of this Agreement in accordance with this Article IX:

(a) By either or both of Purchaser and Seller pursuant to Section 9.1, written Notice thereof shall be given by the terminating Party to the other Party hereto, specifying the provision hereof pursuant to which such termination is made, this Agreement shall thereupon terminate and become void and of no further force and effect (other than Section 2.6 (*Deposit*), Article VIII (*Indemnification*), Article IX (*Termination*), Article X (*Miscellaneous*), and to the extent applicable in respect of such Sections and Article, Article I (*Definitions*), and the Transactions shall be abandoned without further action or Liability of any of the Parties hereto, except that such termination shall not relieve any Party of any Liability for fraud or breach of this Agreement prior to such termination.

(b) Purchaser shall return all documents, work papers, and other materials (and all copies thereof) obtained from Seller or its respective Representatives relating to the Transactions, whether so obtained before or after the execution of this Agreement, to Seller.

(c) Except as expressly set forth herein, including in Article VIII (*Indemnification*) and in Section 9.1(d), such termination shall be without liability for any Party (or any Affiliate or Representative of such Party) to the other Parties; provided, however, that nothing in this Section 9.2(c) shall relieve any Party from any willful or intentional breach of any of its representations, warranties, covenants or agreements under this Agreement committed prior to such termination.

(d) Notwithstanding anything contained in this Agreement to the contrary, in the event that Seller terminates this Agreement pursuant to Section 9.1(d), the Deposit, together with all received investment income, if any, shall be delivered to Seller. Seller's receipt of the Deposit, together with all received investment income thereon, if any, shall constitute liquidated damages (and not a penalty) in a reasonable amount that will compensate Seller in the circumstances in which this Agreement is terminated pursuant to Section 9.1(d). If at any time Seller is entitled to the delivery of the Deposit pursuant to this Section 9.2(d),

Seller and Purchaser shall promptly and jointly instruct the Escrow Agent to deliver the Deposit to Seller.

(e) Each Party acknowledges that the remedies at law of Seller in the event that Seller terminates this Agreement pursuant to Section 9.1(d) may be inadequate and, in recognition of this fact, in addition to the delivery of the Deposit to pursuant to Section 9.2(d), Seller, without posting any bond or the necessity or proving the inadequacy as a remedy of monetary damages, and in addition to all other remedies that may be available, shall be entitled to seek equitable relief in the form of specific performance, a temporary restraining order, a temporary or permanent injunction or any other equitable remedy that may then be available.

(f) Notwithstanding anything contained in this Agreement to the contrary, in the event that this Agreement is terminated pursuant to Sections 9.1(a), 9.1(b), 9.1(c), 9.1(e), or 9.1(f), the Deposit, together with all received investment income, if any, shall be returned to Purchaser. If at any time Purchaser is entitled to the return of the Deposit pursuant to this Section 9.2(f), Seller and Purchaser shall promptly and jointly instruct the Escrow Agent to return the Deposit to Purchaser.

ARTICLE X

MISCELLANEOUS

10.1 Notices. Any notices, consents or other communications required or permitted to be sent or given hereunder by any of the Parties shall in every case be in writing and shall be deemed properly served if (a) delivered personally, (b) delivered by a recognized overnight courier service, or (c) by e-mail.

(a) If to Seller:

Tonopah Solar Energy, LLC
11 Gabbs Pole Line Road, Box 1071
Tonopah, Nevada 89049
Attention: Yale Scott Bogen
Email: ybogen@dsiconsulting.com

with a copy to (which copy shall not constitute notice hereunder):

DLA Piper LLP (US)
1201 N. Market Street, Suite 2100
Wilmington, Delaware 19801
Attention: Aaron Applebaum
Email: aaron.applebaum@us.dlapiper.com

DLA Piper LLP (US)
1251 Avenue of the Americas
New York, New York 10020
Attention: David Riley
Email: david.riley@us.dlapiper.com

(b) If to Purchaser:

Sons of Liberty Construction, Inc.
101 Sunny Lane Drive
Vicksburg, Mississippi 39180
Attention: Ross Rhett, President
Email: ross.rhett@solc.co

with a copy to (which copy shall not constitute notice hereunder):

Butler Snow LLP
6075 Poplar Avenue, Suite 500
Memphis, TN 38119
Attention: James E. Bailey III and R. Campbell Hillyer
Email: jeb.bailey@butlersnow.com and cam.hillyer@butlersnow.com

Butler Snow LLP
1020 Highland Colony Parkway, Suite 1400
Ridgeland, MS 39157
Attention: Kenneth A. Primos III
Email: kap.primos@butlersnow.com

Date of service of such notice shall be (x) the date such notice is personally delivered, (y) one (1) Business Day after date of delivery to the overnight courier if sent by overnight courier or (z) when transmitted if sent by email (or if that date is not a Business Day or if transmitted after 5:00 p.m. prevailing Eastern Time on a Business Day, on the first following day that is a Business Day).

10.2 Non-Recourse. This Agreement may only be enforced against, and any action based upon, arising out of or related to this Agreement may only be brought against, the Persons that are expressly named as parties to this Agreement. Except to the extent named as a party to this Agreement, and then only to the extent of the specific obligations of such parties set forth in this Agreement, no past, present or future shareholder, member, partner, manager, director, officer, employee, Affiliate, agent, counsel or advisor of any Party will have any Liability (whether in contract, tort, equity or otherwise) for any of the representations, warranties, covenants, agreements or other obligations or Liabilities of any of the parties to this Agreement or for any Agreement dispute.

10.3 Expenses. Except as otherwise provided herein, whether or not the Closing takes place, except as otherwise provided herein (including, but not limited to, Section 6.6 and Section 9.2), all fees, costs and expenses (including fees, costs and expenses of advisors) incurred in connection with the negotiation of this Agreement and the Transaction Documents, the performance of this Agreement and the Transaction Documents and the consummation of the Transactions contemplated hereby and thereby will be paid by the Party incurring such fees, costs and expenses.

10.4 Severability; Invalid Provisions. If any provision of this Agreement is held to be illegal, invalid or unenforceable under any present or future Law, and if the rights or obligations of any Party under this Agreement are not materially and adversely affected thereby, (a) such provision will be fully severable, (b) this Agreement will be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part

hereof, (c) the remaining provisions of this Agreement will remain in full force and effect and will not be affected by the illegal, invalid or unenforceable provision or by its severance herefrom and (d) in lieu of such illegal, invalid or unenforceable provision, there will be added automatically as a part of this Agreement a legal, valid and enforceable provision as similar in terms to such illegal, invalid or unenforceable provision as may be possible.

10.5 Amendment and Waiver. Any provision of this Agreement or the Schedules or exhibits hereto may be (a) amended only in a writing signed by Purchaser and Seller or (b) waived only in a writing executed by the Person against which enforcement of such waiver is sought. No waiver of any provision hereunder or any breach or default thereof will extend to or affect in any way any other provision or prior or subsequent breach or default.

10.6 Further Assurances. Following the Closing, each Party shall do and perform, or cause to be done and performed, all such further acts and things and shall execute and deliver all such other agreements, certificates, instruments and documents, as any other Party may reasonably request in order to carry out the intent and accomplish the purposes of this Agreement and the consummation of the Transactions.

10.7 Exclusive Jurisdiction; Specific Performance; Remedies.

(a) Subject to Section 10.7(b), without limiting any Party's right to appeal any order of the Bankruptcy Court, (i) the Bankruptcy Court shall retain exclusive jurisdiction to enforce the terms of this Agreement and to decide any Claims or disputes which may arise or result from, or be connected with, this Agreement, any breach or default hereunder, or the Transactions, and (ii) any and all Proceedings related to the foregoing shall be filed and maintained only in the Bankruptcy Court, and the Parties hereby consent to and submit to the jurisdiction and venue of the Bankruptcy Court and shall receive notices at such locations as indicated in Section 10.1.

(b) Notwithstanding anything herein to the contrary, in the event the Bankruptcy Case is closed or dismissed, the Parties hereby agree that all Claims or disputes which may arise or result from, or be connected with, this Agreement, any breach or default hereunder, or the Transactions, shall be heard and determined exclusively in any federal court sitting in the District of Delaware or, if that court does not have subject matter jurisdiction, in any state court located in Delaware (and, in each case, any appellate court thereof), and the Parties hereby (i) consent to and submit to the jurisdiction and venue of such courts, (ii) agree that venue would be proper in such courts, and waive any objection that they may now or hereafter have that any such court is an improper or inconvenient forum for the resolution of any Claim or Proceeding, and (iii) agree that providing notice to the Persons and in the manner listed in Section 10.1 or any other process required or permitted by any such court, will be effective service of process; provided that nothing herein will be deemed to prevent a Party from making service of process by any means authorized by the Laws of the State of Delaware. The foregoing consent to jurisdiction will not constitute submission to jurisdiction or general consent to service of process in the State of Delaware for any purpose except with respect to any Claim or Proceeding.

(c) Each Party acknowledges that the other Party would be damaged irreparably in the event that the terms of this Agreement are not performed by such Party in accordance with its specific terms or are otherwise breached or such Party fails to consummate the Closing when required pursuant to the terms of this Agreement and that, in addition to any other remedy that each Party may have under law or equity, each Party shall be entitled to seek

injunctive relief to prevent breaches of the terms of this Agreement and to seek to enforce specifically the terms and provisions hereof that are required to be performed by the other Party. Each Party further agrees that the other Party shall not be required to obtain, furnish or post any bond or similar instrument in connection with or as a condition to obtaining any remedy referred to in this Section 10.7, and irrevocably waives any right it may have to require the obtaining, furnishing or posting of any such bond or similar instrument.

(d) Except to the extent set forth otherwise in this Agreement, all remedies under this Agreement expressly conferred upon a Party will be deemed cumulative with and not exclusive of any other remedy conferred hereby, or by Law or equity upon such Party, and the exercise by a Party of any one remedy will not preclude the exercise of any other remedy.

10.8 WAIVER OF RIGHT TO TRIAL BY JURY. SELLER AND PURCHASER HEREBY WAIVE TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW ANY RIGHT THEY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY).

10.9 Headings. The subject headings of Articles and Sections of this Agreement are included for purposes of convenience of reference only and shall not affect the construction or interpretation of any of its provisions.

10.10 Assignment. This Agreement will be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns, but will not be assignable or delegable by any Party without the prior written consent of the other Party, with such consent not to be unreasonably withheld, conditioned or delayed; provided, however, that nothing in this Agreement shall or is intended to limit the ability of Purchaser to assign its rights or delegate its responsibilities, liabilities and obligations under this Agreement, in whole or in part, without the consent of any other Party to any Affiliate of Purchaser, provided that such delegation shall not relieve Purchaser of its responsibilities, liabilities and obligations under this Agreement.

10.11 Entire Agreement. This Agreement and all the Schedules and Exhibits attached to this Agreement (all of which shall be deemed incorporated in the Agreement and made a part hereof), and the other Transaction Documents set forth the entire understanding of the Parties with respect to the subject matter hereof and supersede all prior agreements, written or oral, of the Parties, and shall not be modified or affected by any offer, proposal, statement or representation, oral or written, made by or for any Party in connection with the negotiation of the terms hereof, and may be modified only by instruments signed by all of the Parties in accordance with Section 10.5.

10.12 Interpretative Matters. Unless the context otherwise requires, (i) all references to Articles, Sections, Schedules or Exhibits are to Articles, Sections, Schedules or Exhibits contained in or attached to this Agreement, (ii) each accounting term not otherwise defined in this Agreement has the meaning assigned to it in accordance with GAAP, (iii) words in the singular or plural include the singular and plural and pronouns stated in either the masculine, the feminine or neuter gender shall include the masculine, feminine and neuter, and (iv) the use of the word "including" in this Agreement shall be by way of example rather than limitation. References to any document that has been "furnished", "made available" or "delivered" to Purchaser shall mean a copy of such document was posted in the on-line "virtual data room"

established by SSG Capital Advisors, LLC on behalf of Seller (the "Data Room") on or prior to the Closing Date.

10.13 Schedules. The Schedules have been arranged for purposes of convenience in separately numbered sections corresponding to the sections of this Agreement; *provided*, that each section of the Schedules will be deemed to incorporate by reference all information disclosed in any other section of the Schedules in which it is reasonably apparent on the face of such disclosure that the information is required to be included in such other section of the Schedules, and any disclosure in the Schedules will be deemed a disclosure against any representation or warranty set forth in this Agreement. Capitalized terms used in the Schedules and not otherwise defined therein have the meanings given to them in this Agreement. The specification of any dollar amount or the inclusion of any item in the representations and warranties contained in this Agreement, the Schedules or the exhibits hereto is not intended to imply that the amounts, or higher or lower amounts, or the items so included, or other items, are or are not required to be disclosed (including whether such amounts or items are required to be disclosed as material or threatened) or are within or outside of the ordinary course of the Business, and no Party will use the fact of the setting of the amounts or the fact of the inclusion of any item in this Agreement, the Schedules or exhibits hereto in any dispute or controversy between the Parties as to whether any obligation, item or matter not set forth or included in this Agreement, the Schedules or exhibits hereto is or is not required to be disclosed (including whether the amount or items are required to be disclosed as material or threatened) or are within or outside of the ordinary course of the Business. In addition, matters reflected in the Schedules are not necessarily limited to matters required by this Agreement to be reflected in the Schedules. Such additional matters are set forth for informational purposes only and do not necessarily include other matters of a similar nature. Any description of any agreement, document, instrument, plan, arrangement or other item set forth on any Schedule is qualified in its entirety by the terms of such agreement, document, instrument, plan, arrangement or item which terms will be deemed disclosed for all purposes of this Agreement. The information contained in this Agreement, the Schedules and exhibits hereto is disclosed solely for purposes of this Agreement, and no information contained herein or therein will be deemed to be an admission by any Party to any third party of any matter whatsoever, including any violation of Law or breach of contract.

10.14 No Strict Construction. With the exception of the Schedules, this Agreement will be construed as if drafted jointly by the Parties and no presumption or burden of proof will arise favoring or disfavoring any Party by virtue of the authorship of any provision in this Agreement.

10.15 Publicity. Neither Seller nor Purchaser shall issue any press release or public announcement concerning this Agreement or the Transactions without obtaining the prior written approval of the other Party, which approval will not be unreasonably conditioned, withheld or delayed, unless, in the reasonable judgment of Purchaser or Seller, disclosure is otherwise required by applicable Law or by the Bankruptcy Court with respect to filings to be made with the Bankruptcy Court in connection with this Agreement or by the applicable rules of any stock exchange on which Purchaser (or its respective Affiliates) lists securities; *provided* that the Party intending to make such release shall use its reasonable efforts consistent with such applicable Law or Bankruptcy Court requirement to consult with the other Party with respect to the text thereof..

10.16 Knowledge. Where any representation or warranty contained in this Agreement is expressly qualified by reference "to the knowledge of Purchaser," or "to Purchaser's

knowledge," or words of similar import, it refers to the actual knowledge after due inquiry of Yale Scott Bogen or any director, manager, or officer of Seller.

10.17 Counterparts and PDF. This Agreement and any other agreements referred to herein or therein, and any amendments hereto or thereto, may be executed in multiple counterparts, any one of which need not contain the signature of more than one party hereto or thereto, but all such counterparts taken together will constitute one and the same instrument. Any counterpart, to the extent signed and delivered by means of a .PDF or other electronic transmission, will be treated in all manner and respects as an original Contract and will be considered to have the same binding legal effects as if it were the original signed version thereof delivered in person. Minor variations in the form of the signature page to this Agreement or any agreement or instrument contemplated hereby, including footers from earlier versions of this Agreement or any such other document, will be disregarded in determining the effectiveness of such signature. At the request of any party or pursuant to any such Contract, each other party hereto or thereto will re-execute original forms thereof and deliver them to all other parties. No party hereto or to any such Contract will raise the use of a .PDF or other electronic transmission to deliver a signature or the fact that any signature or Contract was transmitted or communicated through the use of PDF or other electronic transmission as a defense to the formation of a Contract and each such party forever waives any such defense.

10.18 Time of Essence. With regard to all dates and time periods set forth or referred to in this Agreement, time is of the essence.

10.19 Attorney-Client Privilege. Each Party agrees to permit (and shall take reasonable steps requested by any Party at such requesting Party's expense so that) any privilege attaching as a result of the services provided by DLA Piper LLP (US), as counsel to Seller in connection with the Transactions to survive the Closing and to remain in effect, and such privilege shall continue to be controlled solely by Seller following the Closing. In addition, if the Closing occurs, all of the client files and records in the possession of DLA Piper LLP (US) related to this Agreement shall continue to be property of (and be controlled by) Seller, and Purchaser shall not retain any copies of such records or have any access to them.

[*Signature page follows*]

IN WITNESS WHEREOF, the Parties have executed this Asset Purchase Agreement as of the Agreement Date.

PURCHASER:

SONS OF LIBERTY CONSTRUCTION, INC.

By: _____
Name: Ross Rhett
Title: President

IN WITNESS WHEREOF, the Parties have executed this Asset Purchase Agreement as of the Agreement Date.

SELLER:

TONOPAH SOLAR ENERGY, LLC

By: Signed by: _____
644A2905C9F4464...
Name: Yale Scott Bogen
Title: Chief Restructuring Officer