UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

FORM 10-K

☒ **ANNUAL REPORT UNDER SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the fiscal years ended December 31, 2016, 2017, 2018, and 2019

☐ **TRANSITION REPORT UNDER SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the transition period from _____ to _____

Commission file number: **000-12627**

GLOBAL CLEAN ENERGY HOLDINGS, INC.

(Exact name of Small Business Issuer as specified in its charter)

Delaware		**87-0407858**
(State or other jurisdiction of incorporation or organization)		(I.R.S. Employer Identification Number)

2790 Skypark Drive, Suite 105
Torrance, California 90505
(Address of principal executive offices)

(310) 641-4234
Issuer's telephone number:

Securities registered under Section 12(b) of the Act:

Title of Each Class	Trading Symbol	Name of Each Exchange on Which Registered
N/A	**N/A**	**N/A**

Securities registered pursuant to Section 12(g) of the Act:
Common Stock, par value $0.001 per share

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes☐ No ☒

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes☐ No ☒

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports) and, (2) has been subject to such filing requirements for the past 90 days.

Yes ☐ No ☒

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T during the preceding 12 months (or for such shorter period that the registrant was required to submit such files).

Yes ☐ No ☒

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K (§ 229.405 of this chapter) is not contained herein and, will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, smaller reporting company or an emerging growth company. See definition of "large accelerated filer," "accelerated filer," "smaller reporting company" and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer	☐	Accelerated filer	☐
Non-accelerated filer	☒	Smaller reporting company	☒
		Emerging growth company	☐

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act. ☐

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Act).

Yes ☐ No ☒

As of June 30, 2019, the last business day of the Registrant's most recently completed second fiscal quarter, the aggregate market value of the registrant's voting and non-voting common equity held by non-affiliates (based on the closing sale price of the registrant's Common Stock on the OTC:PK, and for the purpose of this computation only, on the assumption that all of the Registrant's directors and officers and any 10% or greater stockholders are affiliates), was approximately $19,269,000.

The outstanding number of shares of common stock as of September 10, 2020 was358,499,606.

Documents incorporated by reference: None

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Form 10-K

EXPLANATORY NOTE

Global Clean Energy Holdings, Inc. is filing this comprehensive Annual Report on Form 10-K for the fiscal years ended December 31, 2016, 2017, 2018, and 2019 (this "Annual Report") as part of its efforts to become current in its filing obligations under the Securities and Exchange Act of 1934, as amended (the "Exchange Act"). Included in this Annual Report are our audited financial statements for the fiscal years ended December 31, 2016, 2017, 2018, and 2019, which have not previously been filed with the SEC. In addition, this Annual Report also includes unaudited quarterly financial information for the quarterly periods for the three months ended March 30, the three and six months ended June 30,and the three and nine months ended September 30, for each 2016, 2017, 2018 and 2019.

Although we have made certain filings through current reports on Form 8-K, this Annual Report is our first periodic filing with the Securities and Exchange Commission (the "SEC") since the filing of our quarterly report on Form 10-Q for the quarter ended March 31, 2016. We intend to file the Form 10-Q quarterly periods for the fiscal quarters ending March 31, 2020, June 30, 2020 and September 30, 2020 as soon as practicable after the date of this Annual Report.

DISCLOSURE REGARDING FORWARD-LOOKING STATEMENTS

This Annual Report, including any documents which may be incorporated by reference into this Annual Report, contains "Forward-Looking Statements" within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended. All statements other than statements of historical fact are "Forward-Looking Statements" for purposes of these provisions, including: our plans to convert our Bakersfield oil refinery into a renewable fuels refinery and to thereafter to operate that refinery for the production of renewable fuels; our plans to cultivate Camelina as a non-food based feedstock for use at our Bakersfield renewable fuels refinery; forecasts and projections of costs, revenues or other financial items; statements of the plans and objectives of management for future operations; statements concerning proposed new products or services; any statements regarding the timing and cost of the retooling of the Bakersfield refinery; the anticipated size of future Camelina; statements regarding future conditions in the U.S. biofuels market; and any statements of assumptions underlying any of the foregoing. All Forward-Looking Statements included in this document are made as of the date hereof and are based on information available to us as of such date. We assume no obligation to update any Forward-Looking Statement. In some cases, Forward-Looking Statements can be identified by the use of terminology such as "may," "will," "expects," "plans," "anticipates," "intends," "believes," "estimates," "potential," or "continue," or the negative thereof or other comparable terminology. Although we believe that the expectations reflected in the Forward-Looking Statements contained herein are reasonable, there can be no assurance that such expectations or any of the Forward-Looking Statements will prove to be correct, and actual results could differ materially from those projected or assumed in the Forward-Looking Statements. Future financial condition and results of operations, as well as any Forward-Looking Statements are subject to inherent risks and uncertainties, including any other factors referred to in our reports that we file with the Securities and Exchange Commission. All subsequent Forward-Looking Statements attributable to this company or persons acting on its behalf are expressly qualified in their entirety by these cautionary statements.

Introductory Comment

Throughout this Annual Report, the terms “we,” “us,” “our,” “our company,” and “the Company” collectively refer to Global Clean Energy Holdings, Inc. and its subsidiaries. References to “GCEH” refer only to Global Clean Energy Holdings, Inc.

GCEH is a Delaware corporation. GCEH currently operates through various U.S. and foreign wholly-owned or majority owned and controlled subsidiaries. The subsidiaries include Sustainable Oils, Inc., a Delaware corporation that owns proprietary rights to various Camelina varieties and operates our Camelina business, GCE Holdings Acquisitions, LLC, GCE Operating Company, LLC, and a series of Delaware limited liability companies that, directly or indirectly, own and operate Bakersfield Renewable Fuels, LLC, our Bakersfield, California, biorefinery.

In addition to the entities associated with the acquisition and operations of our Bakersfield refinery, we also own G.E.H. Dominicana, S.R.L., a wholly-owned subsidiary formed under the laws of the Dominican Republic, Globales Energia Renovables S DE RL DE CV, a wholly owned subsidiary formed under the laws of Mexico, as well as other inactive subsidiaries.

PART I

ITEM 1. BUSINESS.

Overview

Global Clean Energy Holdings, Inc. ("GCEH") is a U.S.-based integrated agricultural-energy biofuels company that, directly or through its subsidiaries, holds assets across feedstocks and plant genetics, agronomics, cultivation, regulatory approvals, commercialization, and biorefining and storage. Our strategy continues to be the full vertical integration of our supply chain from development of ultra-low carbon non-food based feedstocks to the production and sale of renewable fuels. Our business strategy also includes forming strategic partnerships along the entire supply chain that will allow us to rapidly scale our business. One of these strategic partnerships is with ExxonMobil Oil Corporation that allows us to access the wholesale and retail markets to monetize the fuels that we expect to produce at our Bakersfield, California, biorefinery (the "Bakersfield Biorefinery") through the sale and distribution of the finished products.

Our integrated biofuels platform leverages our internal plant science research and development with collaborations with leading academic institutions, private researchers, farmer and cooperative partnerships for crop production, and strategic relationships for product sales and distribution. Our feedstock intellectual property rights and commercialization know-how are primarily held by Sustainable Oils, Inc. ("SusOils"), our wholly owned plant science agricultural subsidiary, and our Bakersfield Biorefinery is owned by our Bakersfield Renewable Fuels, LLC subsidiary.

The integrated field-to-tank platform is data driven, scalable and is a core differentiator that sets us apart from our peer group. By leveraging big data analysis across all aspects of research and development, feedstocks production, logistics and processing (biorefining), we aim to identify insights and efficiencies not otherwise discernable and to turn those inefficiencies into actions which directly reduce the carbon intensity of our fuels, reduce costs and improve bottom line margins.

SusOils is a plant science, commercialization and deployment company with an industry leading portfolio of intellectual property, regulatory approvals and deployment experience for Camelina sativa ("Camelina"). SusOils is engaged in the development of new and enhanced varieties of Camelina intended to advance key agronomic, genotype and phenotype attributes of the crop. SusOils owns patents on three varieties of Camelina, two utility development patents, and has another 13 patent applications in process. SusOils was also granted a first-of-its-kind feedstock-only pathway by the California Air Resources Board ("CARB")for the production of renewable fuels under the Low Carbon Fuel Standard ("LCFS") from its proprietary Camelina varieties. Our business plan is to utilize purpose grown Camelina from SusOils' enhanced varieties that is processed into renewable diesel at the Bakersfield Biorefinery and then sold through our partnership with ExxonMobil Oil Corporation.

Camelina is a fast-growing, low input crop traditionally grown in rotation with wheat and other row crops. Camelina allows farmers to improve total farm economics through better overall asset utilization. As a dryland farmed rotational crop, Camelina does not displace food or create indirect land use change, which makes it unique as an ultra-low carbon intensity feedstock.

GCEH acquired Bakersfield Renewable Fuels, LLC ("BKRF") in May 2020. BKRF owns a crude oil refinery that we are currently retooling and refurbishing into a biorefinery. The retooling and refurbishment is expected to be completed in early 2022, after which the Bakersfield Biorefinery will produce renewable diesel from both SusOils's proprietary Camelina as well as a traditional slate of renewable feedstocks such as vegetable oils, waste fats, and greases. When completed, our Bakersfield Biorefinery will be the largest renewable fuels facility in the western United States and the largest in the country that produces renewable fuels from non-food feedstocks. At start-up BKRF will be the second largest biofuels refinery in the United States. Our integrated field-to-tank supply chain differentiates our company from most other biorefinery companies currently in the market today.

To further disintermediate the market for biofuels, we plan to co-locate agricultural and alternative energy technologies within the roughly 500 acre Bakersfield Biorefinery site by hosting both agricultural processing assets and biofuels production assets on the same site. When completed, this co-location will allow all the facilities to optimize operations, energy utilization, and logistics capacity. The co-location and integration of these systems can result in significant operating efficiencies, utility savings and other overall synergies across both the biorefinery and agricultural operations.

Organizational Information

GCEH is incorporated in the State of Delaware. GCEH's principal executive offices are located at 2790 Skypark Drive, Torrance, California, Los Angeles County, California 90505, and its current telephone number at that address is (310) 641-GCEH (4234). GCEH maintains a website at: www.gceholdings.com. GCEH's annual reports, quarterly reports, current reports on Form 8-K and amendments to such reports filed or furnished pursuant to section 13(a) or 15(d) of the Securities and Exchange Act of 1934, as amended (the "Exchange Act"), and other information related to the Company are available on GCEH's website and on the website of the Securities and Exchange Commission ("SEC") at www.sec.gov. Our Internet websites and the information contained therein, or connected thereto, are not and are not intended to be incorporated into this Annual Report. Our common stock trades under the symbol "GCEH".

Summary Overview of Prior Business Activities and Recent Developments

Jatropha/Mexico Operations. In 2008, we launched our first venture to produce low carbon non-food based feedstocks for renewable fuels through GCE Mexico I, LLC ("GCE Mexico"), a Delaware limited liability company that we formed with two private investors. GCE Mexico was formed to own and operate renewable fuels feedstock farms in Mexico. We began with *Jatropha curcas* ("Jatropha") which is a non-edible plant indigenous to many tropical and sub-tropical regions of the world, including Mexico. During the next seven years, GCE Mexico acquired three farms in Mexico, comprising just under 15,000 acres, and planted over eight million Jatropha trees, consisting of over 20 varieties of Jatropha trees from around the world on the farms. We also tested many other plant species, both perennials and annual in an effort to optimize the land we owned, and developed valuable procedures for optimizing both the crop and our farming operations. Camelina was one of those crops that we planted between the rows of the Jatropha trees. Although we harvested significant quantities of Jatropha fruit and seed from our Mexico Jatropha farms, many of the Jatropha varieties were susceptible to diseases, as a result of which the harvests did not meet our long term requirements for operating a commercial Jatropha only seed energy farm. As a result, we decided to pursue the commercialization of Camelina as our primary biofuel feedstock. Accordingly, in December 2015 we sold our three Mexican farms, retired the associated debt, and thereafter focused our resources on Camelina and Camelina-related biofuel opportunities. Although we sold the Mexico farms, we retained all of the rights to Jatropha varieties that we developed as well as retaining all of our other intellectual property rights to develop biofuels from Jatropha.

Following the divestiture of the Mexican Jatropha farms, we continued to develop our portfolio of oilseed intellectual property at our other research and development farm in the Caribbean and our plant research operations in the U.S. We also continued to develop the additional intellectual property and obtain regulatory approvals for both Jatropha and Camelina. As a result of these efforts, in 2015 the U.S. Environmental Protection Agency issued a pathway for Jatropha oil by approving the application we filed in 2011. This pathway allows Jatropha oil to be used as a feedstock for advanced biofuels, qualifying it to generate Renewable Identification Numbers (RINs) under the Renewable Fuels Standard (RFS2).

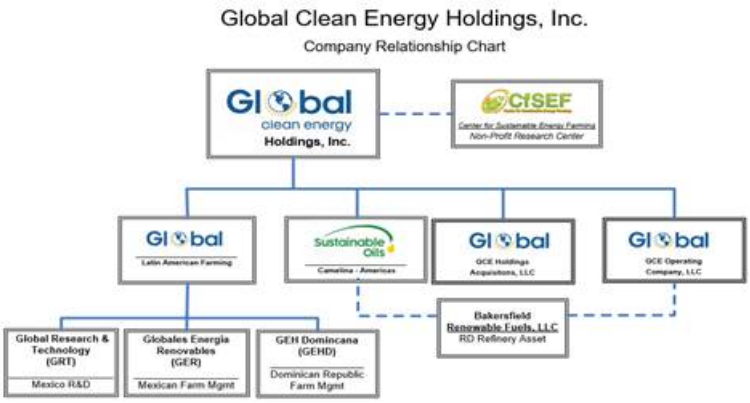
Although we continue to believe in Jatropha as a commercially viable feedstock for producing renewable fuels, we currently are not actively pursuing any Jatropha-related projects. However, we continue to own the Jatropha-related intellectual properties that we previously developed.

Acquisition and Development of Camelina Intellectual Property. On March 13, 2013, we expanded our renewable fuels feedstock operations by purchasing certain hard assets, patents, intellectual property and other rights related to the development of Camelina as a biofuels feedstock. Camelina is an annual plant from the brassica family that is grown in northerly regions of the United States, Europe and Asia. Camelina has the potential to produce oil seed crops economically because it generally requires less water and fertilizer than many conventional crops and can be grown on land that is normally unsuitable for food production or is fallow due to crop rotation. Our patented varieties of Camelina provide high and stable yields of seeds that produce a neat oil that can be used as a feedstock for the production of renewable fuel. The Camelina assets that we acquired included three issued U.S. patents on Camelina varieties, all of the seller's intellectual property related to the research, development, breeding and/or genetic development of Camelina, germplasm, licenses, permits, certifications and approvals granted by any governmental agencies relating to Camelina operations, and certain trade secrets, know-how, and technical data. As part of the purchase in 2013 we also acquired Sustainable Oils, LLC, a Delaware limited liability company, the "Sustainable Oils" name, and the Sustainable Oils logo. Sustainable Oils, LLC was engaged in the development, production and commercialization of Camelina-based biofuels and FDA approved animal feed.

We currently hold our Camelina assets in, and operate our Camelina business through our wholly-owned subsidiary, Sustainable Oils Inc. ("SusOils."). In February 2015, SusOils was issued the first-of-its-kind LCFS feedstock pathway through CARB for fuels based upon our patented Camelina varieties. As a result, SusOils's proprietary varieties are currently the only varieties of Camelina that can be supplied into the California market and that qualify for LCFS credits. For additional information regarding our Camelina operations, see, *"Item 1. Sustainable Oils, Inc. And Our Camelina Operations,"* below.

Organizational Structure

The following is the current business organizational chart for GCEH and its wholly-owned or controlled subsidiaries:



Business Operations-Strategy

The Company's overall business plan remains focused on vertical integration of the complete biofuels supply chain. The anchor to this approach is to develop proprietary technology that sets us apart from the industry. Since the commencement of our renewable fuels business more than ten years ago, we have been focused on the development and commercialization of feedstocks and feedstock-related intellectual property; and over the last three years we have been pursuing the final piece with the integration of a biorefinery. This integrated approach allows us to control our own feedstock cost and supply, produce additive feedstock volume into a structurally undersupplied market, and scale the business with margin protection and feedstock supply certainty.

Our path forward includes the further development of our technology to produce greater volumes of purpose grown feedstock, improved genetics to increase overall yield per acre, and improved plant oil chemistry to enhance biorefinery efficiency.

The integrated and data driven platform will facilitate our goal of "Driving to Zero" across all areas of the business, in particular the carbon intensity of our fuels.

Acquisition and Financing of Bakersfield Renewable Diesel Biorefinery

In the Acquisition on May 7, 2020 we acquired an existing crude oil refinery in Bakersfield, California. As described elsewhere in this Annual Report, we are currently retooling and upgrading the refinery's existing infrastructure so it is capable of producing renewable diesel, a drop-in replacement for ultra-low sulfur diesel, renewable jet fuel, renewable propane and renewable naphtha.

The Bakersfield refinery that we purchased has over 80% of the equipment on-site that we need for our biorefinery, including a hydrogen plant, a hydrotreater, reactors, fired heaters, compressors, pumps, heat exchangers and storage tanks that are capable of storing up to 2.7 million barrels of product. The site is fully permitted for grid power, gas, water treatment and disposal. The refinery also has in place much of the logistics that the biorefinery will need, including a rail spur to the mainline of BNSF Railway Company's freight railroad network, railcar facilities, pipelines and an 8-bay truck rack. We will have to refurbish some of the equipment, including the hydrogen plant, the hydro-processing unit, some of the storage tanks, and the automation controls, and will also have to make other structural upgrades to the rail system and pipelines. In addition, we have ordered certain specialized biorefining reactors, catalysts and process equipment. The engineering and construction, start-up and testing of the biorefinery is planned to take 18 to 20 months from the date of the Acquisition and to be completed in early 2022.

In connection with developing our new renewable fuels biorefinery, we licensed from Haldor Topsoe A/S certain proprietary processes, catalysts, and equipment designs for the hydroprocessing of natural feedstock, and have engaged ARB, Inc., a subsidiary of Primoris Services Corporation, to provide most of the services for the engineering, procurement, construction, and commissioning of the Bakersfield Biorefinery. In order to finance the costs of the Acquisition and the development, construction, completion, ownership and operation of the refinery, we have entered into two credit facilities pursuant to which we can borrow up to a maximum aggregate amount of $365 million (the "Financing Transaction").

The Acquisition and Financing Transaction were completed through the following subsidiaries of GCEH, each of which is directly or indirectly a wholly-owned or majority-owned subsidiary of GCEH:

Name of subsidiary	Abbreviation
GCE Holdings Acquisitions, LLC	GCE Acquisitions
BKRF HCP, LLC	BKRF Mezzanine Pledgor
BKRF HCB, LLC	BKRF Mezzanine Borrower
BKRF OCP, LLC	BKRF Senior Pledgor
BKRF OCB, LLC	BKRF Senior Borrower
Bakersfield Renewable Fuels, LLC	Bakersfield Renewable Fuels

Share Purchase Agreement and Call Option Agreement

Effective as of April 29, 2019, GCE Acquisitions entered into a Share Purchase Agreement with Alon Paramount Holdings, Inc. (“Alon Paramount”) to purchase all of the issued and outstanding shares of Alon Bakersfield Property, Inc. (“ABPI”). ABPI was the owner of the Bakersfield refinery. The Share Purchase Agreement was amended on September 27, 2019, October 4, 2019, October 11, 2019, October 28, 2019, March 23, 2020 and May 4, 2020 and is herein collectively referred to as the “Share Purchase Agreement”. The total consideration paid for the shares of ABPI was $40 million. We obtained the funds used to pay the purchase price from funds we borrowed in the Financing Transaction described below.

Prior to the closing of the purchase and sale, ABPI converted its organizational form from a Delaware corporation to a Delaware limited liability company and, at the same time, changed its name to “Bakersfield Renewable Fuels, LLC.” As a condition to the Financing Transaction, on May 4, 2020, GCE Acquisitions assigned its rights under the Share Purchase Agreement to BKRF Senior Borrower. On May 7, 2020 BKRF Senior Borrower purchased all of the outstanding equity interests of Bakersfield Renewable Fuels, LLC for $40 million. As a result, BKRF Senior Borrower now owns Bakersfield Renewable Fuels, LLC, which is the entity that owns the refinery. In connection with the Acquisition, BKRF Senior Borrower agreed to undertake certain cleanup activities at the refinery and provide a guaranty for liabilities arising from the cleanup.

Concurrently with the closing of the Acquisition, GCEH and GCE Acquisitions entered into a Call Option Agreement with Alon Paramount pursuant to which GCEH granted to Alon Paramount an option to purchase from GCEH up to 33 1/3% of the membership interests of GCE Acquisitions. The option will expire on the 90th days after the refinery has commercially operated for 90 days at certain target production rates. Under the Call Option Agreement, until the expiration of the option, GCE Acquisitions has agreed to not transfer the ownership of any of its subsidiaries other than those contemplated by the Credit Agreements entered into with the Senior Lenders and the Mezzanine Lenders, or to modify or amend the certain material terms of such Credit Agreements.

Senior Credit Agreement

BKRF Senior Borrower and its direct parent, BKRF Senior Pledgor, entered into that certain Credit Agreement, dated May 4, 2020, with a group of lenders (the "Senior Lenders") pursuant to which the Senior Lenders agreed to provide a $300 million senior secured term loan facility to BKRF Senior Borrower to enable BKRF Senior Borrower to acquire the equity interests of Bakersfield Renewable Fuels and to pay the costs of the retooling of the Bakersfield Biorefinery. The Senior Lenders consist of Orion Energy Partners, L.P., GCM Grosvenor and Voya Investment Management. Orion Energy Partners TP Agent, LLC acts as administrative agent for the Senior Lenders.

The senior loan bears interest at the rate of 12.5% per annum, payable quarterly. The principal of the senior loans is due at maturity, provided that the borrower must offer to prepay the senior loans with any proceeds of asset dispositions, borrowings other than permitted borrowings, proceeds from damage or losses at the refinery, and excess net cash flow. The borrower may also prepay the senior loan in whole or in part with the payment of a prepayment premium. As additional consideration for the senior loans, the Senior Lenders have been issued Class B Units in BKRF Mezz Borrower (see "*BKRF Mezz Borrower LLC Agreement*," below).

The senior loans are secured by all of the assets of BKRF Senior Borrower (including its membership interests in Bakersfield Renewable Fuels), BKRF Senior Pledgor's membership interest in BKRF Senior Borrower, and all of the assets of Bakersfield Renewable Fuels (BKRF Senior Pledgor, BKRF Senior Borrower and Bakersfield Renewable Fuels, collectively, "Loan Parties").

The senior loans mature on November 4, 2026. The Senior Lenders have a right to accelerate the maturity date of the senior loans upon the occurrence of an event of default. Events of default include, in addition to customary events of default, the change of control of a Loan Party, the breach of any material refinery-related agreement, the bankruptcy of any party to a material refinery-related agreement, the failure to substantially complete the repurposing of the Bakersfield Biorefinery by March 31, 2022, and the failure to meet certain project milestones by dates specified dates in the Credit Agreement.

Under the Credit Agreement, the Loan Parties have made a number of affirmative and negative covenants. These include, among others, limitations and restrictions on incurring other indebtedness, encumbering their assets, making distributions and other payments to affiliates, entering into transactions with their affiliates, and modifying material project agreements, in each case without the Senior Lenders' prior consent. Notwithstanding the foregoing, subject to certain limitations, the Loan Parties may obtain a working capital credit facility or facilities without the consent of the Senior Lenders.

Mezzanine Credit Facility

BKRF Mezz Borrower and its direct parent, BKRF Mezz Pledgor, entered into a second Credit Agreement, dated May 4, 2020, pursuant to which the Mezzanine Lenders have agreed to provide a $65 million secured term loan facility to be used to pay the costs of repurposing and starting up the Bakersfield Biorefinery. BKRF Mezz Borrower has not drawn down on the credit facility as of the date of this Annual Report. The Mezzanine Lenders, for whom Orion Energy Partners TP Agent, LLC acts as administrative agent, consist of Orion Energy Partners, L.P., GCM Grosvenor and Voya Investment Management (the "Mezzanine Lenders").

The mezzanine loans bear interest at the rate of 15.0% per annum on amounts borrowed, payable quarterly, provided that the borrower may defer interest to the extent it does not have sufficient cash to pay the interest, such deferred interest being added to principal. In addition, as additional consideration for the mezzanine loans, the Mezzanine Lenders will be issued Class C Units in BKRF Mezz Pledgor at such times as advances are made under the mezzanine loans (see "*BKRF Mezz Borrower LLC Agreement*," below).

Principal of the mezzanine loans is due at maturity provided that the borrower must offer to prepay the loan with any excess net cash flow. The borrower may also prepay the loan in whole or in part with the payment of a prepayment premium.

The mezzanine loans are secured by all of the assets of BKRF Mezz Borrower and BKRF Mezz Pledgor, including BKRF Mezz Pledgor's membership interest in BKRF Mezz Borrower.

The mezzanine loans mature in November 2027. The Mezzanine Lenders have a right to accelerate the maturity date of the mezzanine loans upon the occurrence of an event of default. Events of default include, in addition to customary events of default, the change of control of a loan party and any default under the Credit Agreement with the Senior Lenders.

The Loan Parties are subject to certain affirmative and negative covenants with the lenders. These include, among others, limitations and restrictions on the Loan Parties and their subsidiaries incurring other indebtedness, encumbering their assets, making distributions and other payments to affiliates, entering into transactions with their affiliates, and modifying material project agreements, in each case without the Mezzanine Lenders' prior consent.

BKRF Mezz Borrower LLC Agreement

On May 4, 2020, GCEH Acquisitions and BKRF Mezz Borrower entered into the BKRF HCB LLC Amended and Restated Limited Liability Company Agreement (the "BKRF Mezz Borrower LLC Agreement"). There are three classes of membership interests (Units) under the BKRF Mezz Borrower LLC Agreement: (i) Class A Units, all of which are held by GCE Acquisitions; (ii) Class B Units, all of which are reserved for the issuance to the Senior Lenders, and (iii) Class C Units, all of which are reserved for the issuance to the Mezzanine Lenders.

On May 7, 2020, concurrently with the initial funding by the Senior Lenders under the Credit Agreement, BKRF Mezz Borrower issued Class B Units to the Senior Lenders. At such time as the Mezzanine Lender advances funds under the Mezzanine Lender Credit Agreement, BKRF Mezz Borrower will issue Class C Units to the Mezzanine Lenders.

Until the later of (i) five years from the commercial operations date of the Bakersfield Biorefinery and (ii) the date the Senior Lenders have received two times the loan amount under the credit facility (the “Termination Date”), the Senior Lenders, as holders of the Class B Units, are entitled to receive quarterly distributions of 25% of the free cash flow until the Senior Lenders have received (collectively, from these cash distributions plus principal and interest on the senior loans) an amount equal to a 2X multiple of invested capital ("MOIC"), or two times the amount of the senior loans, for a total of up to $600 million, and, if the Termination Date has not occurred, thereafter quarterly distributions of 5% of the free cash flow until the Termination Date.

Under the BKRF Mezz Borrower LLC Agreement, the Mezzanine Lenders, as holders of the Class C Units, are entitled to receive out of the distributions by BKRF Mezz Borrower not paid to the Class B Members, the following:

- First, 80.0% of such distributions until the Mezzanine Lenders have received cumulative payments (distributions and principal and interests on the mezzanine loans) equal to 2.0X MOIC;
- Second, 65.0% of such distributions until the Mezzanine Lenders have received cumulative payments equal to 3.0X MOIC;
- Third, 50.0% of such distributions until the Mezzanine Lenders have received cumulative payments equal to 4.0X MOIC;
- Fourth, 30.0% of such distributions until the Mezzanine Lenders have received cumulative payments equal to 99.0X MOIC.

The board of managers of BKRF Mezz Borrower is elected by the Class A Member. The holders of the Class B Units and the Class C Units have no voting rights in the election of such managers. Although the holders of the Class B Units and the Class C Units do not participate in the management of BKRD Mezz Borrower, certain actions require the prior consent of the holders of a majority in interest in both the Class B Units and Class C Units. These approval rights include any affiliate transaction on non-arm’s length terms, the issuance of certain equity securities by BKRF Mezz Borrower or its subsidiaries, any significant tax decision, any reorganization or other transaction or amendment to the BKRF Mezz Borrower LLC Agreement that would adversely affect the rights of the Senior Lenders or Mezzanine Lenders with respect to their respective Units; or any public offering of equity interests of BKRF Mezz Borrower or any of its subsidiaries. Other than these approval rights, the holders of the Class B Units and the Class C Units have no voting rights under the BKRF Mezz Borrower LLC Agreement.

Engineering, Procurement and Construction Agreement

GCE Acquisitions entered into that certain Engineering, Procurement and Construction Agreement dated April 30, 2020 with ARB, Inc. ("ARB") pursuant to which ARB has agreed to provide services for the engineering, procurement, construction, start-up and testing of the Bakersfield Biorefinery. The agreement, which was assigned by GCE Acquisitions to BKRF Senior Borrower, provides for ARB to be paid on a cost plus fee basis subject to a guaranteed maximum price of $201.4 million, subject to increase for approved change orders. The agreement also requires ARB to substantially complete the Bakersfield Biorefinery within 600 days following notice to proceed from BKRF Senior Borrower, and to fully complete the retooling and start-up of the Bakersfield Biorefinery within six months thereafter, subject in each case to force majeure, certain change orders and certain other limitations.

Haldor Topsoe A/S License

Effective October 24, 2018, GCE Acquisitions entered into a ten-year, non-exclusive, non-transferable license agreement with Haldor Topsoe A/S, a company established in Denmark that owns certain proprietary rights relating to processes, catalysts, and equipment designs for the hydroprocessing of natural and synthesized hydrocarbons (including, without limitation, products from Fischer-Tropsch synthesis). GCE Acquisitions licensed these rights in order to produce renewable diesel from organically derived feedstocks at the Bakersfield Biorefinery. Concurrently with entering into the license agreement, on October 24, 2018 GCE Acquisitions also entered into an engineering agreement with the U.S. affiliate of Haldor Topsoe to have the hydroprocessing unit designed and built at the Bakersfield Biorefinery, and a catalyst supply agreement for the purchase of the catalyst to be used in the hydroprocessing unit. These agreements have been assigned to Bakersfield Renewable Fuels. To date, we have paid 80% of the Haldor Topsoe license fee, with the remaining balance payable when the hydroprocessing unit has been completed and is operational. The Haldor Topsoe license gives the Bakersfield Biorefinery the right to hydroprocess 5,475,000 paid-up annual barrels at the Bakersfield Biorefinery. If the Bakersfield Biorefinery produces more than the paid up annual amount, the Bakersfield Biorefinery will have to pay additional licensing fees.

ExxonMobil Oil Corporation Product Offtake Agreement

We have signed a binding Product Offtake Agreement (the "Offtake Agreement") with ExxonMobil Oil Corporation pursuant to which ExxonMobil has committed to purchase 2.5 million barrels of renewable diesel per year from the Bakersfield Biorefinery, and we will be obligated to sell these qualities of renewable diesel to ExxonMobil. ExxonMobil's obligation to purchase renewable diesel will last for a period of five years following the date that the Bakersfield Biorefinery commences operations. ExxonMobil has the option to extend the initial five-year term. Either party may terminate the Offtake Agreement if the Bakersfield Biorefinery does not meet certain production levels by certain milestone dates following the commencement of the Bakersfield Biorefinery's operations.

Control, Operation and Management Agreement

In order to operate and manage the Bakersfield Biorefinery, we formed GCE Operating Company, LLC, a new wholly-owned subsidiary of GCEH. On May 4, 2020, BKRF Senior Borrower entered into a Control, Operation and Maintenance Agreement ("COMA") with GCE Operating Company pursuant to which GCE Operating Company agreed to provide all necessary services required to supervise the construction of the Bakersfield Biorefinery and, after the completion of construction, to operate and maintain the Bakersfield Biorefinery. The COMA may be terminated by either party at any time for any reason. GCE Operating Company will not be compensated for its services under the COMA. However, GCE Operating Company will be entitled to be reimbursed for any operating expenses that it incurs in the performance of its obligations under the COMA, but which expenses were not paid from Bakersfield Renewable Fuel's accounts, which expenses are expected to comprise primarily of labor expenses and overhead of GCE Operating Company.

Sustainable Oils License Agreement

Camelina is expected to be one of the primary biofuels feedstocks used to produce renewable diesel at the Bakersfield Biorefinery. Sustainable Oils, Inc., a wholly-owned subsidiary of GCEH ("SusOils"), owns multiple issued patents on varieties of Camelina that are suitable for commercial production in low-input agricultural areas in the U.S. The patented, patent pending and development varieties of Camelina provide high and stable yields of seeds that can be used as feedstocks for the production of renewable fuel. In order to obtain access to the patented varieties of Camelina, Bakersfield Renewable Fuels and SusOils have entered into a ten-year license agreement. The SusOils license grants Bakersfield Renewable Fuels the limited right to process, refine, produce, market and sell in North America Camelina oil biofuels that are derived from SusOils's patented varieties of Camelina. Under the license agreement, SusOils also granted the Biorefinery a non-exclusive, non-sublicensable, royalty-free license to use the name "Sustainable Oils" and the Sustainable Oils logo to identify its biofuel as a product of SusOils Camelina. SusOils will manage all the business, farmers management and agricultural activities needed for the deployment of Camelina as a purpose grown crop for the Bakersfield Biorefinery. This includes identifying farmers to grow the SusOils Camelina.

In consideration for the rights granted under the SusOils license agreement, Bakersfield Renewable Fuels has agreed to pay SusOils, on a quarterly basis, a royalty of $0.01125 per pound of SusOils Camelina that is used at the Biorefinery. In the event that the Biorefinery does not purchase all of the Camelina that the farmers produce in any growing season, SusOils will have the right to market and sell such excess Camelina for its own account. The license is a non-exclusive license, and SusOils will continue to have the right to produce its own crop independent of the Bakersfield Biorefinery.

Camelina Farming Operations

In 2013, we purchased (i) certain assets, patents, and other intellectual property and rights related to the development of Camelina sativa as a biofuels feedstock (the "Camelina Assets") and (ii) all of the membership interests of Sustainable Oils, LLC, a Delaware limited liability company. Sustainable Oils, LLC had been engaged in the development, production and commercialization of Camelina-based biofuels, including Camelina oil renewable jet fuel that was sold to the U.S. Navy for use in its aircraft, and FDA approved animal feed.

The Camelina Assets that we acquired included: three issued U.S. patents on Camelina Sativa varieties; all of the seller's intellectual property related to the research, development, breeding and/or genetic development of Camelina; germplasm; licenses, consents, permits, variances, certifications and approvals granted by any governmental agencies relating to Camelina operations; the name "Sustainable Oils" and the Sustainable Oils logo; and certain trade secrets, know-how, and technical data.

We hold the Camelina Assets and operate our Camelina business through Sustainable Oils, Inc., a Delaware corporation that transacts business under the name "SusOils". Sustainable Oils, Inc. currently is a wholly-owned subsidiary of GCEH. However, Sustainable Oils, Inc. has issued a non-transferable warrant for the purchase of 8% to Sustainable Oils, Inc.'s outstanding capital stock. The warrant expires on June 1, 2021 and is exercisable for a purchase price of $20 million.

SusOils owns the intellectual property and related know-how for farming of Camelina, is involved in, and funds, various research programs related to improving the growing characteristics and capabilities, including enhancing the yields, of Camelina. In 2019, SusOils supported approximately 500 acres of Camelina seed production for the purpose of generating certified seed for 2020 plantings. SusOils had approximately 1,500 acres under contractual production in 2020 and will significantly expand Camelina seed production in future years. SusOils will control certified Camelina seed production and development and may enter into business arrangements to accomplish the cultivation, production, storage and transportation of the Camelina feedstock.

In 2013, Camelina was approved as an advanced biofuel feedstock and granted a pathway under the US EPA Renewable Fuel Standard (RFS) program enabling it to produce D4 or D5 RINs from biodiesel, renewable diesel, jet fuel, heating oil, naphtha and LPG. The EPA's evaluation confirmed Camelina and its co-products met the emissions reduction thresholds prescribed in 40 CFR § 80.1426 of the RFS. As a result of the approval, Camelina is at a competitive advantage over other oilseed crops current with an RFS pathway.

SusOils applied for and was granted a first-of-its-kind pathway from CARB in 2016. The feedstock-only approval applies to SusOils patented Camelina varieties only and must be combined with a biorefinery pathway like BKRF's to produce a full well-to-wheels carbon intensity. When registered as a fuels pathway, Camelina-based renewable diesel's carbon intensity is anticipated to be at or below that of other waste products like used cooking oil or distillers' corn oil.

Principal Products

Renewable Diesel

The Bakersfield Biorefinery will produce renewable diesel as its primary product to be sold into the transportation sector, and it will also produce other co-products such as renewable naphtha, renewable propane, and renewable butane, which will also be marketed.

Renewable diesel is made from the same feedstocks as biodiesel, but a variety of favorable qualities distinguish it as a superior fuel, causing it to carry a price premium to biodiesel. To make renewable diesel, feedstocks such as Camelina, used cooking oil, tallow, or various vegetable oils are hydrotreated and isomerized to produce a fuel chemically identical to fossil diesel but with less contaminants. Since renewable diesel is chemically identical to fossil diesel, it can utilize the same infrastructure and can function as a drop-in, 100% replacement for fossil diesel; renewable diesel does not need to be blended like biodiesel for use in modern engines on the road today. Also, renewable diesel does not experience the cold weather performance issues, water absorption, or microbial growth of biodiesel. Finally, because of lower levels of contaminants, renewable diesel burns cleaner than fossil diesel, reducing emissions by up to 85% as well as reducing engine maintenance issues.

Biofuels Oil Feedstock

Our goal is to use Camelina as our primary feedstock at the Bakersfield Biorefinery. The feedstock oil needed for the production of renewable jet, biodiesel, renewable diesel and HVO that is currently available on the market today is primarily supplied from edible seed oils, including soy, canola (rapeseed), sunflower and palm. There are other types of feedstock that can be converted into biofuels, like animal fats and recycled cooking grease. Until our Camelina production ramps up to significant and sustainable levels, we will produce renewable fuels at the Bakersfield Biorefinery from seed oils, animal fats, recycled cooking grease and other types of feedstocks. However, our goal is to have Camelina oil produced from our patented Camelina varieties become the primary source of our biofuels feedstock. The significant advantages of Camelina over other traditional oilseed crops are that it is ultra-low carbon and does not compete for resources with other crops grown primarily for food consumption.

Camelina sativa is a member of the mustard family, a distant relative to canola, and a relatively new and attractive entrant into the biofuels feedstock sector. Camelina plants are heavily branched, growing from one to three feet tall and have branched stems that become woody as they mature. As the reproductive cycle progresses, seed pods form which contain many relatively small, oily seeds. Because there is no seed dormancy in Camelina, it can be grown in multiple seasons and has a very short maturity curve.

Camelina can produce seeds with relatively little water and can be harvested early. It is classified as a low input crop and can survive on low water/rainfall, and it requires less fertilizer than many other crops. Camelina can be seeded and harvested with conventional farm equipment, making it a perfect rotation crop for existing farmers.

Camelina seeds typically contain between 35-42% oil and are high in omega-3 fatty acids. This makes the oil very desirable for biofuels production and the meal left after the oil has been removed is a very good option for livestock feed—competing directly with soy and canola meal.

SusOils' patented seed varieties perform reliably across a diverse range of agronomic settings and produce reliable yields, oil content, architecture, height, chemical composition as well as protein and fiber content.

Biomass Feedstock

Camelina produces a co-product from the oil extraction process which is a high protein meal that has been tested and approved by the Food and Drug Administration (FDA) as a livestock (animal) feed for cattle, chickens and pigs. This provides additional revenue and reduces the net production cost of Camelina oil, further improving feedstock economics.

Emissions Reduction Regulations

In response to anthropogenic climate change intergovernmental organizations like the United Nations and World Bank, as well as numerous governments, supranational organizations, like the European Union, and sub-national actors, like California and British Columbia, have implemented regulations to curtail the production of greenhouse gas emissions. Regulations are beginning to span and interlace cap-and-trade policies, low carbon fuel standards, renewable portfolio standards and carbon taxes, as well as others. The overarching objective is greenhouse gas (GHG) reductions and associated climate change mitigation. With the exception of a carbon tax, GHG reduction schemes utilize tradable credit that represent the reduction of a certain amount of carbon dioxide equivalent (CO_2e) or the production of a certain volume of fuel.

Renewable energy and energy efficiency projects make up the bulk of mitigation and reduction strategies currently deployed around the world. Biofuels have been the cornerstone of renewable energy policies since the beginning and offer regulators, end users and consumers a unique set of attributes that include sustainability, meaningful emissions reductions and economic and energy security. Furthermore, as biofuel policies evolve, first generation feedstocks, those based on, or derived from food crops are being replaced with second generation, non-food based crops like Camelina. Camelina is grown on land that is fallow for one reason or another or otherwise unsuitable for food crop production and as a result, sidestep the controversial food versus fuel tradeoff currently hampering certain feedstocks development. Camelina is grown on fallow rotational land or in other formats that do not displace food crops. This distinction between food and non-food is critical as regulated markets mature and policies shift to discourage the conversion of food into fuel.

In the United States, federal legislation called the renewable fuel standard (RFS) mandates that a certain volume of biofuels are blended into the fuel supply every year. In California, the low carbon fuel standard (LCFS) requires regulated parties to reduce the overall emissions of their fuels to a predefined ceiling. In both cases, renewable fuel producers generate tradable compliance instruments, which represent either a volume of fuel or a set amount of CO_2e reduction. These credits are then surrendered by regulated parties to demonstrate compliance. The RFS and LCFS require that fuels are made from approved pathways and feedstocks. Camelina has full EPA approval under the RFS to produce both D4 (biomass-based diesel) and D5 (advanced biofuel) Renewable Identification Numbers (RINs) under the Renewable Fuels Standard (RFS2).

In March 2015, California (CARB) approved a first-of-its-kind feedstock-only pathway for SusOils's patented Camelina oil. The pathway only applies to SusOils's US Patent and Trademark Office-registered seed varieties - no other Camelina seed or oil can be used to produce LCFS compliant fuel. At a cumulative carbon intensity (CI) of 7.58 g/MJ, final fuels can be produced at less than 20. The result is that fuel producers and obligated parties in California can meet their LCFS emissions reduction requirements with significantly less fuel that would otherwise be required using traditional feedstocks like soybean (53 g/MJ). LCFS credits are generated based upon the carbon intensity of the underlying fuel, which means Camelina-based fuels will generate significantly more value per gallon than any other virgin oil-based fuel. By example, if the LCFS credit price is $200 /MT of carbon, Camelina biofuels can produce more than $1.00 more per gallon than soybean-based fuel.

Technology and Patents

Camelina: SusOils owns a number of patents and other intellectual properties and know-how related to the production and cultivation of Camelina as a feedstock. SusOils also has been issued a patent for a method of (non-GMO) transformation of Camelina plants and its agronomic qualities, and a patent for a method to alter and/or improve the fatty acid composition of a Camelina plant cell. SusOils currently also has 13 patent applications in process.

Jatropha: We do not currently own any patentable technology relating to our Jatropha operations. However, we have developed considerable know-how, trade secrets, and proprietary processes and procedures for farm development and operations management, and we own certain intellectual property related to the genetics of the Jatropha trees that were selectively bred and propagated by GCEH in Mexico and the Caribbean.

Any technology we develop will be in one of three main categories: (i) plant and soil sciences, (ii) agricultural technology and procedure development, or (iii) material processing and end use applications. Such technologies developed are expected to assist in reducing costs, improving efficiency and allowing us to move our products higher up the value creation.

Market

Renewable Diesel. Most renewable diesel in the United States is consumed in California, due to its strong LCFS program. In 2019, almost 700 million gallons per day (MMGal) of renewable diesel was consumed in California, compared to approximately 900 MMGal in the United States; most of the remaining renewable diesel is consumed in Oregon under its Clean Fuels Program. Domestic production accounted for roughly 500 MMGal and foreign imports accounted for 420 MMGal, most of which originated in Singapore. Domestic production is forecasted to increase significantly during the next five years as projects representing over two billion gallons per year of capacity have been announced by various companies; however, we only expect a portion of these projects to actually come online.

Since renewable diesel is a 100% replacement for fossil diesel, the total potential market is represented by the sum of biodiesel, renewable diesel, and fossil diesel consumption by the transportation sector, which was almost 4,000 MMGal for California in 2019. The United States transportation sector consumed 47 billion gallons in 2019. Canada will also represent an important market as it implements its own LCFS program.

Agriculture: When SusOil Camelina grain is processed, extracted neat plant oil and biomass is produced, the latter of which is a protein rich animal feed supplement similar to canola or soybean meal. The market for protein meal in the western United States is roughly 17 MMTPY (million tons per year), and is supplied primarily from interior states that grow and extract row crops like soybeans. The livestock industry in California's San Joaquin Valley, which has among the largest concentrations of cattle and dairy procures in the US, imports virtually all its portion of California's 5.7 MMTPY of protein meal from outside its borders. Domestic production of protein meal is estimated to be 125 MMTPY, which does not include imports from other parts of the world.

Environmental Impact

Biofuels have social, economic and environmental benefits that are a major driving force behind their adoption. Using biofuels instead of fossil fuels reduces net emissions of carbon dioxide and other greenhouse gasses, which are associated with global climate change and adverse regional health impacts. Biofuels are produced from renewable plant resources that "recycle" the carbon dioxide created when biofuels are consumed. Life-cycle analyses consistently show that using biofuels produced in modern facilities results in net reductions of greenhouse gas compared to using fossil fuel-based petroleum equivalents. These life-cycle analyses include the well-to-wheel energy equivalent of farming and production of biomass, including harvesting, conversion, transportation and utilization. Biofuels help nations achieve their goals of reducing carbon emissions and reducing importation of foreign oil. They burn cleanly in vehicle engines and reduce emissions of unwanted products, particularly unburned hydrocarbons, carbon monoxide and particulate matter. These characteristics contribute to improvements in local air quality and all associated health benefits.

We believe there is sufficient global demand for alternative, non-food based inedible biofuel feedstocks to allow a number of companies to successfully compete worldwide. In particular, we note that we are the only U.S.-based public company producing non-food based inedible oils for the production of biofuels, which gives us a unique competitive advantage over many foreign competitors when competing in the U.S.

The price basis for our oil and meal products will be comparable to their edible oil and biomass equivalents. To date, we have not identified any substantial effort being undertaken for the commercialization of other inedible oils that could compete with Camelina in the near term. With the growing demand for plant-based feedstocks, and the high price of oil and biofuels, we anticipate that we will be able to sell our plant oils, meal and biofuels profitably.

Employees.

As of September 10, 2020, we had 36 full time employees, of whom 32 were located at our Bakersfield Biorefinery and four were located at our corporate office. As of September 10, 2020, we also engaged 15 full or part-time contract employees and consultants. All of the employees who are located at the Bakersfield Biorefinery are employed by GCE Operating Company, LLC, the wholly-owned subsidiary of GCEH that operates the Bakersfield Biorefinery under the COMA.We anticipate that we will have to hire additional employees at the Bakersfield Biorefinery in the future to support our operational needs. We consider our relations with our employees to be good.

ITEM 1A. RISK FACTORS

The risks described below may not be the only ones relating to our company. Additional risks that we currently believe are immaterial may also impair our business operations. Our business, financial conditions and future prospects and the trading price of our common stock could be harmed as a result of any of these risks. Investors should also refer to the other information contained or incorporated by reference in this Annual Report on Form 10-K, including our financial statements and related notes, and our other filings from time to time with the Securities and Exchange Commission.

Risks Related to Our Business

We have not completed the construction and commissioning of the Bakersfield Biorefinery.We may experience time delays, unforeseen expenses and other complications while developing the Bakersfield Biorefinery, which complications could delay the commencement of revenue-generating activities and increase our development costs.

We have entered into a binding turnkey agreement with guaranteed maximum price for the engineering, procurement and construction of the Bakersfield Biorefinery with ARB, Inc., a premier contractor for the construction of power generation, renewable energy and refinery projects. The engineering and construction of the Bakersfield Biorefinery is expected to take up to 20 months to complete before the Bakersfield Biorefinery can commence operations. Although ARB has agreed to complete the construction of the Bakersfield Biorefinery within a specified period at a maximum price to us, the construction of these kinds of facilities is inherently subject to the risks of unforeseen required change orders, regulatory issues, cost overruns and delays. Delays in the development beyond our estimated timelines, or amendments or change orders to the ARB construction contract, could increase the cost of completion beyond the amounts that we have budgeted. Furthermore, while we believe that we currently hold all necessary the environmental, regulatory, construction and zoning permissions that we need for the construction of the Bakersfield Biorefinery, no assurance can be given that we will not be required to obtain additional regulatory and land use approvals, which additional regulatory approvals may delay the completion of the Bakersfield Biorefinery or increase its development costs. If ARB is for any reason unable to construct and commission the Bakersfield Biorefinery within the financial and timing requirements, our business and our expected operating results, cash flows and liquidity could be materially and adversely affected.

We have a limited operating history in commercially refining and selling biofuels, and no history in operating a renewable diesel biorefinery. Accordingly, we have no history from which an investor can reliably evaluate our business and prospects.

We have a limited operating history and track record in the biofuels market, and no history in the construction and operations of a renewable fuels biorefinery. Prior to the acquisition of the Bakersfield Biorefinery, we were an energy agri-business company focused on the development of ultra-low carbon non-food based feedstocks for renewable fuels and chemicals in the U.S. Mexico and the Caribbean. Our strategy depends on our ability to successfully operate the Bakersfield Biorefinery and to provide the Bakersfield Biorefinery with sufficient feedstocks, particularly Camelina that is grown for the Bakersfield Biorefinery by third party farmers. However, we have no history of owning, developing, constructing or operating a renewable fuels refinery. As a result, our prior operating history and our historical financial statements may not be a reliable basis for evaluating our business prospects or the future value of our Common Stock. We cannot give you any assurance that we will be able to implement our strategy in the manner we expect, if at all, or achieve our internal business projections, or that our assumptions regarding the operations of the Bakersfield Biorefinery or the Camelina feedstock production will be accurate. Our limited operating history also means that we may have to develop and implement various alternate policies and procedures related to Bakersfield Biorefinery’s development and future operations, to our feedstock supply chain, and to other matters.

Our ability to implement our business strategy may be materially and adversely affected by many known and unknown factors.

Our business strategy relies upon our future ability to successfully operate the Bakersfield Biorefinery and to source Camelina and other feedstocks in a cost-effective manner. Our business strategy relies on numerous assumptions, which assumptions are subject to significant economic, competitive, regulatory and operational uncertainties, contingencies and risks, many of which are beyond our control. Our future ability to execute our business strategy is uncertain, and it can be expected that one or more of our assumptions will prove to be incorrect and that we will face unanticipated events and circumstances that may adversely affect our business. Among the factors that could have a material adverse effect on our ability to implement our strategy and achieve our targets are the following:

- Inability to complete the construction of the Bakersfield Biorefinery on time and for the anticipated cost;
- inability to source feedstock for the Bakersfield Biorefinery, including Camelina, in sufficient quantities and/or at economically attractive prices;
- failure to manage third party Camelina cultivation operations at the expected cost and in the projected time frame;
- inability to enter into profitable energy-related transactions as part of our biofuels sales and trading operations, and to optimally price and manage position, performance and counterparty risks;
- failure of the licensed proprietary technology to perform as expected;
- changes in existing and future governmental laws and regulations affecting the energy markets in general, and the renewable energy markets in particular;
- changes in general economic, political and business conditions in the U.S., particularly those that affect the energy and renewable fuels markets;
- increases in operating costs, including the need for additional or unexpected capital improvements, insurance premiums, general taxes, real estate taxes and utilities, and other costs affecting our profit margins;
- public health crises, such as the coronavirus outbreak that began in early 2020, which could impact global economic conditions; or
- inability, or failure, of any customer or contract counterparty to perform their contractual obligations to us.

A termination of the ExxonMobil Oil Corporation Product Offtake Agreement would negatively affect our future marketing and sales of renewable diesel and would trigger and event of default under our two credit facilities.

Under the Offtake Agreement that we entered into with ExxonMobil Oil Corporation, ExxonMobil has agreed to purchase 2.5 million barrels of renewable diesel per year from the Bakersfield Biorefinery for a period of five years following the date that the Bakersfield Biorefinery commences operations. ExxonMobil has the option to extend the initial five-year term. Either party may terminate the Offtake Agreement if the Bakersfield Biorefinery does not meet certain production levels by the end of the first and second six-month periods following the commencement of the Bakersfield Biorefinery's operations. In addition, ExxonMobil can terminate the Offtake Agreement if the construction of the biorefinery is not completed by a specified date. In addition, termination of the Offtake Agreement could constitute an event of default under the Credit Agreements that provide us with $300 million of financing from our Senior Lenders, and up to $65 million from our Mezzanine Lenders. Our obligations under the Credit Agreements are secured by a security interest in all of the assets at the Bakersfield Biorefinery and by all of the assets and ownership interests of our subsidiaries that owns the Bakersfield Biorefinery.

We are dependent on ARB, Inc. and other contractors for the successful completion of the Bakersfield Biorefinery.

The construction of most of the Bakersfield Biorefinery has been outsourced to ARB under an engineering, procurement and construction (EPC) contract, but certain other contractors have also been engaged by us to, among other things, construct and refurbish railroad tracks through the Bakersfield Biorefinery and to install underground pipelines. Our business strategy is highly dependent on our contractors' performance under their agreements with us. Our contractors' ability to perform successfully under their contracts is dependent on a number of factors, including their ability to:

- design and engineer the Bakersfield Biorefinery to operate in accordance with specifications;
- engage and retain third-party subcontractors and procure equipment and supplies;
- respond to difficulties such as equipment failure, delivery delays, schedule changes and failure to perform by subcontractors, some of which are beyond their control;
- attract, develop and retain skilled personnel, including engineers;
- post required construction bonds and comply with the terms thereof;
- manage the construction process generally, including coordinating with other contractors and regulatory agencies; and
- maintain their own financial condition, including adequate working capital.

Although our EPC contract with ARB provides for liquidated damages if ARB fails to perform in the manner required with respect to certain of its obligations, the events that trigger a requirement to pay liquidated damages may delay or impair the operation of our Bakersfield Biorefinery, and any liquidated damages that we receive may not be sufficient to cover the damages that we suffer as a result of any such delay or impairment. Furthermore, we may have disagreements with our contractors about different elements of the construction process, which could lead to the assertion of rights and remedies under their contracts and increase the cost of the project or result in a contractor's unwillingness to perform further work on the project. If any contractor is unable or unwilling to perform according to the negotiated terms and timetable of its respective agreement for any reason or terminates its agreement, we would be required to engage a substitute contractor. Any of the foregoing events would likely result in significant project delays and increased costs.

We may incur significant costs complying with environmental laws and regulations, and failure to comply with these laws and regulations could expose us to significant liabilities.

We believe that we currently hold the requisite regulatory approvals to construct and to thereafter operate the Bakersfield Biorefinery. Although we have implemented safety procedures for the operation of the Bakersfield Biorefinery and the disposal of waste products to comply with these laws and regulations, we cannot be sure that our safety measures are compliant or capable of eliminating the risk of accidental injury or contamination from the use, generation, manufacture, or disposal of hazardous materials. In the event of contamination or injury, we could be held liable for any resulting damages, and any liability could exceed our insurance coverage. There can be no assurance that violations of environmental, health and safety laws will not occur as a result of human error, accident, equipment failure or other causes.

Compliance with applicable environmental laws and regulations may be expensive, and the failure to comply with past, present or future laws could result in the imposition of fines, regulatory oversight costs, third party property damage, product liability and personal injury claims, investigation and remediation costs, the suspension of production, or a cessation of operations. Environmental laws could become more stringent over time, requiring us to change our operations, or imposing greater compliance costs and increasing risks and penalties associated with violations, which could impair our research, development or production efforts and harm our business. Similarly, our business may be harmed if existing initiatives to further reduce emissions of greenhouse gases, which improve the competitiveness of renewable fuels relative to petrochemicals, do not become legally enforceable requirements, or if existing legally enforceable requirements relating to greenhouse gases are amended or repealed in the future. The costs of complying with environmental, health and safety laws and regulations and any claims concerning noncompliance, or liability with respect to contamination in the future could have a material adverse effect on our financial condition or operating results.

Loss of key personnel or our inability to attract and retain additional key personnel could harm our ability to meet our business objectives.

Our Bakersfield Biorefinery operations and Camelina feedstock businesses involve complex operations spanning a variety of disciplines that require a management team and employee workforce that is knowledgeable in the many areas necessary for our operations. While we have been successful in attracting certain experienced, skilled professionals to our company, we will have to identify, attract and retain a significant number additional such employees once the Bakersfield Biorefinery is operational and the Camelina cultivation expands to our projected levels. Failure to hire the qualified employees that we will need could affect operations and the future profitability of the Bakersfield Biorefinery's operations. We are also heavily dependent upon certain of our current senior executives and upon certain key independent contractors and advisors for supervising the construction of the Bakersfield Biorefinery and the operations of the Bakersfield Biorefinery. The loss of these key employees and contractors could have a significant detrimental impact on the development and initial operations of the Bakersfield Biorefinery and on the implementation of our Camelina cultivation operations. Hiring, training and successfully integrating qualified personnel into our operation is a lengthy and expensive process. The market for qualified personnel is very competitive because of the limited number of people available with the necessary skills to operate a renewable diesel refinery, to successfully source feedstock, and to commercialize the renewable fuels the Bakersfield Biorefinery is designed to produce. If we are not able to attract and retain the necessary personnel to accomplish our business objectives, we may experience staffing constraints that will adversely affect our future operations.

Our Camelina patents may not protect us against competition from other biofuel competitors.

An important element of our plan of operations of our Bakersfield Biorefinery is the use of our Camelina oil that is derived from our patented varieties of Camelina as one of the principal feedstocks at the Bakersfield Biorefinery. We currently have three patented varieties of Camelina and are in the process of filing additional patent applications for another six Camelina plant varieties and several patents enhancing our existing patent position. Interpreting the scope and validity of patents and success in prosecuting patent applications involves complex legal and factual questions, and the issuance, scope, validity, and enforceability of a patent cannot be predicted with any certainty. Patents issued to us may be challenged, invalidated or circumvented. In addition, we cannot be certain that any of our patent applications will result in issued patents, or if issued, we cannot be certain of the validity and/or enforceability of any newly issued patents. Moreover, we cannot be sure that any of our or patent rights will be broad enough in scope to provide commercial advantage and prevent circumvention. We believe that our enhanced, patented varieties of Camelina will produce larger Camelina harvests per acre of cultivated land, and that the Camelina seeds harvested from these patented varieties have beneficial properties for the production of Camelina feedstock oil. However, our patents do not give us the exclusive right to cultivate other varieties of Camelina nor do our patents limit the right of others to use the oil from such other Camelina varieties as a biofuels feedstock. No assurance can be given that other biofuel producers will not imitate our business plan and use Camelina as a biofuel feedstock, nor do our existing patent rights prevent others from competing with us and developing substantially similar business plans.

Our Camelina operations will be dependent upon the availability of farmland, our relationship with third party farmers, and on factors affecting agricultural operations in general.

We don't own or control any farms or farmland on which we can grow our patented varieties of Camelina. Accordingly, we are wholly dependent upon third party farmers to plant, cultivate, harvest and store the Camelina that we plan to use as feedstock for renewable diesel at the Bakersfield Biorefinery and possible elsewhere. Our ability to obtain the amount of Camelina that we propose to use as feedstock at the Bakersfield Biorefinery therefore is dependent upon our ability to recruit a sufficient number of farmers to grow Camelina for us, to enter into mutually acceptable financial and other arrangements with the farmers that we recruit, and for those farmers to successfully grow, harvest and deliver that Camelina to us. While we have identified a number of farmers and several farm cooperatives that have expressed an interest in producing Camelina in accordance with our proposed arrangements, as of the date of this Annual Report we have not entered into any definitive agreements for the large scale farming and production of Camelina. Accordingly, no assurance can be given that we will be able to develop and thereafter maintain the farming, storage and delivery arrangements necessary to produce the quantities of Camelina we plan to use at the Bakersfield Biorefinery. In addition to the risks associated with enrolling farmers in our proposed Camelina production operations, the results of those farming operations may be adversely affected by numerous factors over which we have little or no control and that are inherent in farming, including adverse weather (including but not limited to drought) and changes growing conditions, pest and disease problems, and new government regulations regarding farming and the marketing of agricultural products.

Risks Relating to Our Financial Matters

We are a development stage company that currently has no revenues, and we do not expect to generate any revenues until the Bakersfield Biorefinery commences commercial operations.

We are a development stage company with no revenues and no operations other than those related to the construction of the Bakersfield Biorefinery and to the development of our Camelina cultivation operations. We do not expect to generate material revenues, if any, until after the Bakersfield Biorefinery has commenced commercial operations, which is not expected to occur until early 2022. We will incur significant net losses and significant capital expenditures through the completion of the Bakersfield Biorefinery. Any delays beyond the expected development period for the Bakersfield Biorefinery would prolong, and could increase the level of, our operating losses. Neither we nor our affiliates have previously ever managed the construction, operation or maintenance of a renewable diesel facility.

We have a history of net losses, and we may not achieve or maintain profitability.

We incurred net losses of $21.5 million during the four years ended December 31, 2019. As of December 31, 2019, we had an accumulated deficit of $55.7 million. Our Bakersfield Biorefinery will be under construction until early 2022 and will not be generating any revenues during its construction phase. Accordingly, we do not expect to generate revenues from the operations of the Bakersfield Biorefinery for at least 18 months. We also expect to spend, in the aggregate, over $250 million between the filing of this Annual Report and the end of 2021 on the development and construction of the Bakersfield Biorefinery, on our debt service obligations, our upstream feedstock development operating costs, and on general and administrative expenses. Furthermore, we do not expect to generate significant revenues until the Bakersfield Biorefinery becomes operational in 2022, and we expect to incur significant losses and negative cash flows through at least 2022. No assurance can be given that the Bakersfield Biorefinery and our related Camelina operations will be profitable once the Bakersfield Biorefinery does commence operations in early 2022.

The terms of our Credit Agreements and our other financing arrangements will significantly limit the amount of cash that is available to GCEH and our stockholders.

Under our Credit Agreements we expect to obtain an aggregate of $300 million of financing from our Senior Lenders, and up to $65 million from our Mezzanine Lenders. The senior loan bears interest at the rate of 12.5% per annum, and the mezzanine loans will bear interest at the rate of 15.0% per annum on amounts borrowed. The senior loan and mezzanine loans mature in November 2026 and 2027, respectively. In addition to the loan repayment obligations under both the senior loan and mezzanine loans, BKRF HCB, LLC, one of our Bakersfield Biorefinery holding company subsidiaries, has issued membership interests (Class B Units) to the Senior Lenders and will issue membership interests (Class C Units) to the Mezzanine Lenders (or their designees). The Class B Units and Class C Units membership interests provide the holders of the Class B and Class C Units with preferential cash distribution rights over the Class A Units owned by GCEH. Under the Credit Agreements and the limited liability agreement of BKRF HCB, LLC, any excess cash from operations that the Bakersfield Biorefinery generates will first be used to make the debt service payments under the senior and mezzanine loans, and then any excess cash available after making those loan payments will be distributed to BKRF HCB, LLC to be allocated among the holders of the Class A, Class B and Class C Units. The holders of the Class B Units are entitled to receive quarterly distributions of 25% of the Bakersfield Biorefinery's free cash flow until the senior lenders have received (collectively, from these cash distributions plus principal and interest on the senior loans) an amount equal to a 2X multiple of invested capital ("MOIC"), or two times the amount of the senior loans. Since we expect that the Senior Lenders will lend us $300 million, the Senior Lenders will have preferential rights to receive a total of up to $600 million, and under certain circumstances for a limited period, an additional 5% of the free cash flow. The cash available for distribution after payment of the Class B Units 25% allocation will be divided by the holders of the Class C Units and the Class A Units. The holders of the Class C Units will be entitled to receive 80.0% of cash distributions until the Mezzanine Lenders have received cumulative payments (cash distributions plus principal and interests on the mezzanine loans) equal to 2.0x MOIC, which percentage decreases to 65.0% (after they have received 3.0x MOIC), 50.0% (after they have received 4.0x MOIC) and 30.0% of all cash distributions thereafter. As a result of the large debt payment obligations and the foregoing preferential cash distribution allocations to the holders of the Class B and Class C Units, the amount of cash available for distribution to GCEH and our stockholders will be significantly reduced. Accordingly, even if the Bakersfield Biorefinery's operations generate significant profits, the amount of cash available to GCEH from the Bakersfield Biorefinery will be very limited for at least five years.

Our Bakersfield Biorefinery subsidiaries are subject to various restrictions under the Credit Agreements, and substantially all of the assets of the Bakersfield Biorefinery subsidiaries are held as security under the terms of the Credit Agreements.

The obligations under the Credit Agreements are secured by a security interest in all of the assets of the Bakersfield Renewable Fuels, and by all of the assets and securities issued by the limited-purpose, wholly-owned indirect subsidiaries of the Company. The Credit Agreements are subject to certain customary events of default, including events relating to non-payment of required interest, principal, or other amounts due on or with respect to the Senior Loans, failure to comply with covenants within specified time frames, certain bankruptcy events, breaches of specified representations and warranties, failure of security interests to be effective, and certain judgments. A breach of any of the covenants under the Credit Agreements could result in an event of default. Cross-default provisions in the two Credit Agreements mean that an event of default under one of the Credit Agreements will trigger an event of default under the other Credit Agreement. Upon the occurrence of an event of default under any of our debt agreements, the lenders could elect to declare all outstanding debt under the Credit Agreements to be immediately due and payable, and the secured lenders could foreclose against all of the Bakersfield Biorefinery's assets and the ownership interests of the various subsidiaries. A foreclosure could result in the loss of our primary asset and business, and we could be forced into bankruptcy or liquidation.

The agreements governing our indebtedness place restrictions on us and our subsidiaries, reducing operational and financing flexibility and creating default risks.

The agreements and related documents that govern our indebtedness, including but not limited to, the Credit Agreements that our subsidiaries entered into on May 4, 2020, contain covenants that place restrictions on us and our subsidiaries. The Credit Agreements restrict among other things, our subsidiaries' ability to:

- merge, consolidate or transfer all, or substantially all, of their assets;
- incur additional debt;
- make certain investments or acquisitions;
- create liens on our subsidiaries' assets;
- sell assets;
- alter the businesses our subsidiaries conduct;
- make distributions; and
- enter into transactions with our other affiliated entities.

These covenants could impair our ability to grow our business, take advantage of attractive business opportunities or successfully compete. In addition, these covenants could restrict our ability to optimize our capital structure with asset-level debt or equity financings.

Risks Related to Ownership of Our Common Stock

There is a limited public trading market for our Common Stock, and you may not be able to resell yourCommon Stock.

Our Common Stock is traded on the OTC Pink marketplace, an inter-dealer, over-the-counter market that provides significantly less liquidity than national securities exchanges, such as The Nasdaq Stock Market. As a result, there is currently a limited public trading market for our securities. We cannot assure you that a regular trading market will develop or that if developed, will be sustained. If an active trading market does not develop, you may have difficulty selling your shares of Common Stock at an attractive price, or at all, which will result in the loss of your investment.

We cannot assure you that the Common Stock will be listed on the OTCQB, OTCQX, NASDAQ or any other securities exchange.

We intend to seek a possible listing of our Common Stock on OTCQB or OTCQX marketplaces and, when possible on one of the NASDAQ markets. However, we cannot assure you that we will be able to meet the initial listing standards of either of those trading platforms or any other stock exchange, or that we will be able to maintain a listing of the Common Stock on either of those or any other stock exchange. If we are unable to list our Common Stock on a trading platform that is regulated and There are no assurances that an active market for our shares will develop even if we are listed.

We are a "smaller reporting company" and we have elected to comply with certain reduced reporting and disclosure requirements which could make our Common Stock less attractive to investors.

We are a "smaller reporting company," as defined in the Regulation S-K of the Securities Act of 1933, as amended, which allows us to take advantage of certain exemptions from various reporting requirements that are applicable to other public companies that are not smaller reporting companies, including (1) not being required to comply with the auditor attestation requirements of Section 404 of the Sarbanes-Oxley Act of 2002, and (2) reduced disclosure obligations regarding executive compensation in our periodic reports and proxy statements. In addition, we are only required to provide two years of audited financial statements in our future SEC reports. We cannot predict if investors will find our Common Stock less attractive because we may rely on these exemptions. If some investors find our Common Stock less attractive as a result, there may be a less active trading market for our Common Stock and our stock price may be more volatile. Our independent registered public accounting firm is not required to formally attest to the effectiveness of our internal control over financial reporting until we are no longer a "smaller reporting company". We cannot assure you that there will not be material weaknesses or significant deficiencies in our internal controls in the future.

We have no plans to pay dividends.

To date, we have paid no cash dividends on our Common Stock. For the foreseeable future, earnings generated from our operations will be retained for use in our business and not to pay dividends.

The application of the SEC's "penny stock" rules to our Common Stock could limit trading activity in the market, and our stockholders may find it more difficult to sell their stock.

Because the trading price of our Common Stock has been less than $5.00 per share, our Common Stock will be subject to the SEC's penny stock rules. Penny stocks generally are equity securities with a price of less than $5.00. Penny stock rules require a broker-dealer, prior to a transaction in a penny stock not otherwise exempt from the rules, to deliver a standardized risk disclosure document that provides information about penny stocks and the risks in the penny stock market. The broker-dealer also must provide the customer with current bid and offer quotations for the penny stock, the compensation of the broker-dealer and its salesperson in the transaction, and monthly account statements showing the market value of each penny stock held in the customer's account. The broker-dealer must also make a special written determination that the penny stock is a suitable investment for the purchaser and receive the purchaser's written agreement to the transaction. These requirements may have the effect of reducing the level of trading activity, if any, in the secondary market for a security that becomes subject to the penny stock rules. The additional burdens imposed upon broker-dealers by such requirements may discourage broker-dealers from effecting transactions in our securities, which could severely limit their market price and liquidity of our securities. These requirements may restrict the ability of broker-dealers to sell our Common Stock and may affect your ability to resell our Common Stock.

If we are unable to establish appropriate internal financial reporting controls and procedures, it could cause us to fail to meet our reporting obligations, result in the restatement of our financial statements, harm our operating results, subject us to regulatory scrutiny and sanction, cause investors to lose confidence in our reported financial information and have a negative effect on the market price for shares of our Common Stock.

Effective internal controls are necessary for us to provide reliable financial reports and to effectively prevent fraud. As a public company, we have significant additional requirements for enhanced financial reporting and internal controls. We are required to document and test our internal control procedures in order to satisfy the requirements of Section 404 of the Sarbanes-Oxley Act of 2002, which requires annual management assessments of the effectiveness of our internal controls over financial reporting and a report by our independent registered public accounting firm addressing these assessments. The process of designing and implementing effective internal controls is a continuous effort that requires us to anticipate and react to changes in our business and the economic and regulatory environments and to expend significant resources to maintain a system of internal controls that is adequate to satisfy our reporting obligations as a public company.

We have recently implemented a system of internal control over financial reporting. However, we cannot assure you that we will not, in the future, identify areas requiring improvement in our internal control over financial reporting. We cannot assure you that the measures we will take to remediate any areas in need of improvement will be successful or that we will implement and maintain adequate controls over our financial processes and reporting in the future as we continue our growth. If we are unable to establish appropriate internal financial reporting controls and procedures, it could cause us to fail to meet our reporting obligations, result in the restatement of our financial statements, harm our operating results, subject us to regulatory scrutiny and sanction, cause investors to lose confidence in our reported financial information and have a negative effect on the market price for shares of our Common Stock.

The market price of our Common Stock may be volatile.

The market price of our Common Stock may be highly volatile because, among other reasons, we have not filed all of our SEC reports in the past few years and, therefore, investors are unfamiliar with our operations and financial condition. In addition, we recently acquired the Bakersfield Biorefinery, are currently retooling and converting the refinery into a renewable diesel refinery, and expect to borrow up to $365 million to fund the foregoing purchase and conversion. However, we do not expect to generate revenues until the construction of the Bakersfield Biorefinery is completed. These factors may lead to uncertainty and speculation about our future operations and profitability, which could result in the volatility in our stock price. There are other factors that may materially affect the market price of our Common Stock that are beyond our control, such as analyst research reports, conditions or trends in the renewable fuels industry, or sales of our Common Stock by some of our larger stockholders. These factors may materially adversely affect the market price of our Common Stock, regardless of our performance. In addition, public stock markets have experienced extreme price and trading volume volatility. This volatility has significantly affected the market prices of securities of many companies for reasons frequently unrelated to the operating performance of the specific companies. These broad market fluctuations may adversely affect the market price of our Common Stock.

Because our directors and executive officers are among our largest stockholders, they can exert significant control over our business and affairs and have actual or potential interests that may depart from those of investors.

Our officers and directors currently own 15.7% of our voting shares as of September 10, 2020. The holdings of our directors and executive officers may increase substantially in the future upon exercise rights under any of the options,warrants or convertible notes they may hold or in the future be granted or if they otherwise acquire additional shares of Common Stock. The interests of such persons may differ from the interests of our other stockholders, including purchasers of our securities. As a result, in addition to their influence as members of our Board of Directors or as executive officers, such persons will have significant influence over and control all corporate actions requiring stockholder approval, irrespective of how the Company’s other stockholders, including purchasers in the future financings, may vote, including the following actions:

- to elect or defeat the election of our directors;
- to amend or prevent amendment of our Certificate of Incorporation or By-laws;
- to effect or prevent a merger, sale of assets or other corporate transaction; and
- to control the outcome of any other matter submitted to our stockholders for vote.

This concentration of ownership by itself may have the effect of impeding a merger, consolidation, takeover or other business consolidation, or discouraging a potential acquirer from making a tender offer for the Common Stock which in turn could reduce our stock price or prevent our stockholders from realizing a premium over our stock price.

Our Board of Directors is authorized to issue Preferred Stock without obtaining stockholder approval.

Our Certificate of Incorporation authorizes the issuance of up to 50,000,000 shares of Preferred Stock with designations, rights and preferences determined from time to time by the Board of Directors. Accordingly, our Board of Directors is empowered, without stockholder approval, to issue Preferred Stock with dividend, liquidation, conversion, voting, or other rights which could adversely affect the voting power or other rights of the holders of the Common Stock. In the event of issuance, the Preferred Stock could be utilized, under certain circumstances, as a method of discouraging, delaying or preventing a change in control of the Company. Although we have no present intention to issue any additional shares of Preferred Stock, there can be no assurance that the Company will not do so in the future.

ITEM 1B. UNRESOLVED STAFF COMMENTS.

Not applicable.

ITEM 2. PROPERTIES.

Executive Offices. Our corporate offices are located at 2790 Skypark Drive, Suite 105, Torrance, California 90505. These offices, consisting of approximately 1,296 square feet, are leased under a lease that expires on July 31, 2022.

Bakersfield, California, Bakersfield Biorefinery. The street address of the Bakersfield Biorefinery 6451 Rosedale Highway, Bakersfield, California. The site has hosted a crude oil refinery for approximately 85 years. The Bakersfield Biorefinery, consisting of three areas designated as Areas 1, 2 and 3, has a total acreage of approximately 607 acres. Areas 1 and 2 are contiguous and can be accessed from Rosedale Highway, while Area 3 (approximately 83 acres) is located about two miles north of Areas 1 and 2. The Westside Parkway abuts the south side of Area 2. The renewable diesel biorefinery will be located primarily within Area 2. Area 3 is currently not in use as part of the biorefinery project. Rail tracks pass through Areas 1 and 2. The Bakersfield Biorefinery is adjacent to a major highway that provides access to the interstate highway system. The biorefinery is also connected to the existing pipeline network in the San Joaquin Valley. The facility contains a substantial amount of equipment that the Company intends to use in its renewable diesel operations, including new and refurbished equipment and vessels to receive, store, process, and refine pre-treated camelina oil, soybean oil and other waste fats, oils and greases.

ITEM 3. LEGAL PROCEEDINGS.

Bakersfield Renewable Fuels, LLC, formerly Alon Bakersfield Property, Inc. is a party to an action titled "*C & C Properties, Inc., JEC Panama, LLC, and Wings Way, LLC, Plaintiffs v. Shell Pipeline Company, Alon Bakersfield Property, Inc. & Paramount Petroleum Corporation, Eott Energy Operating Limited Partnership, and Plains All American GP, LLC*," Case No.: 1:14-cv-01889-DAD-JLT, pending in the United States Court of Appeals for the Ninth Circuit. In June 2019, the jury awarded the plaintiffs approximately $670,000 in economic loss, and an additional $6 million in benefits from trespass, against the Company and Paramount Petroleum Corporation (a parent company of Alon Bakersfield in 2019). Bakersfield Renewable Fuels has filed post-trial motions to alter or amend the judgment, or, in the alternative, for a new trial. Bakersfield Renewable Fuels is also assessing options for appellate action, if necessary. The hearing on this matter was heard in early October of 2019, and we are awaiting the court's ruling. Under the Share Purchase Agreement, Alon Paramount agreed to assume and be liable for (and to indemnify, defend, and save Bakersfield Renewable Fuels harmless from) this litigation. In addition to the foregoing agreement to hold Bakersfield Renewable Fuels harmless from the C&C Properties litigation, a supersedeas bond has been posted as a surety to pay any final judgment (after appeals). All legal fees in this matter are being paid by Paramount Petroleum Corporation.

On August 24, 2020 Wood Warren & Co Securities, LLC filed a complaint in the Superior Court of California, Alameda County, against GCE Holdings Acquisitions, LLC titled "*Wood Warren & Co Securities, LLC vs. GCE Holdings Acquisitions, LLC*" (Case No. RG 20072242). The complaint alleges that GCE Holdings Acquisitions, LLC breached that certain Consulting Agreement, dated October 8, 2019, by failing to pay Wood Warren & Co Securities, LLC certain fees that Wood Warrant claims it has earned under the Consulting Agreement. Wood Warren & Co Securities, LLC has asked the court for an award of $1,223,870. The complaint was served on September 14, 2020. GCE Holdings Acquisitions, LLC has not yet responded to the complaint.

From time to time, we may become a party to legal actions and complaints arising in the ordinary course of business. Other than the foregoing arbitration proceedings, as of the date of this Annual Report we have no legal proceedings pending.

ITEM 4. MINE SAFETY DISCLOSURES.

Not applicable.

PART II

ITEM 5. MARKET FOR REGISTRANT'S COMMON EQUITY, RELATED STOCKHOLDER MATTERS, AND ISSUER PURCHASES OF EQUITY SECURITIES.

Market Information

GCEH's common stock ("Common Stock") is quoted on the OTC Pink marketplace under the symbol "GCEH".

Common Stock Information

As of September 10, 2020, there were 358,499,606 shares of Common Stock outstanding. As of that date, GCEH had 1,500 Common Stock stockholders of record (excluding stockholders who hold shares in "streetname").

Dividends

We have not paid any dividends on Common Stock to date and do not anticipate that we will pay dividends in the foreseeable future. Any payment of cash dividends on Common Stock in the future will be dependent upon the amount of funds legally available, our earnings, if any, our financial condition, our anticipated capital requirements and other factors that the Board of Directors may think are relevant. However, we currently intend for the foreseeable future to follow a policy of retaining all of our earnings, if any, to finance the development and expansion of our business and, therefore, do not expect to pay any dividends on Common Stock in the foreseeable future.

We currently have outstanding 13,000 shares of Series B Convertible Preferred Stock (the "Series B Shares"). Under the terms of the Series B shares, no dividends are required to be paid to holders of the Series B Shares. However, the Company may not declare, pay or set aside any dividends on shares of any class or series of GCEH's capital stock (other than dividends on shares of Common Stock payable in shares of Common Stock) unless the holders of the Series B shares shall first receive, or simultaneously receive, an equal dividend on each outstanding share of Series B shares.

Securities Authorized For Issuance Under Equity Compensation Plans

The following table contains information regarding our equity compensation plans as of December 31, 2019:

Plan Category	Number of Securities to be Issued upon Exercise of Outstanding Options, Warrants and Rights	Weighted-Average Exercise Price of Outstanding Options, Warrants and Rights	Number of Securities Remaining Available for Future Issuance under Equity Compensation Plans (Excluding Securities Reflected in the First Column)
Equity compensation plans approved by security holders 2010 Equity Incentive Plan (1)	1,500,000	$ 0.0017	—
Equity compensation plans not approved by security holders Non-Qualified Stock Options (2)	197,527,315	$ 0.0161	N/A
Total	199,027,315		—

(1) The 2010 Equity Incentive Plan has expired, and no additional options or awards can be granted under this plan.
(2) Represents options to purchase Common Stock issued to officers and consultants pursuant to various employment and consulting agreements.

Recent Issuances Of Unregistered Securities

The following is a list of all issuance of unregistered securities since December 31, 2015 that have not previously been reported in a Current Report on Form 8-K. Each issuance of the shares listed below was exempt from the registration requirements of the Securities Act of 1933, as amended, pursuant to Section 4(2) of the act applicable to a transaction by an issuer not involving a public offering of securities. No underwriter was involved in the issuance of the shares.

a. On May 6, 2020, GCEH issued 5,542,857 shares of Common Stock to its Executive Vice President upon the exercise of a non-qualified stock option and an incentive stock option.

b. On May 29, 2020, GCEH issued 750,000 shares of Common Stock to one of its attorneys upon the exercise of a non-qualified stock option. The option was granted to the attorney in January 2018 as partial payment for legal services rendered to the Company.

c. On January 2, 2020 and January 28, 2020, GCEH issued 6,677,315 and 1,000,000 shares of Common Stock, respectively, to a consultant upon the exercise of two non-qualified stock options. The options were granted as payment for services rendered to the Company.

d. On December 30, 2019, GCEH issued 2,500,000 shares of Common Stock to a consultant upon the exercise of a non-qualified stock option. The option was granted to December 14, 2018 as partial payment for consulting services rendered to the Company.

e. On June 24, 2019, GCEH issued 500,000 shares of Common Stock to a member of the Company's Board of Directors upon the exercise of a non-qualified stock option. The option was granted on July 1, 2014 as payment for services rendered as a member of the Board of Directors of the Company.

Repurchase of Shares

We did not repurchase any of our shares during the five fiscal years covered by this report.

ITEM 6. SELECTED FINANCIAL DATA.

Not applicable to a "smaller reporting company" as defined in Item 10(f)(1) of SEC Regulation S-K.

ITEM 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS.

This Annual Report includes, in one comprehensive filing, the business and financial information for the Company for the calendar years 2016, 2017, 2018 and 2019. Therefore, this Management's Discussion and Analysis provides an analysis of the annual financial condition and results of operations for each of the years ended December 31, 2016, 2017, 2018 and 2019. The Financial Statements and Supplementary Data include summarized quarterly financial condition and results of operations for the three months ended March 31, the three and six months ended June 30 and the three and nine months ended September 30 for each 2016, 2017, 2018 and 2019. This review should be read in conjunction with the Financial Statements and Supplementary Data, which are included in Item 15 of this Annual Report.

Overview

Since 2007, the Company has been an integrated agricultural-energy biofuels company that, directly or through its subsidiaries, acquired and developed agricultural biofuel feedstock assets. From 2007 until the end of 2015, the Company owned and operated biofuel agricultural farms in Mexico, the Caribbean and Central America that were established for the production of Jatropha oil to be used for the production of biodiesel. On December 2, 2015, GCEH sold its three Jatropha farms that were located in Mexico and shifted its focus from developing Jatropha to commercializing the Camelina assets owned by Sustainable Oils, LLC, the company that GCEH acquired in March 2013. As a result of the sale of our Mexico Jatropha farms, we extinguished approximately $22.3 million of long term liabilities from our consolidated balance sheet.

Since 2013 the Company has been engaged in developing its Camelina assets. After selling its Mexican Jatropha farms at the end of 2015, GCEH turned its attention to establishing facilities for the production and commercialization of Camelina-based biofuels. Although the Company provided biofuels-related consulting services to third parties for the first two years following the disposition of its Jatropha operations, the Company's efforts were principally directed to developing its Camelina operations in North American and on acquiring a refinery to produce renewable diesel from Camelina. In July 2018, we entered into a letter of intent for the purchase of the Bakersfield Biorefinery. As a result of our efforts to acquire the Bakersfield Biorefinery, our general and administrative expenses increased significantly from $1.0 million in 2017 to $1.3 in 2018 and we incurred $0.5 million of preliminary acquisition costs. In 2019, in addition to our continuing efforts to purchase the Bakersfield Biorefinery, we also were actively engaged in attempting to obtain the financing required to purchase and retool the refinery, and in arranging for the construction of the Bakersfield Biorefinery. As a result of these increased activities, our general and administrative expenses increased to $3.1 million in 2019 and we incurred $1.6 million of preliminary acquisition costs.

In order to fund our increasing expenses, in October of 2018 we entered into a derivative contract (the "Derivative Contract") with a commodity trading company for the delivery of ultra-low sulfur renewable diesel for settlement over a six-month period beginning in July 2020. Under the Derivative Contract, we received $6 million in cash. At the inception of the Derivative Contract, we recorded a $15.1 million liability and $9.1 million of financing costs. During the remaining portion of 2018, the derivative liability decreased by $3.2 million. As a result, a net expense of $5.9 million related to the derivative was recognized during 2018, which is included in "change in fair value of derivative and finance charges." In October 2019 we modified the Derivative Contract, entered into a new Derivative Contract, and received another $4 million in cash. The cash that we received from the Derivative Contract was used to fund our operating costs, our due diligence costs, our pre-acquisition costs, the purchase price down payment/deposit for the Bakersfield Biorefinery, our consulting and legal fees associated with the acquisition, and our payments to key vendors and suppliers.

In the past year, we completed the transactions that we were working on in 2018 and 2019, including the purchase in May 2020 of the Bakersfield Biorefinery, the strategic partnership with ExxonMobil Corporation to monetize the fuels expected to be produced at the Bakersfield Biorefinery, and the various financing arrangements described in this Annual Report to fund the conversion and operation of the Bakersfield Biorefinery. These completed transactions are necessary to establish this Company's ability to commercialize renewable fuel from Camelina and other feedstocks at the Bakersfield Biorefinery. However, because we were singularly focused on the acquisition and financing of the Bakersfield Biorefinery and on the establishment of our relationship with U.S. farmers for the cultivation of Camelina as a renewable fuels feedstock, the Company did not engage in any activities that generated revenues in 2018 or 2019.

Critical Accounting Policies

The preparation of financial statements in conformity with accounting principles generally accepted in the United States requires management to make estimates and assumptions that affect the reported assets, liabilities, sales and expenses in the accompanying financial statements. Critical accounting policies are those that require the most subjective and complex judgments, often employing the use of estimates about the effect of matters that are inherently uncertain.

The Company's most critical accounting policies and estimates that may materially impact the Company's results of operations include:

Capitalization of Pre-Acquisition Costs. The Company capitalizes its pre-acquisition costs once management determines that it is probable that the project will occur. Probability is determined based on (i) whether management, having the requisite authority, has implicitly or explicitly authorized and committed to funding the acquisition or construction of a specific asset, (ii) the financial resources are available consistent with such authorization, and (iii) the ability exists to meet the necessary local and other governmental regulations. Cost capitalization occurs when the event is probable, but prior to the start of construction. We capitalize those costs that are directly identifiable with the specific property and those costs that would be capitalized if the property were already acquired. We expense general and administrative and overhead costs and costs, including payroll, that would be considered support functions.

Derecognition of Liabilities. The Company reviews its liabilities, including but not limited to, accounts payable, notes payable, accrued expenses, accrued liabilities and other legal obligations, for a determination of the legal enforcement or settlement of an obligation. Upon conclusive evidence that an obligation may be extinguished, has expired, is discharged, cancelled or otherwise no longer legally exists, then the Company will derecognize the respective liability on the Company's balance sheet.

Derivative Commodity Instruments. During October 2018, the Company entered into a derivative forward contract that also included a call option. This contract was used as a source of financing, and the Company received $6 million at the inception of the contract from the counterparty. During October 2019, the derivative forward contract was amended, and the Company received an additional $4 million and the notional amount and liability increased accordingly. This derivative contract has been recorded at fair value at each balance sheet date, and the change in fair value is recognized in earnings. At the inception of the contract, the amount that the fair value of the liability exceeded the cash received was recognized in earnings. The Company does not expect to use derivative contracts in the future as a form of financing.

Recoverability of Intangible Assets. The Company invests in the development of various plant-based feedstocks for conversion to fuel as part of its core business plan and mandate. The Company has purchased patents and associated know-how that relate directly to the development and growing of Camelina. The Company invests in the ongoing development of Camelina through research and additional patents as breakthroughs occur. The Company capitalizes all of its patent expenses and amortizes these costs over a 17-year period in conjunction with the life of the patent protection. We evaluate the carrying costs of these assets on a periodic basis and will impair such value if deemed necessary. As of 2019, no impairment is necessary and the carrying value of our intellectual property (intangible assets) remains a significant value and expected economic generator going forward.

Certain other critical accounting policies, including the assumptions and judgments underlying them, are disclosed in Note 1 to the Consolidated Financial Statements included in this Annual Report. However, we do not believe that there are any alternative methods of accounting for our operations that would have a material effect on our financial statements.

Results of Operations

The following discussion of the results of our operations compares our results (i) for the fiscal years ended December 31, 2019, 201`8, 2017, 2016 and 2015, and (ii) for the first quarter, the six-month period ended June 30, and the nine-month period ended in September 30 of each of 2019, 2018, 2017, 2016 and 2015.

Annual Results of Operations.

Comparison of the Years ended December 31, 2019 and 2018

Revenues. As discussed above, during 2019 and 2018 our activities were devoted solely to the acquisition and financing of the Bakersfield Biorefinery, and we did not engage in any operating activities that generated revenues. Therefore, we had no operating revenues in 2019 or 2018. The Bakersfield Biorefinery currently is being retooled and converted from a crude oil refinery into a biorefinery and is not expected to commence operations until early 2022. Therefore, we do not anticipate generating revenues from the operations of the Bakersfield Biorefinery until 2022.

General And Administrative Expenses. General and administrative expense consists of expenses generally involving corporate overhead functions and operations and the operations of the Bakersfield Biorefinery. Our general and administrative expenses increased by $1.8 million, or 138%, from $1.3 million in 2018 to $3.1 million in 2019. This increase was primarily related to an increase in professional fees, legal fees and various vendor and prospective vendor negotiations and contractual agreement costs related to purchasing the Bakersfield Biorefinery. Our preliminary acquisition costs were $1.7 million in 2019, up $1.2 million from $0.5 million in 2018. Having acquired the Bakersfield Biorefinery in May 2020, our general and administrative expenses have significantly increased in 2020 and are expected to continue to increase as the development of the refinery progresses. The additional general and administrative expenses include higher payroll costs (we have hired over 45 new employees to date in 2020), and higher accounting and professional fees.

Other Income, Net. In the first quarter of 2018 we received $0.4 million as part of a settlement we entered into with the owners of our former Mexican biofuel farms.

Interest Income/Expense. The 2018 and 2019 interest expense consisted of accrued interest of $0.4 million and $0.4 million, respectively, from promissory notes outstanding. In May 2020 we entered into the $300 million senior loan and the $65 million mezzanine loan. Accordingly, we expect that our interest cost will increase in the future as we draw down on the senior and mezzanine loans and as the outstanding principal balance increases. The applicable construction period interest costs will be capitalized into the project under the guidance of the current accounting standards.

Derecognition of Liabilities. In 2019, we recorded $2.4 million of income upon extinguishing a contingent debt and various aged accounts payables. We had no similar events in 2018.

Change in Fair Value of Derivative and Finance Charges. In October of 2018, we entered into the Derivative Contract under which we received $6 million in cash and recorded an initial $15.1 million liability associated with opening the derivative position and $9.1 million of finance costs. During the remainder of 2018, the derivative liability decreased by $3.2 million, and as a result, we recognized a net charge to earnings during 2018 of $5.9 million in connection with the derivative contract. In October 2019, we modified the terms of the derivative and received $4 million in cash from the transaction. However, during the year ended December 31, 2019 the value of the derivative liability increased to $24.8 million, which after receiving $4 million in cash, resulted in a change in fair value of $8.9 million, which was recorded as a charge to earnings.

Net losses. For 2019 we incurred an operating loss of $4.9 million, an increase of $2.8 million from our operating loss of $2.1 million in 2018. Our operating loss increased because of the substantial increase in our general and administrative expenses related to increase in costs associated with the purchase and financing of the Bakersfield Biorefinery. Our total net loss for the year 2019 was $11.8 million, an increase of $3.8 million or 48% compared to the $8 million loss in 2018. Our net loss for 2019 increased over 2018 primarily due to higher general and administrative expenses and the change in the derivative fair value liability, which increase was partly offset by lower interest expenses in 2019. We expect to continue to incur losses in 2020 and 2021 while our biorefinery is under construction and therefore not operational..

Comparison of the Years ended December 31, 2018 and 2017

Revenues. We had no revenues in 2018 because all of our activities were directed at acquiring and financing the Bakersfield Biorefinery. In 2017 we generated $0.4 million of revenues from providing biofuel consulting services.

General And Administrative Expenses. Our general and administrative expenses increased by $0.3 million, or 30%, from $1.0 million in 2017 to $1.3 million in 2018. The increase was primarily related to the professional fees, legal fees and various due diligence costs related to the proposed purchase of the Bakersfield Biorefinery. We incurred $0.5 million in preliminary acquisition costs in 2018 with no such changes in 2017. These costs increased after we signed the letter of intent to acquire the Bakersfield Biorefinery in July 2018 as we incurred additional costs associated with identifying key vendors and negotiating the various purchase, financing and construction contracts.

Interest Income/Expense. In 2018, we incurred $5.9 million of finance charges primarily as a result of entering into the Derivative Contract, our receipt of $6 million cash under the Derivative Contract, and the finance charges related thereto. In 2017, our interest expense was only $0.3 million compared to $0.4 million in 2018, which interest represented interest payable under various convertible promissory notes and other notes payable.

Change in Fair Value of Derivative Contract and Finance Charges. In October of 2018, we entered into the Derivative Contract under which we received $6 million in cash and recorded an initial $15.1 million liability associated with opening the derivative position, and $9.1 million of finance costs. During the remainder of 2018, this derivative liability decreased by $3.2 million, and as a result, we recognized a net charge to earnings during 2018 of $5.9 million in connection with the derivative contract. During 2017, we did not have any derivative contracts.

Net losses. For 2018 we incurred an operating loss of $2.1 million, an increase of $1.2 million from our operating loss of $0.9 million in 2017. Our operating loss increased primarily as a result of the costs related to proposed purchase of the Bakersfield refinery and a loss of revenues. Our total net loss for the year 2018 was $8.0 million, a 67% increase from a $1.2 million loss in 2017. Our net loss for 2018 increased over 2017 primarily due to a reduction in revenues, higher general and administrative expenses and a charge to earnings of $6 million.

Comparison of the Years ended December 31, 2017 and 2016

Revenues. In 2016 and 2017 we developed our biofuels intellectual properties, evaluated possible biofuels transactions, and provided biofuels and/or feedstock-Jatropha and Camelina consulting and advisory services to third parties on a fee for services basis. Of these activities, only our consulting/advisory services generated revenues. As a result, we only generated $0.7 million and $0.4 million of revenues in 2016 and 2017, respectively.

General And Administrative Expenses. Our general and administrative expenses decreased by $0.6 million, or 38%, from $1.6 million in 2016 to $1.0 million in 2017. The decrease was primarily related to lower professional, legal and consultant fees in 2017.

Interest Income/Expense. Our interest costs remained unchanged at $0.3 million in 2017 and 2016 as our interest bearing obligations remained substantially unchanged during those periods.

Derecognition of Liabilities. In 2016, we recorded $0.5 million of income upon settlement and extinguishing various aged debts and accounts payables. No debts were extinguished in 2017.

Net losses. In each of 2017 and 2016 we incurred operating losses of approximately $0.9 million. However, our total net loss for the year in 2017 was $1.2 million compared to $0.5 million in 2016 primarily due to $0.5 million of non-cash income that we recognized in 2016 as a result the derecognition of liabilities, which derecognition reduced the operating loss and net loss in 2016. Other than the foregoing derecognition of liabilities, the results for both 2016 and 2017 were substantially similar.

Comparison of the Years ended December 31, 2016 and 2015

Revenues. We sold our three Mexico farms in 2015 and, therefore, treated the 2015 financial results of those farms as discontinued operations. The Company's revenues were relatively unchanged in 2016 and 2015, with revenues of $.7 million in 2016 compared to revenues of $.6 million in 2015. Our revenues for both years represented fees earned for providing biofuels consulting services.

General And Administrative Expenses. Our general and administrative expenses decreased by $0.6 million from $2.2 million in 2015 to $1.6 million in 2016. This was a decrease of 27% and was primarily related to lower professional, legal and consultant fees.

Interest Income/Expense. Our interest costs decreased in 2016 by $0.7 million to $0.3 million down from $1.0 million in 2015 because of the decrease in debt associated with the mortgages on the three farms in Mexico that were sold in December 2015.

Write Down of Long Lived Assets. In 2015 we wrote down certain long term assets by $1.5 million related to the sale of our Mexican farms. We had no related write down in 2016.

Net losses. For 2016 we incurred a net loss of $0.5 million compared to a net loss of $9.0 million in 2015 due to the loss from discontinued operations related to our Mexican farming operations.

Interim Period Results of Operations

This Annual Report includes summary financial information for the first quarter, the three and six-month period ended June 30, and the three and nine-month period ended September 30 of each of 2019, 2018, 2017, and 2016. The following is a summary of the results of operations of the Company during each of those periods.

Three, Six and Nine-Month Periods of 2019 compared to 2018

During 2018 and 2019 all of our activities were directed at the acquisition and financing of the Bakersfield Biorefinery. Accordingly, the Company did not generate any revenues during either 2019 or 2018. Our expenses during these periods consisted of general and administrative expenses, most of which consisted of salaries, share-based compensation, and fees paid to professionals involved in the evaluation, negotiation, and structuring of transactions related to the acquisition and financing of the Bakersfield Biorefinery.

First quarter 2019 compared to first quarter 2018. For the first quarter ended March 31, 2019, our net loss was $6.0 million, compared to $0.2 million of net income in the first quarter of 2018. Our net income in 2018 was the result of a $0.4 million payment that we received as part of a settlement we entered into with the owners of our former Mexican biofuel farms. Our net loss in the 2019 quarter was the result of $0.9 million of professional fees and other acquisition related expenses that we incurred in connection with the Bakersfield Biorefinery transaction, and a charge of $3.9 million on an increase in our derivative liability. Also, in the 2019 period we incurred $0.5 million more of share-based compensation than in 2018.

Six-months ended June 30, 2019 compared to six-months ended June 30, 2018. For the six months ended June 30, 2019, our net loss was $5.9 million compared to net loss of $0.1 million in the 2018 six-month period. We realized income in the 2018 period as a result of the $0.4 million settlement payment that we received in the first quarter. Excluding this one-time non-operating gain, we would have had a net loss of $0.5 million. Our losses in the 2019 six-month period increased because of $1.0 million of professional and other acquisition related expenses we incurred in the second quarter of 2019 and an additional $0.1 of share-based compensation expense, offset by a reduction in the derivative charge of $1.3 million.

Nine-months ended September 30, 2019 compared to nine-months ended September 30, 2018. For the nine months ended September 30, 2019, our net loss was $5.8 million compared to our 2018 nine-month loss of $0.4 million. In the 2019 period our operating expenses were higher by $2.8 million due to our acquisition related support costs and our share-based compensation increased by $0.5 million. In the 2019 period we incurred a charge of $2.2 million from our change in fair value of our derivative with no corresponding activity in the 2018 period.

Three, Six and Nine-Month Periods of 2018 compared to 2017

Starting in the first quarter of 2018, all of our activities were directed at the acquisition and financing of the Bakersfield Biorefinery. Accordingly, the Company did not generate any revenues in 2018. However, in 2017, we still provided some biofuels advisory and consulting, most of which was earned in the first quarter of 2017. Our expenses during these periods consisted of general and administrative expenses, most of which consisted of salaries. In 2018, we also incurred share-based compensation and fees paid to professionals involved in the evaluation, negotiation, and structuring of transactions related to the acquisition and financing of the Bakersfield Biorefinery.

First quarter 2018 compared to first quarter 2017. We did not generate revenues in 2018. For the first quarter ended March 31, 2018, our net income was $0.2 million as a result of a $0.4 million payment (other income) that we received as part of a settlement that we entered into with the owners of our former Mexican biofuel farms. Despite the advisory fee income, we incurred a net loss of $0.3 million in the first quarter of 2017 because of salaries and other expenses. In the 2017 quarter, we incurred an interest expense of $0.1 on our outstanding long-term debt and convertible notes, compared to less than $0.1 of interest expense in the 2018 quarter.

Six-months ended June 30, 2018 compared to six-months ended June 30, 2017. For the six months ended June 30, 2018, our net loss was $0.1 million compared to our 2017 six-month loss of $0.6 million. In the 2018 period we had $0,4 million of other income as a result of the receipt of settlement proceeds. Also, our interest expense in 2017 also was higher, which contributed to the larger loss in the 2017 six-month period.

Nine-months ended September 30, 2018 compared to nine-months ended September 30, 2017. For the nine months ended September 30, 2018, our net loss was $0.4 million compared to our 2017 nine-month loss of $0.8 million. Our net loss for the 2017 period was due in large part to our salary expenses of $0.7 million and our interest expense of $0.3 million.

Three, Six and Nine-Month Periods of 2017 compared to 2016

Following the sale of our three biofuel farms in Mexico in December 2015, we no longer owned an operating biofuels facility (other than a research and development farm) that generated revenues. During 2016 and 2017, our sole source of revenues was the fee income that we derived from providing fee-based biofuels advisory services to third parties.

First quarter 2017 compared to first quarter 2016. Our net loss for both the first quarter ended March 31, 2017 and 2016 was $0.3 million and $0.4 million, respectively. Advisory fee income was slightly higher in the 2016 quarter than in the 2017 quarter, but our operating expenses in the 2016 quarter also were slightly higher. As a result, our overall operations remained substantially unchanged.

Six-months ended June 30, 2017 compared to six-months ended June 30, 2016. For the six months ended June 30, 2017 our net loss was $0.6 million compared to our net loss of $0.2 million in the 2016 period. In the 2016 period, we derecognized $0.5 million of liabilities, which gain caused us to have net income for the period.

Nine-months ended September 30, 2017 compared to nine-months ended September 30, 2016. For the nine months ended September 30, 2017, our net loss was $0.8 million compared to a net loss of $0.2 million for the 2016 nine-month period. In the 2017 period our revenues were the same at $0.3 million, our operating expenses were lower by $0.2 million and our other income was lower by $0.3 million.

Three, Six and Nine-Month Periods of 2016 compared to 2015.

Until December 2015 we owned three farms in Mexico that we acquired for the purpose of cultivating Jatropha as a biofuel. In December 2015 we sold the three farms and repaid our mortgage debt. As a result of the sale, the historical results of our three Mexico farms were adjusted to include discontinued-related costs and exclude corporate allocations with GCEH, and have been classified as discontinued operations in all 2015 periods.

First quarter 2016 compared to first quarter 2015. We generated $0.1 million and $0.2 million of revenues, and recorded net losses of $0.4 million and $0.5 million for the three months ended March 31, 2016 and 2015, respectively. The foregoing revenues represent only fees earned from providing advisory services. General and administrative expenses during the first quarter of 2015 and 2016 were $0.5 million and $0.5 million respectively. The loss incurred in the 2015 quarter from our discontinued farm operations was partially offset by a $0.3 million gain on settlement of liabilities.

Six-months ended June 30, 2016 compared to six-months ended June 30, 2015. For the six months ended June 30, 2016 our net income was $0.3 million compared to a net loss of $0.2 million attributable to GCEH in the 2015 period. In the 2016 period our revenues were higher by $0.3 million, our operating expenses were lower by $1.0 million and our interest expense was lower by $0.5 million. In the 2015 period we recorded a $0.7 million net loss attributable to the noncontrolling interest. We did not have a noncontrolling interest in 2016.

Nine-months ended September 30, 2016 compared to nine-months ended September 30, 2015. For the nine months ended September 30, 2016, our net loss was $0.2 million, while the net loss that was attributable to GCEH (excluding the discontinued operations) was $1.0 million. Our net loss for the 2015 nine-month period, including our discontinued Mexico operations, was $7.4 million, of which $6.8 million was attributed to the discontinued Mexico operations. We did not have a noncontrolling interest in 2016. In the third quarter of 2015 we had a $6.7 million write down of long lived assets related to the pending sale of the three Mexico farms. In the 2016 period our revenues were higher than the 2015 period by $0.1 million. Our interest expense in the 2016 period was lower by $0.7 million because we reduced our mortgage indebtedness in the sale of the Mexico farms.

Liquidity and Capital Resources

As of December 31, 2019, 2018, 2017, 2016 and 2015, we had approximately $0.5 million, $5.2 million, $3,000, $22,000 and $0.3 million of cash, respectively, and a working capital deficit at the end of each of those years of approximately $33 million, $14.6 million, $8.0 million, $7.1 million and $6.3 million, respectively.

Until December 2015, we funded our corporate overhead and other costs and expenses (including the costs of being a public company) primarily from revenues generated from (i) our three Mexican Jatropha farms, (ii) the occasional sale of debt and equity securities, and (iii) fees we received for providing biofuels advisory services to third parties. After GCEH sold its three Mexico farms in December 2015, GCEH lost its primary source of revenues. Although GCEH continued to earn some fees for providing biofuel advisory/consulting fees in 2016 and 2017, these fees were decreasing and were insufficient to fund the costs and expenses associated with being a public company. In 2016 and 2017, the Company generated only $0.7 million and $0.4 million of revenues, respectively, while incurring operating losses of $0.9 million and $0.9 million, respectively. Accordingly, because GCEH was no longer able to pay the costs and expenses related to filing its periodic and other reports with the SEC, GCEH had no choice but to stop filing its SEC reports after filing its quarterly report on Form 10-Q for the first quarter of 2016.

Our efforts to acquire the Bakersfield commenced in early 2018. Our operating costs, including the costs of the professionals that we engaged, exceeded our capital resources. Accordingly, on October 15, 2018, we entered into a derivative contract with a commodities trading company whereby we received $6 million of cash in exchange for a contract for ultra-low sulfur diesel to be settled over a six-month time period beginning in July of 2020. This contract created a net fair value liability of $15.1 million. The purpose of this contract was to obtain the cash the Company needed to pursue the acquisition of the Bakersfield Biorefinery. The liability in excess of cash received is considered financing charges and recorded as an expense. Because of a delay in completing the purchase of the Bakersfield Biorefinery, we had to amend the original derivative contract. Accordingly, on October 29, 2019 we unwound the October 15, 2018 contract and entered into a new derivative transaction whereby we received an additional cash payment of $4 million. The new derivative contract, as amended again on April 20, 2020, calls for a cash payment of $4.5 million in June 2020 (that we paid) and six equal monthly payments of $3.375 million beginning on April 30, 2022. This payment stream is scheduled to coincide around the commencement of operations of the Bakersfield Biorefinery.

The Bakersfield Biorefinery is currently being retooled and converted from a crude oil refinery into a biofuels refinery. The construction of the Bakersfield Biorefinery is expected to be completed, and the Bakersfield Biorefinery is expected to commence commercial operations in early 2022. Until the Bakersfield Biorefinery is operational, we will not generate any operating revenues. During the construction phase of the biorefinery, we will incur significant operating costs and capital expenditures to upgrade the existing equipment and facilities. The expenses that we expect to incur include, among others, the purchase of new biorefinery equipment, the payments to ARB under the $201 million engineering, procurement and construction agreement that we entered into with ARB, the costs of maintaining the existing facility, paying licensing fees, the costs of upgrading the refinery's rail line and certain pipelines, and making interest and other payments under our $300 million senior and $65 million mezzanine credit facilities.

In order to fund the cost of acquiring the Bakersfield Biorefinery, converting the existing refinery into a biorefinery, and paying all operating expenses during the preoperational period, in May 2020 we entered into a $300 million senior secured term loan facility with the Senior Lenders and a $65 million secured term loan facility with the Mezzanine Lenders. As of September 30, 2020, we have borrowed $126 million under the senior credit facility although $40 million is unspent; we have not yet utilized the mezzanine credit facility.

The senior loan bears interest at the rate of 12.5% per annum, payable quarterly. No principal payments are required to be made under the senior loan until maturity. The senior loan matures on November 4, 2026. The mezzanine loan will bear interest at the rate of 15.0% per annum on amounts borrowed, payable quarterly, provided that we may defer interest to the extent we do not have sufficient cash to pay the interest (any deferred interest will be added to principal). Principal of the mezzanine loans is due at maturity. As additional consideration for the mezzanine loans, the Mezzanine Lenders will be issued Class C Units in BKRF Mezz Pledgor at such times as advances are made under the mezzanine loans (see "*BKRF Mezz Borrower LLC Agreement*," in this Annual Report). The Class C Units will not affect our liquidity during the pre-operational phase of the Bakersfield Biorefinery. However, since the holders of the Class C Unit will be entitled to certain priority cumulative distributions, if any, that may be made in the future from the operations of the Bakersfield Biorefinery, the Class C Units will reduce the amount of distributions that GCEH may be entitled to receive in the future from the operations of the Bakersfield Biorefinery.

Based on our construction budget (including the purchase orders we have issued for the required equipment) and on our internal projections of our future operating expenses, we anticipate that the $365 million available to us under the senior and mezzanine loans should be sufficient to fund our projected capital expenditures and operating expenses at the Bakersfield Biorefinery until the Bakersfield Biorefinery becomes operational. Most of the construction at the Bakersfield Biorefinery will be performed or directed by ARB under an Engineering, Procurement and Construction Agreement that we entered into with ARB on April 30, 2020, under which ARB has agreed to complete most of the engineering, procurement, construction, start-up and testing of the Bakersfield Biorefinery on a cost plus fee basis for a guaranteed maximum price of $201.4 million (which price may increase for approved change orders). Although the funds provided under the senior and mezzanine loans may only be used for the Bakersfield refinery and servicing these debt obligations, since we share facilities and personnel, GCEH will realize a reduction in certain of its operating expenses. We believe that these cost savings, plus our other financial resources should be sufficient to fund our operations through 2021.

Our transition to profitability is dependent upon, among other things, the successful and timely development and construction of our biorefinery and the future commercialization of the products that we intend to produce at the Bakersfield Biorefinery. In order to ensure that we have a buyer for the renewable diesel produced at our biorefinery, we have entered into the Offtake Agreement with ExxonMobil Oil Corporation. Under that agreement, ExxonMobil has agreed to purchase 2.5 million barrels of renewable diesel per year from the Bakersfield Biorefinery for a period of five years following the date that the Bakersfield Biorefinery commences commercial operations. The revenues we expect to receive under the Offtake Agreement, together with our other projected sources of revenues, are expected to fund our anticipated working capital and liquidity needs.

Once completed, the Bakersfield Biorefinery will be able to produce renewable diesel from various renewable feedstocks, such as Camelina oil produced from our patented Camelina varieties, soybean oil, used cooking oil, inedible animal fat, and other vegetable oils. We believe that one of our strategic advantages is that a significant portion of the feedstock used at our biorefinery will be Camelina oil produced by third party farmers for us using Sustainable Oils' patented Camelina varieties. However, we anticipate that we will need additional funding to grow our certified Camelina seeds, to enter into agreements with farmers, and to otherwise ramp up the cultivation and production of Camelina. As of the date of this Annual Report, we have not secured the necessary funding for our Camelina production plans. Although we are currently in discussions with certain agri-finance companies, our existing lenders, and possible third party investors for debt or equity financing for Sustainable Oils, Inc., no assurance can be given that we will obtain the necessary funds for Sustainable Oils, or that if we do obtain such funding, that the terms under which we obtain such funding will be beneficial to Sustainable Oils, Inc.

Inflation and changing prices have had no effect on our continuing operations over our two most recent fiscal years.

We have no off-balance sheet arrangements as defined in Item 303(a) of Regulation S-K.

ITEM 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK.

Not applicable to a “smaller reporting company.”

ITEM 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA.

Financial Statements are referred to in Item 15, listed in the Index to Financial Statements and filed and included following the signature page of this Annual Report on Form 10-K.

ITEM 9. CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE.

None.

ITEM 9A. CONTROLS AND PROCEDURES.

Evaluation of Disclosure Controls and Procedures

We maintain disclosure controls and procedures (as defined in Exchange Act Rule 13a-15(e)) that are designed to assure that information required to be disclosed in our Exchange Act reports is recorded, processed, summarized and reported within the time periods specified in the SEC’s rules and forms, and that such information is accumulated and communicated to management, including our Chief Executive Officer and our Chief Financial Officer (the “Certifying Officers"), as appropriate, to allow timely decisions regarding required disclosures.

In designing and evaluating the disclosure controls and procedures, management recognizes that any controls and procedures, no matter how well designed and operated, can provide reasonable assurance only of achieving the desired control objectives, and management necessarily is required to apply its judgment in weighing the costs and benefits of possible new or different controls and procedures. Limitations are inherent in all control systems, so no evaluation of controls can provide absolute assurance that all control issues and any fraud within the company have been detected.

As required by Exchange Act Rule 13a-15(b), as of the end of the period covered by this Annual Report on Form 10-K, management, under the supervision and with the participation of our Certifying Officers, evaluated the effectiveness of our disclosure controls and procedures. Based on this evaluation, the Certifying Officers have concluded that, as of the end of the period covered by this Annual Report on Form 10-K, our disclosure controls and procedures were not effective because of the material weaknesses described below under “Management’s Report on Internal Control over Financial Reporting,” below. We have taken the additional remedial steps to address the material weaknesses in our disclosure controls and procedures as set forth below under “Management’s Plan for Remediation of Material Weaknesses.”

Management's Report on Internal Control Over Financial Reporting

Our management is responsible for establishing and maintaining adequate internal control over financial reporting ("ICFR"), as such term is defined in Rule 13a-15(f) of the Exchange Act. ICFR refers to the process designed by, or under the supervision of, our Chief Executive Officer/Chief Financial Officer, and effected by our Board of Directors, management and other personnel, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles ("GAAP"), and includes those policies and procedures that:

(i) Pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the Company;

(ii) Provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with GAAP, and that receipts and expenditures of the Company are being made only in accordance with authorizations of management and directors of the Company; and

(iii) Provide reasonable assurance regarding prevention or timely detection of an unauthorized acquisition, use or disposition of the Company's assets that could have a material effect on the financial statements.

Because of its inherent limitations, ICFR may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

A material weakness is a deficiency, or a combination of deficiencies, in ICFR, such that there is a reasonable possibility that a material misstatement of annual or interim financial statements will not be prevented or detected on a timely basis.

Management has evaluated the effectiveness of the Company's ICFR as of December 31, 2019. Management based its assessment on the framework set forth in Committee of Sponsoring Organizations of the Treadway Commission ("COSO") in Internal Control – Integrated Framework (2013) in conjunction with SEC Release No. 33-8810 entitled "Commission Guidance Regarding Management's Report on Internal Control Over Financial Reporting Under Section 13(a) or 15(d) of the Securities and Exchange Commission" (17 CFR PART 241).

Because of the material weaknesses described below, management concluded that the Company's ICFR was not effective as of December 31, 2019:

- The Company did not have sufficient professional accounting staff or staff with sufficient knowledge of US GAAP and SEC financial reporting experience. The Company's lack of professional accounting staff also resulted in certain account reconciliations not being done timely, a lack of review of journal entries and certain errors in recording transactions, including issues in the initial recording of the Company's derivative liability and changes in fair value.
- Lack of segregation of duties related to processing, approving and reviewing transactions and journal entries.
- The Company has not performed a risk assessment and mapped our processes to control objectives.

We have taken measures to remediate these deficiencies. However, the implementation of these measures may not fully address the control deficiencies in our ICFR. Our failure to address any control deficiency could result in inaccuracies in our financial statements and could also impair our ability to comply with applicable financial reporting requirements and related regulatory filings on a timely basis. Moreover, effective ICFR is important to prevent fraud. As a result, our business, financial condition, results of operations and prospects, as well as the trading price of our shares, may be negatively impacted by a failure to accurately report financial results.

The material weaknesses and other matters impacting the Company's internal controls may cause it to be unable to report its financial information on a timely basis and thereby subject it to adverse regulatory consequences, including sanctions by the SEC or violations of applicable stock exchange or quotation service listing rules. There could also be a negative reaction in the financial markets due to a loss of investor confidence in the Company and the reliability of its financial statements. Confidence in the reliability of the Company's financial statements may suffer due to the Company's reporting of material weaknesses in its internal controls over financial reporting. This could materially adversely affect the Company and lead to a decline in the price of its Common Stock

This Annual Report does not include an attestation report of our independent registered public accounting firm regarding internal control over financial reporting. Management's report was not subject to attestation by our independent registered public accounting firm as such attestation is not required for non-accelerated filers such as this company pursuant to applicable SEC rules.

Management's Plan for Remediation of Material Weaknesses

The Company has taken the following actions, and continues to be engaged in, making necessary changes and improvements to its internal control system to address the material weakness in internal control over financial reporting described above. These actions include:

(a) Since December 31, 2019, the Company has hired (i) a Chief Financial Officer who is a CPA and previously was a chief financial officer at a publicly traded oil and gas company, (ii) a controller who is also a CPA and experienced in U.S. GAAP financial reporting, (iii) a staff accountant who also is a CPA, (iv) other members of a newly established clerical department;

(b) The Company has purchased and installed a new financial reporting and accounting system;

(c) The Company has designed and is implementing more robust financial reporting, accounting and management controls over its accounting and financial reporting functions at all of its facilities.

Changes in Internal Control Over Financial Reporting

There were no changes in our internal control over financial reporting that occurred during the quarter ended December 31, 2019 that materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

ITEM 9B. OTHER INFORMATION.

None.

PART III

ITEM 10. DIRECTORS, EXECUTIVE OFFICERS, AND CORPORATE GOVERNANCE.

The following table sets forth the name, age and position held by each of our current executive officers and directors as of September 30, 2020. Directors are elected for a period of one year and thereafter serve until the next annual meeting at which their successors are duly elected by the stockholders.

Name	Age	Position
David R. Walker (1)	75	Chairman of the Board
Richard Palmer	60	President, Chief Executive Officer, and Director
Martin Wenzel	62	Director
Noah Verleun	37	Executive Vice President-Development & Regulatory Affairs
Ralph Goehring	64	Vice President-Finance, and Chief Financial Officer,

(1) Member of our Audit Committee

Business Experience and Directorships

The following describes the backgrounds of current executive officers and directors. Mr. Walker is an independent director as defined in the Nasdaq rules governing members of boards of directors.

David R. Walker

David R. Walker joined the Board of Directors in May 1996 and was appointed Chairman of the Board of Directors in May 1998. He has served as Chairman of the Audit Committee since 2001. Mr. Walker has been retired since July, 2016. From 1976 until his retirement in July 2016, Mr. Walker was the General Manager of Sunheaven Farms, the largest onion growing and packing entity in the State of Washington. In the capacity of General Manager, Mr. Walker performed the functions of a traditional chief financial officer. Mr. Walker holds a Bachelor of Arts degree in economics from Brigham Young University with minors in accounting and finance.

The Board believes that Mr. Walker's experience regarding the operation and management of large-scale agricultural farms and his experience as a financial officer are valuable resources to our Board in formulating business strategy, addressing business opportunities and resolving operational issues that arise from time to time.

Richard Palmer

Richard Palmer was appointed as our President and Chief Operating Officer in September 2007 and has been a member of the Board of Directors since September 2007. Mr. Palmer became our Chief Executive Officer in December 2007. Prior to joining the Company in 2007, Mr. Palmer was a co-founder of Mobius Risk Group, LLC, an energy risk advisory services consulting company that was formed in January 2002 and was a principal and Executive Vice President of that consulting company until September 2007. From 1997 to 2002, Mr. Palmer was a Senior Director at Enron Energy Services. Prior thereto, from 1995 to 1996 Mr. Palmer was a Vice President of Bentley Engineering, and a Senior Vice President of Southland Industries from 1993 to 1996. Mr. Palmer received his designation as a Certified Energy Manager in 1999, holds two Business Management Certificates from University of Southern California's Business School, and is an active member of both the American Society of Plant Biologists, and the Union of Concerned Scientists. Mr. Palmer is Trustee & President of the Center for Sustainable Energy Farming (CFSEF), a non-profit research institute dedicated to sustainable communities, fueled by socially responsible clean energy. In February 2013, Mr. Palmer joined the RSB Services Foundation's Board of Directors and held the Chairman role from April until December 2013. RSB Services acted as the implementing entity of the Roundtable on Sustainable Biofuels (RSB) sustainability certification until December 2013.

Over the last 27 years, Mr. Palmer has held senior level management positions with a number of large engineering, development, operations and construction companies, and, as a result, he has garnered a wealth of experience in the energy field. Mr. Palmer's experience is important to the development and execution of the Company's business plan. Mr. Palmer is the only member of management who serves as a director of the Company.

Martin Wenzel

Martin Wenzel was appointed to the Board of Directors on May 7, 2020. Mr. Wenzel previously served on the Board from April 2010 until the end of 2014. Until his appointment as a director, Mr. Wenzel served as an advisor to the Board pursuant to that certain Board Advisor Agreement, dated June 21, 2019.

Martin Wenzel has been an Executive Vice President for Heorot Power Holdings since June 2016. Prior to joining Heorot Power Holdings, Mr. Wenzel served as Executive Vice President for Beowulf Energy from July 2012 to June 2016. Prior to his work at Beowulf, he was appointed as the President and Chief Executive Officer for Colorado Energy Management (2007-2012.) Mr. Wenzel was the Senior Vice President (Sales and Marketing) of Miasole Inc., a producer of solar cell products. Mr. Wenzel was President and Chief Executive Officer of Alpha Energy LLC from 2001-2004. He currently is a member of the Board of the Directors for ION Clean Energy, a carbon capture technology company based in Colorado. Mr. Wenzel holds an Executive MBA from Columbia Business School, a Master's degree in Systems Management from The University of Southern California, and a Bachelor's degree in Engineering and Management from the U.S. Naval Academy.

Mr. Wenzel was chosen to serve as a director on the Boardbecause of his extensive background in the energy industry, including over 30 years of developing, financing, constructing and operating energy projects and marketing energy commodities in the U.S. and internationally.

Noah Verleun

Noah Verleun was appointed as the Company's Senior Vice President in January 2019 and as our Executive Vice President of Development & Regulatory Affairs in May 2020. He has held various roles across the organization since 2010. Prior to joining the Company, Mr. Verleun worked for JP Morgan PWM, Rockefeller University in its office of investments and OC&C Strategy Consultants in London. He received a Bachelor of Science degree in Economics and a Master of Public Policy degree from the University of Southern California.

Ralph Goehring

Ralph Goehring was appointed to the position of Vice President-Finance and Chief Financial Officer on May 20, 2020. From 2010 until his appointment to GCEH, Mr. Goehring was the Chief Executive Officer and majority owner of SandDollar Financial LLC, a company that provided accounting and financial reporting services to energy related firms. From 1987 until 2008, Mr. Goehring worked at Berry Petroleum Company, first as Manager of Tax (1987-1992), and thereafter as Chief Financial Officer (1992-2008). Prior to joining Berry Petroleum Company, Mr. Goehring was a Senior Tax Accountant at Arthur Andersen & Co. Mr. Goehring holds a Bachelor of Business Administration degree from the University of California, Berkeley, and is a CPA.

Compliance with Section 16(a) of the Exchange Act

Section 16(a) of the Securities Exchange Act of 1934 requires our executive officers and directors, and persons who own more than 10% of a registered class of our equity securities, to file reports of ownership and changes in ownership with the SEC. Executive officers, directors and greater than 10% stockholders are required by SEC regulations to furnish us with copies of all Section 16(a) forms they file.

Based solely on information provided to us by our officers and directors and our review of copies of reporting forms received by us, we believe that during the fiscal years ended December 31, 2016, 2017, 2018 and 2019, our officers and directors failed to timely file the following forms under Section 16(a): David Walker failed to file a Form 4 for the annual option grants for 500,000 shares that he received as a director in each of 2016, 2017, 2018 and 2019. Mr. Walker also filed a Form 4 late for the exercise of a stock option in June 2019. Richard Palmer failed to file a Form 4 for (i) options granted to him in 2018 as compensation for his services, and (ii) a convertible promissory note that was issued to him in 2018 to evidence accrued and unpaid salary owed to him by the Company. Noah Verleun failed to file two Forms 4 in 2019 to report two option grants.

Code of Ethics

Our Board of Directors has adopted a revised code of ethics that applies to our principal executive officers, principal financial officer or controller, or persons performing similar functions. Our code of ethics and business conduct is available on our website at *www.gceholdings.com*. The reference to our website address does not constitute incorporation by reference of the information contained at or available through our website, and you should not consider it to be a part of this Annual Report.

Board Committees

Our Board of Directors has an Audit Committee, but does not currently have a Compensation Committee or a Nominating Committee.

Audit Committee. Our Audit Committee operates pursuant to a written charter. Among other things, the Audit Committee is responsible for:

- reviewing and discussing with management and the independent registered public accounting firm our annual and quarterly financial statements and related disclosures;
- hiring our independent registered public accounting firm, and coordinating the oversight and review of the adequacy of our internal control over financial reporting with both management and the independent registered public accounting firm; and
- reviewing and, if appropriate, approving all transactions between our company or its subsidiaries and any related party.

Because the Board of Directors currently only has three directors, only one of whom is independent according to The Nasdaq Stock Market rules, as of the date of this Annual Report David Walker is the sole member of the Audit Committee. The Board expects to appoint additional members to the Board of Directors, including additional members of the Audit Committee, in the near future. Mr. Walker has significant knowledge of financial matters, and our Board has designated Mr. Walker as the “audit committee financial expert” of the Audit Committee.

Nominating Committee. GCEH does not currently maintain a nominating committee. Rather, all of the directors on the Company’s Board of Directors at any given time participate in identifying qualified director nominees and recommending such persons to be nominated for election to the Board at each annual meeting of our stockholders. As a result, our Board has not found it necessary to have a separate nominating committee. However, the Board may form a nominating committee for the purpose of nominating future director candidates.

Compensation Committee. GCEH does not currently have a compensation committee. All of GCEH’s directors participate in determining the compensation of our executive officers and non-employee directors. As a result, the Board has not found it necessary to have a separate compensation committee.

In determining the compensation of any executive officer or non-employee director, the full Board (excluding the executive officer or non-employee director whose compensation is being determined) will consider such factors as they deem appropriate in developing competitive compensation standards aimed at attracting and retaining qualified management personnel and directors. Some of these factors may include, but are not limited to, the level of compensation paid to senior executives and directors at businesses and other organizations of comparable size and industry, and the specific experience and expertise of any particular executive officer or non-employee director relative to the experience and expertise of other executive officers and non-employee directors. Our Board meets at least once a year to review and consider the current compensation of our executive officers and non-employee directors, and if appropriate, adjust the current levels of such compensation.

ITEM 11. EXECUTIVE COMPENSATION.

Summary Compensation Table.

The following table sets forth certain information concerning the annual and long-term compensation for services rendered to us in all capacities for the fiscal years ended December 31, 2016, 2017, 2018, and 2019 of all persons who served as our principal executive officer during such fiscal years and for any other executive officer who earned annual compensation during such fiscal year greater than $100,000 (collectively, the "Named Executive Officers"). The Company did not appoint a Chief Financial Officer for 2018 and 2019.

Summary Compensation Table

Name and Principal Position	Fiscal Year Ended 12/31	Salary Paid or Accrued ($)	Bonus Paid or Accrued ($)	Stock Awards ($)	Option Awards ($)(2)	All Other Compensation ($)	Total ($)
Richard Palmer	2016	250,000	300,000	—	—	—	550,000
President and	2017	250,000	300,000	—	—	—	550.000
Chief Executive	2018	260,411 (1)	330,206	—	364,661	—	955,278
Officer	2019	300,000	350,000	—	—	—	650,000
Donna Reilly	2016	137,595	—	—	6,584	—	144,179
Chief Financial Officer	2017	114,231 (3)	—	—	2,057	—	116,288
				—			
Noah Verleun	2019	176,538 (4)	—	—	245,317	—	421,855
Executive Vice							
President							

(1) On October 16, 2018, in order to accommodate the Company's cash flow needs, Mr. Palmer agreed to defer payment of $1,000,000 of his accrued and unpaid salary for two years, which deferral is evidenced by a promissory note that is convertible into common stock at an exercise price of $0.0154 per share.

(2) Amounts represent the aggregate grant date fair value of awards computed in accordance with ASC Topic 718, excluding the effects of any estimated forfeitures. For assumptions used in determining grant date fair market value, refer to Note G of Notes to the Financial Statements included in this Annual Report. The amounts reported for these options may not represent the actual economic values that our Named Executive Officers will realize from these options as the actual value realized will depend on our performance, stock price and their continued employment.

(3) Ms. Reilly's employment terminated in December 2017.

(4) Mr. Verleun was appointed as GCEH's Senior Vice President in January 2019 and as GCEH's Executive Vice President-Development & Regulatory Affairs in May 2020.

Option Grants

During the fiscal years ended December 31, 2016, 2017, 2018, and 2019 Mr. Palmer received one grant of options to purchase 110,000,000 shares of Common Stock. These options, which were granted on October 16, 2018, have a five-year and an exercise price of $0.0154 per share (the price determined by the Board determined to be equal to or greater than the fair market price of Common Stock on the date of grant). The 2018 stock option was subject to vesting based on GCEH achieving certain market capitalization milestones. See, "*Item 10. Executive Compensation—Employment Agreements—Richard Palmer,*" below. The Company's Market Capitalization has exceeded all of the foregoing target levels and, accordingly, Mr. Palmer's option has fully vested.

Noah Verleun was promoted and became a Named Executive Officer during the fiscal year ended December 31, 2019. On January 15, 2019, GCEH granted Mr. Verleun a five-year non-qualified stock option to purchase 50 million shares of Common Stock. The foregoing option has an exercise price of $0.02 per share (which price the Board determined was equal to or greater than the fair market price of Common Stock on the date of grant). The option was subject to vesting based on GCEH achieving certain market capitalization milestones. See, "*Item 10. Executive Compensation—Employment Agreements—Noah Verleun,*" below. GCEH's Market Capitalization has exceeded all of the foregoing target levels and, accordingly, Mr. Verleun's option is fully vested.

In connection with the acquisition of the Company's Bakersfield refinery, the Board established certain performance milestones for Mr. Verleun. In April 2019 Mr. Verleun met those target milestones and, accordingly, was granted an option on June 21, 2019 to purchase 10 million shares. The foregoing option has a five-year term and an exercise price of $0.0165 (the fair market value on the date of grant). One quarter of the option shares vested on the date of grant, and the remaining portion of the option vests monthly over the 36 month period from the date of grant.

Holdings of Previously Awarded Equity

The following table sets forth information as of December 31, 2019, concerning unexercised options, unvested stock and equity incentive plan awards for our Named Executive Officers.

OUTSTANDING EQUITY AWARDS AT YEAR ENDED DECEMBER 31, 2019

	Option Awards				
Name	Number of Securities Underlying Unexercised Options (#) Exercisable	Number of Securities Underlying Unexercised Options (#) Unexercisable	Equity Incentive Plan Awards: Number of Securities Underlying Unexercised Unearned Options (#)	Option Exercise Price ($)	Option Expiration Date
Richard Palmer	110,000,000	—	—	$ 0.0154	10/15/2023
Noah Verleun	50,000,000	—	—	$ 0.0200	1/14/2024
	3,750,000	6,250,000	—	$ 0.0165	4/9/2024
	2,812,500	2,187,500	—	$ 0.0035	9/16/2023
	791,667	208,333	—	$ 0.0022	10/31/2022
	1,500,000	—	—	$ 0.0017	12/13/2021
	800,000	—	—	$ 0.0030	4/24/2021
	500,000	—	—	$ 0.0110	1/31/2020

Director Compensation.

Pursuant to GCEH's director compensation policy, each non-employee director earns $24,000 per year for serving on the Board, and is entitled to an annual grant of options to acquire 500,000 shares of Common Stock. Directors who are employed by the Company as officers or employees are not entitled to any compensation for serving on the Board of Directors. Accordingly, only Dave Walker, the Chairman of the Board and the sole non-employee director, has earned fees and has received periodic grants of stock options during the four-year period reported in this Annual Report. The following table sets forth information concerning the compensation paid to Dave Walker in each fiscal year from 2016 through 2019 for services rendered as a director. Richard Palmer, who has served as a director and as our President and Chief Executive Officer for the 2016-2019 fiscal years , was not compensated for his services as a director; his compensation as an officer is described above in the Summary Compensation Table.

DIRECTOR COMPENSATION FOR FISCAL YEARS 2016, 2017, 2018, and 2019

Name	Year	Fees Earned or Paid in Cash	Stock Awards	Option Awards[1][2]	All Other Compensation	Total
David R. Walker	2019	$ 24,000	—	$ 23,427	—	$ 47,427
	2018	$ 24,000	—	$ 1,631	—	$ 25,631
	2017	$ 24,000	—	$ 1,641	—	$ 25,641
	2016	$ 24,000	—	$ 1,253	—	$ 25,253
Total		$ 96,000	—	$ 27,952	—	$ 123,952

(1) This column represents the aggregate grant date fair value of option awards computed in accordance with FASB ASC Topic 718, excluding the effect of estimated forfeitures related to service-based vesting conditions. For additional information on the valuation assumptions with respect to the option grants, refer to Note 8 of our financial statements in this Annual Report. These amounts do not correspond to the actual value that will be recognized by the named directors from these awards.

(2) Pursuant to the company's director compensation, each non-employee director is entitled to an annual grant of options to acquire 500,000 shares.

Employment Agreements

Richard Palmer. Effective December 31, 2014, GCEH entered into an employment agreement (the "2014 Employment Agreement") with Richard Palmer, our President and Chief Executive Officer, for a term of five (5) years. Under the Employment Agreement, we granted Mr. Palmer an incentive option to purchase up to 16,959,377 shares of Common Stock at an exercise price of $0.0041 (the closing trading price on the date the agreement was signed and approved), with 25% vesting immediately and the balance vesting in equal amounts over the next 48 months. Under the 2014 Employment Agreement, Mr. Palmer's was entitled to receive a base salary of $250,000 and an annual bonus payment contingent on Mr. Palmer's satisfaction of certain performance criteria. The target annual bonus amount was 50% of Mr. Palmer's base salary, subject to the Board's discretion to increase the amount of the bonus or adjust the performance criteria.

On October 16, 2018, GCEH and Mr. Palmer entered into a new Executive Employment Agreement (the "2018 Employment Agreement") that replaced the 2014 Employment Agreement. Under the 2018 Employment Agreement, Mr. Palmer agreed to serve as the Company's President and Chief Executive Officer through October 15, 2023 at an annual base salary of $300,000 per year. Upon the closing of the Acquisition Transactions, on May 7, 2020 GCEH and Mr. Palmer amended the 2018 Employment Agreement to increase Mr. Palmer's annual base salary to $350,000, effective immediately. Under the 2018 Employment Agreement, Mr. Palmer is entitled to receive an annual bonus if he meets certain performance targets. The target annual bonus amount is 50% of Mr. Palmer's base salary, subject to the Board's discretion to increase the amount of the bonus or adjust the performance criteria. If Mr. Palmer's employment is terminated as a result of his death or disability, or by him for "Good Reason" as defined in the 2018 Employment Agreement, in addition to receiving a payment of all outstanding sums due and owing to him at the time of separation, GCEH is required to pay Mr. Palmer (or his estate) an amount equal to twelve (12) months of Mr. Palmer's then-current base salary in the form of salary continuation, plus payment of Mr. Palmer's and his family's medical insurance premiums. If Mr. Palmer's employment is terminated for death or disability, Mr. Palmer or his estate will also be entitled to retain any stock options that have vested as of the date of termination.

Under the 2018 Employment Agreement, the Company agreed to grant, and did grant, Mr. Palmer a five-year non-qualified stock option ("Option") to purchase 110 million shares of Common Stock at an exercise price of $0.0154, subject to the Company's achievement of certain market capitalization goals. Under the Option, Mr. Palmer will vest, and can exercise the Option, with respect to 40,000,000 shares when the Company's market capitalization first reaches $7 million, another 40,000,000 shares will vest under the Option when the Company's market capitalization reaches $15 million, and 30,000,000 shares will vest when the Company's market capitalization first reaches $25 million. The term "market capitalization" is defined in the 2018 Employment Agreement to mean the product of the number of shares of Common Stock issued and outstanding at the time market capitalization is calculated, multiplied by the average closing price of the Common Stock for the thirty (30) consecutive trading days prior to the date of calculation as reported on the principal securities trading system on which the Common Stock is then listed for trading, including the OTC Pink marketplace, the NASDAQ Stock Market, or any other applicable stock exchange.

Noah Verleun. . Effective January 15, 2019, the Company entered into a three-year employment agreement with Noah Verleun, the Company's Executive Vice President, which agreement was amended on May 7, 2020. Under the employment agreement, Mr. Verleun is currently paid an annual base salary of $310,000 and is entitled to receive an annual bonus of up to 50% of his annual base salary if Mr. Verleun meets certain performance targets. In order to be eligible to receive a bonus, Mr. Verleun must be employed by the Company on the last day of the year in which the bonus is earned. If Mr. Verleun's employment is terminated by him for "Good Reason" as defined in the Verleun Agreement, in addition to receiving a payment of all outstanding sums due and owing to him at the time of separation, the Company is required to pay Mr. Verleun (or his estate) an amount equal to four months of Mr. Verleun's then-current base salary in the form of salary continuation, plus payment of Mr. Verleun's and his family's medical insurance premiums. If Mr. Verleun's employment is terminated for death or disability, Mr. Verleun or his estate shall be entitled to the same four month's salary, and he will be entitled to retain any stock options that have vested as of the date of termination.

Under Mr. Verleun's employment agreement, the Company agreed to grant, and did grant, Mr. Verleun a five-year non-qualified stock option to purchase 50 million shares of Common Stock at an exercise price of $0.02, subject to the Company's achievement of certain market capitalization goals. The foregoing option was scheduled to vest in three tranches when the Company's market capitalization reached $7 million, $15 million, and $25 million. The Company's market capitalization has exceeded each of the foregoing levels and, accordingly, Mr. Verleun's options to purchase the foregoing 50 million shares have fully vested.

Ralph Goehring. On May 20, 2020, we hired Ralph Goehring as GCEH's Vice President Finance and Chief Financial Officer. Mr. Goehring is an at-will employee. In addition to his duties as an officer of GCEH, Mr. Goehring also will be responsible for financial and accounting matters for Bakersfield Renewable Fuels and the other entities affiliated with Bakersfield Renewable Fuels. Mr. Goehring annual base salary is $225,000 per year. He is also entitled to a discretionary annual bonus, in an amount up to 25% of his annual salary, based on the Company's performance. Upon joining GCEH, Mr. Goehring was granted an incentive stock option to purchase 1,000,000 shares of Common Stock under GCEH's 2020 Equity Incentive Plan. The foregoing options have an exercise price of $0.0932 (the closing trading price on the day prior to the date that his employment commenced), a five-year term, and vest over three years.

Amended & Restated Non-Solicitation And Confidentiality Agreements. As a condition to the Senior Lenders entering into Credit Agreements, Mr. Palmer and Mr. Verleun entered into substantially identical Amended & Restated Non-Solicitation And Confidentiality Agreements (the "Non-Solicitation And Confidentiality Agreements") with BKRF Owner. Under the Non-Solicitation And Confidentiality Agreements, both Mr. Palmer and Mr. Verleun each individually agreed that, during the period that they are employed by GCEH or any of GCEH's subsidiaries or affiliates that are involved in the production of renewable diesel, they will not, directly or indirectly, (i) solicit, divert or take away any customers, clients, offtake parties, business acquisition or other business opportunity of the Company related to the production of renewable diesel in the U.S., (ii) contact or solicit (other than through general advertising or solicitations not targeted at the Company's employees), with respect to hiring, or knowingly hire any employee or consultant of the Company or any person employed or engaged as a service provider by the Company at any time during the 12-month period immediately preceding the termination of their employment, (iii) induce, advise or encourage any employee or consultant of the Company to leave his or employment or engagement with the Company, or (iv) induce any distributor or supplier (including, without limitation, suppliers of feedstocks, consumables, equipment, or construction services), customer, client, or other counterparty of the Company to terminate or modify its relationship with the Company. However, nothing in the Non-Solicitation And Confidentiality Agreements is intended to prevent either Mr. Palmer or Mr. Verleun from engaging in, or otherwise being involved in, the development, production, cultivation, distribution, storage, marketing and sale of renewable fuel feedstocks, including Camelina, or the ownership of an equity or profits interest in any entity engaged in renewable fuel feedstock development, production, cultivation, distribution, storage, marketing and sale.

Under the Non-Solicitation And Confidentiality Agreements, each of Mr. Palmer and Mr. Verleun agreed not make any sale, transfer or other disposition of any equity interests that they may own in GCEH or any of its subsidiaries (including any shares of Common Stock or options that they may own) until the Senior Lenders have received a certain cumulative amount of distributions under Amended and Restated Limited Liability Company Agreement of BKRF Mezzanine Borrower; unless (x) such sale, transfer or disposition is for estate planning purposes to an entity that is and remains in their control or (y) all of the cash proceeds from any such sale, transfer or disposition are used to pay costs and expenses (specifically including amounts needed to purchase any Common Stock in GCEH or to cover any resultant tax liabilities) incurred in connection with the exercise of options to purchase such Common Stock in GCEH.

Change of Control Arrangements

The Company has no change of control payment agreements in effect.

2010 Equity Incentive Plan

On May 13, 2010, our Board of Directors adopted the 2010 Equity Incentive Plan (the "2010 Plan") pursuant to which the Board of Directors reserved an aggregate of 20,000,000 shares of Common Stock for future issuance. The 2010 Plan was approved by our stockholders at the Annual Meeting of Stockholders held in November 2010.The 2010 Plan provided for awards of incentive stock options, non-qualified stock options, and stock appreciation rights. At the time that the 2010 Plan expired on May 12, 2020, options for the issuance of all 20,000,000 shares authorized by the 2010 Plan had been granted. As of September 10, 2020, no options were outstanding under the 2010 Plan. Since the 2010 Plan has expired, no additional awards may be made under the 2010 Plan.

2020 Equity Incentive Plan

On April 10, 2020, GCEH's Board of Directors adopted the "Global Clean Energy Holdings, Inc. 2020 Equity Incentive Plan" (the "2020 Plan"). The 2020 Plan is effective, and as of September 10, 2020 GCEH has issued options to purchase 7,095,000 shares under the plan. Nevertheless, we intend to submit the 2020 Plan to our stockholders for their approval at GCEH's next annual meeting of stockholders that is currently expected to be held on November 17, 2020. Except with respect to awards then outstanding, unless sooner terminated, the 2020 Plan will expire on April 9, 2030, and no further awards may be granted after that date.

Types of Awards

The 2020 Plan provides for the following types of awards: incentive stock options, nonstatutory stock options, restricted stock awards, restricted stock unit awards, stock appreciation rights, performance stock awards, performance cash awards, and other stock-based awards. We refer to these stock awards collectively as the stock awards or awards.

Eligibility

Stock awards may be granted under the 2020 Plan to employees (including officers) and consultants of the Company or our affiliates, and to members of our Board of Directors. Pursuant to applicable tax law, we may grant incentive stock options only to our employees (including officers) and employees of our affiliates.

Annual Compensation to Non-Employee Directors; Limitation on Annual Stock Awards to Participants

The 2020 Plan provides that the compensation payable by us to a non-employee director for services performed as a non-employee director, including, without limitation, the grant date value (determined under U.S. generally accepted accounting principles) of awards, cash retainers, committee fees and other compensation, shall not exceed $500,000 in the aggregate during any calendar year. Furthermore, the 2020 Plan provides that a maximum of 1,000,000 shares of our common stock subject to options and other stock awards may be granted to any non-employee director during any calendar year. The 2020 Plan also provides that no officer, employee or consultant may be granted stock awards covering more than 5,000,000 shares of our common stock during any calendar year pursuant to stock options, stock appreciation rights and other stock awards.

Administration

The 2020 Plan is administered by our Board of Directors, which may in turn delegate authority to administer the 2020 Plan to a committee. Our Board of Directors may determine the recipients, numbers and types of stock awards to be granted, and terms and conditions of the stock awards, including the period of their exercisability and vesting. Subject to the limitations set forth below, our Board also determines the fair market value applicable to a stock award and the exercise price of stock options and stock appreciation rights granted under the 2020 Plan.

If the administration of the 2020 Plan is delegated to a newly formed Compensation Committee by the Board of Directors, that Compensation Committee shall be comprised of at least two directors, each of whom is (1) a “non-employee director” within the meaning of Rule 16b-3 under the Securities Exchange Act of 1934, as amended, and (2) an “independent director” under applicable rules of The NASDAQ Stock Market LLC, including the independence rules of such stock exchange relating to compensation committee members. The 2020 Plan also permits delegation to one or more officers of the ability to determine the recipients, number of shares and types of stock awards (to the extent permitted by law) to be granted to employees other than our officers, subject to a maximum limit on the aggregate number of shares subject to stock awards that may be granted by such officers.

Stock Available for Awards

The total number of shares of our common stock reserved for issuance under the 2020 Plan will consist of 20,000,000 shares (the “Share Reserve”). The shares of common stock subject to stock awards granted under the 2020 Plan that expire, are forfeited because of a failure to vest, or otherwise terminate without being exercised in full will return to the Share Reserve and be available for issuance under the 2020 Plan. However, any shares that are withheld to satisfy tax requirements or that are used to pay the exercise or purchase price of a stock award will not return to the 2020 Plan.

Appropriate adjustments will be made to the Share Reserve, to the limit on the number of shares that may be issued as incentive stock options, to the limit on the number of shares that may be awarded to any one person in any calendar year and to outstanding awards in the event of any change in our common stock without the receipt of consideration by GCEH through reorganization, recapitalization, reincorporation, stock dividend, dividend in property other than cash, large nonrecurring cash dividend, stock split, reverse stock split, spin-off, split-off, liquidating dividend, combination of shares, exchange of shares, change in corporate structure or any similar equity restructuring transaction, other than the conversion of convertible securities.

Repricing

The 2020 Plan expressly provides that, without the approval of our stockholders, the Compensation Committee may not provide for either the cancellation of underwater stock options or stock appreciation rights outstanding under the 2020 Plan in exchange for the grant of new awards, or the amendment of outstanding stock options or stock appreciation rights to reduce their exercise price.

Dividends and Dividend Equivalents

The 2020 Plan provides that (1) no dividends or dividend equivalents may be paid with respect to any shares of our common stock subject to an award before the date that such shares have vested, (2) any dividends or dividend equivalents that are credited with respect to any such shares will be subject to all of the terms and conditions applicable to such shares under the terms of the applicable award agreement (including, without limitation, any vesting conditions), and (3) any dividends or dividend equivalents that are credited with respect to any such shares will be forfeited to us on the date, if any, such shares are forfeited to or repurchased by us due to a failure to meet any vesting conditions under the terms of the applicable award agreement.

Terms of Options

A stock option is the right to purchase shares of our common stock at a fixed exercise price during a specified period of time. Stock option grants may be incentive stock options or nonstatutory stock options. Each option is evidenced by a stock option agreement. The Board of Directors determines the terms of a stock option including the exercise price, the form of consideration paid on exercise, the vesting schedule, restrictions on transfer and the term of the option.

Generally, the exercise price of a stock option may not be less than 100% of the fair market value of the stock subject to the option on the date of grant. Options granted under the 2020 Plan will vest at the rate specified in the option agreement.

The term of an option granted under the 2020 Plan will be determined by the Board of Directors, but may not exceed ten years. The Board of Directors will determine the time period, including the time period following a termination of an optionholder's continuous service relationship with us or any of our affiliates, during which an optionholder has the right to exercise a vested option. Unless the terms of an optionholder's stock option agreement provide otherwise, if an optionholder's continuous service relationship with us, or any of our affiliates, ceases for any reason other than disability or death, the optionholder may generally exercise any vested options for a period of three months following the cessation of service. Unless otherwise provided in the option agreement, if an optionholder's service relationship with us, or any of our affiliates, ceases due to disability or death, or an optionholder dies within a certain period following cessation of service, the optionholder or a beneficiary may generally exercise any vested options for a period of eighteen months in the event of disability and eighteen months in the event of death. The Board of Directors has discretion to extend the term of any outstanding option and to extend the time period during which a vested option may be exercised following a termination of continuous service. The Board of Directors also has discretion to accelerate the vesting of an option or a stock appreciation right following a participant's termination of continuous service or to provide in an award agreement for continued vesting of an option or a stock appreciation right following a termination of continuous service.

Acceptable forms of consideration for the purchase of our common stock issued under the 2020 Plan may include cash, payment pursuant to a "cashless" exercise program developed under Regulation T as promulgated by the Federal Reserve Board, common stock owned by the participant, payment through a net exercise feature, or other approved forms of legal consideration.

Generally, an optionholder may not transfer a stock option other than by will or the laws of descent and distribution or pursuant to a domestic relations order. However, to the extent permitted under the terms of the applicable stock option agreement, an optionholder may designate a beneficiary who may exercise the option following the optionholder's death.

Tax Limitations on Incentive Stock Options

The aggregate fair market value, determined at the time of grant, of shares of our common stock with respect to incentive stock options that are exercisable for the first time by an optionholder during any calendar year under all of our stock plans may not exceed $100,000. The options or portions of options that exceed this limit are generally treated as nonstatutory stock options. All of the shares authorized under the 2020 Plan may be granted as incentive stock options. No incentive stock option may be granted to any person who, at the time of the grant, owns or is deemed to own stock possessing more than 10% of our total combined voting power or that of any affiliate unless the following conditions are satisfied:

- The option exercise price must be at least 110% of the fair market value of the stock subject to the option on the date of grant; and
- The term of any incentive stock option award must not exceed five years from the date of grant.

Terms of Restricted Stock Awards

Restricted stock awards are awards of shares of our common stock. Each restricted stock award is evidenced by an award agreement that sets forth the terms and conditions of the award. A restricted stock award may be granted in consideration for cash, the recipient's services performed, or to be performed, for us or an affiliate of ours or other form of legal consideration. Shares of our common stock acquired under a restricted stock award may be subject to forfeiture in accordance with the vesting schedule determined at the time of grant. Rights to acquire shares of our common stock under a restricted stock award may be transferred only upon such terms and conditions as are set forth in the restricted stock award agreement.

Terms of Restricted Stock Unit Awards

A restricted stock unit is a right to receive stock or cash (or a combination of cash and stock) equal to the value of a share of stock at the end of a set period. No stock is issued at the time of grant. Each restricted stock unit award is evidenced by an agreement that sets forth the terms and conditions of the award. Restricted stock unit awards may be subject to vesting in accordance with a vesting schedule determined at grant. When a participant's continuous service with us or any of our affiliates terminates for any reason, the unvested portion of the restricted stock unit award will be forfeited unless otherwise provided in the restricted stock unit award agreement.

Terms of Stock Appreciation Rights

Stock appreciation rights will be granted pursuant to a stock appreciation rights agreement. Each stock appreciation right is denominated in common stock share equivalents. The Board of Directors determines the strike price for a stock appreciation right, which generally cannot be less than 100% of the fair market value of our common stock on the date of grant. A stock appreciation right granted under the 2020 Plan vests at the rate specified in the stock appreciation right agreement as determined by the Board of Directors.

When a stock appreciation right is exercised, the holder is entitled to an amount equal to the product of (1) the excess of the per share fair market value of our common stock on the date of exercise over the strike price, multiplied by (2) the number of shares of common stock with respect to which the stock appreciation right is exercised. We may pay the amount of the appreciation in cash or shares of our common stock or a combination of both.

The Board of Directors determines the term of stock appreciation rights granted under the 2020 Plan, up to a maximum of ten years. Unless the terms of an optionholder's stock option agreement provide otherwise, if a participant's continuous service with us, or any of our affiliates, ceases for any reason other than disability or death, the participant may generally exercise any vested stock appreciation right for a period of three months following the cessation of service. If a participant's service relationship with us, or any of our affiliates, ceases due to disability or death, or a participant dies within a certain period following cessation of service, the participant or a beneficiary may generally exercise any vested stock appreciation right for a period of eighteen months in the event of disability and eighteen months in the event of death. The Board of Directors has discretion to extend the term of any outstanding stock appreciation right and to extend the time period during which a vested stock appreciation right may be exercised following a termination of continuous service.

Terms of Performance Awards

The 2020 Plan provides for the grant of performance stock awards and performance cash awards. A performance award may vest or be exercised upon achievement of pre-determined performance goals during a specified period. A performance award may also require the completion of a specified period of continuous service. The length of any performance period, the performance goals to be achieved during the performance period, and the measure of whether and to what degree such performance goals have been attained will be determined by the Board of Directors.

Terms of Other Stock Awards

The Board of Directors may grant other forms of stock awards that are valued in whole or in part by reference to the value of GCEH common stock. Subject to the provisions of the 2020 Plan, the Board of Directors has the authority to determine the persons to whom and the dates on which such other stock awards will be granted, the number of shares of common stock (or cash equivalents) to be subject to each award, and other terms and conditions of such awards. Such awards may be granted either alone or in addition to other stock awards granted under the 2020 Plan. Such other forms of stock awards may be subject to vesting in accordance with a vesting schedule determined at grant.

Corporate Transactions; Changes in Control

Corporate Transaction. In the event of certain significant corporate transactions, the Board of Directors has the discretion to take one or more of the following actions with respect to outstanding stock awards under the 2020 Plan:

- Arrange for assumption, continuation, or substitution of a stock award by a surviving or acquiring entity (or its parent company);
- Arrange for the assignment of any reacquisition or repurchase rights applicable to any shares of our common stock issued pursuant to a stock award to the surviving or acquiring corporation (or its parent company);
- Accelerate the vesting and exercisability of a stock award followed by the termination of the stock award;
- Arrange for the lapse of any reacquisition or repurchase rights applicable to any shares of our common stock issued pursuant to a stock award; and
- Arrange for the surrender of a stock award in exchange for a payment equal to the excess of (1) the value of the property the holder of the stock award would have received upon the exercise of the stock award, over (2) any exercise price payable by such holder in connection with such exercise.

The Board of Directors need not take the same action for each stock award.

For purposes of the 2020 Plan, a corporate transaction will be deemed to occur in the event of (1) the consummation of a sale of all or substantially all of our consolidated assets, (2) the consummation of a sale of at least 90% of our outstanding securities, (3) the consummation of a merger or consolidation in which we are not the surviving corporation, or (4) the consummation of a merger or consolidation in which we are the surviving corporation but shares of our outstanding common stock are converted into other property by virtue of the transaction.

Change in Control. A stock award may be subject to additional acceleration of vesting and exercisability upon or after specified change in control transactions (as defined in the 2020 Plan), as provided in the stock award agreement or in any other written agreement between us or any affiliate and the participant.

Duration, Suspension, Termination and Amendment of the 2020 Plan

The Board of Directors may suspend or terminate the 2020 Plan at any time. Unless sooner terminated by our Board of Directors, the 2020 Plan shall automatically terminate on April 9, 2030, which is the day before the tenth anniversary of the date the 2020 Plan was adopted by the Board of Directors. No awards may be granted under the 2020 Plan while the 2020 Plan is suspended or after it is terminated.

The Board of Directors may amend the 2020 Plan at any time. However, no amendment or termination of the plan will adversely affect any rights under awards already granted to a participant unless agreed to by the affected participant. Furthermore, without stockholder approval, the Board of Directors does not have the right or authority (1) to increase the aggregate number of shares of common stock (including upon the exercise of incentive stock options) that may be issued under the 2020 Plan, other than in connection with specified capitalization adjustments such as stock splits and stock dividends and the other transactions described above under “Stock Available for Awards,” (2) to amend the provisions in the 2020 Plan relating to a prohibition on the repricing of stock awards, (3) to amend the 2020 Plan in any respect that requires stockholder approval under applicable stock exchange rules, or (4) to amend the 2020 Plan in any respect that requires stockholder approval under the Internal Revenue Code of 1986, as amended (the “Code”), or any other applicable law.

Tax Withholding

The Board of Directors may require a participant to satisfy any federal, state, local, or foreign tax withholding obligation relating to a stock award by (1) causing the participant to tender a cash payment, (2) withholding shares of common stock from the shares of common stock issued or otherwise issuable to the participant in connection with the award, (3) withholding cash from an award settled in cash or from other amounts payable to the participant, or (4) by other method set forth in the award agreement.

U.S. Federal Income Tax Consequences

The following is a summary of the principal United States federal income tax consequences to participants and the Company with respect to participation in the 2020 Plan. The summary is not intended to be exhaustive and does not discuss the income tax laws of any local, state or foreign jurisdiction in which a participant may reside. The information is based upon current federal income tax rules and therefore is subject to change when those rules change. The 2020 Plan is not qualified under the provisions of Section 401(a) of the Code, and is not subject to any of the provisions of the Employee Retirement Income Security Act of 1974. Our ability to realize the benefit of any tax deductions described below depends on our generation of taxable income as well as the satisfaction of our tax reporting obligations.

Incentive Stock Options

The 2020 Plan provides for the grant of stock options that qualify as "incentive stock options," as defined in Section 422 of the Code. Under the Code, an optionholder generally is not subject to ordinary income tax upon the grant or exercise of an incentive stock option. If the optionholder holds a share received on the exercise of an incentive stock option for more than two years from the date the option was granted and more than one year from the date the option was exercised, which is referred to as the required holding period, the difference, if any, between the amount realized on a sale or other taxable disposition of that share and the holder's tax basis in that share will be long-term capital gain or loss.

If, however, an optionholder disposes of a share acquired on exercise of an incentive stock option before the end of the required holding period, which is referred to as a disqualifying disposition, the optionholder generally will recognize ordinary income in the year of the disqualifying disposition equal to the excess, if any, of the fair market value of the share on the date the incentive stock option was exercised over the exercise price. However, if the sales proceeds are less than the fair market value of the share on the date of exercise of the option, the amount of ordinary income recognized by the optionholder will not exceed the gain, if any, realized on the sale. If the amount realized on a disqualifying disposition exceeds the fair market value of the share on the date of exercise of the option, that excess will be short-term or long-term capital gain, depending on whether the holding period for the share exceeds one year.

We will not be allowed an income tax deduction with respect to the grant or exercise of an incentive stock option or the disposition of a share acquired on exercise of an incentive stock option after the required holding period. If there is a disqualifying disposition of a share, however, we will generally be allowed an income tax deduction in an amount equal to the taxable ordinary income realized by the optionholder, subject to the provisions of Section 162(m) of the Code summarized below.

Nonstatutory Stock Options

Generally, there is no taxation upon the grant of a nonstatutory stock option if the option is granted with an exercise price equal to, or greater than, the fair market value of the underlying stock on the grant date. On exercise, an optionholder will recognize ordinary income equal to the excess, if any, of the fair market value on the date of exercise of the stock over the exercise price. Generally, the optionholder's tax basis in those shares will be equal to their fair market value on the date of exercise of the option, and the optionholder's capital gain holding period for those shares will begin on that date. Subject to the provisions of Section 162(m) of the Code, we will generally be entitled to an income tax deduction equal to the taxable ordinary income realized by the optionholder.

Restricted Stock

Generally, the recipient of a restricted stock award will recognize ordinary income at the time the stock is received equal to the excess, if any, of the fair market value of the stock received over any amount paid by the recipient in exchange for the stock. If, however, the stock is not vested when it is received (for example, if the employee is required to work for a period of time in order to have the right to sell the stock), the recipient generally will not recognize income until the stock becomes vested, at which time the recipient will recognize ordinary income equal to the excess, if any, of the fair market value of the stock on the date it becomes vested over any amount paid by the recipient in exchange for the stock. A recipient may, however, file an election with the Internal Revenue Service, within 30 days of his or her receipt of the stock award, to recognize ordinary income, as of the date the recipient receives the award, equal to the excess, if any, of the fair market value of the stock on the date the award is granted over any amount paid by the recipient in exchange for the stock. The recipient's basis for the determination of gain or loss upon the subsequent disposition of shares acquired from a restricted stock award will be the amount paid for such shares plus any ordinary income recognized either when the stock is received or when the stock becomes vested.

Subject to the provisions of Section 162(m) of the Code, we will generally be entitled to an income tax deduction equal to the taxable ordinary income realized by the recipient of the restricted stock award.

Restricted Stock Units

Generally, no taxable income is recognized upon receipt of a restricted stock unit award. The recipient will recognize ordinary income in the year in which the shares subject to that unit are actually issued to the participant (or cash in lieu of shares is delivered to the recipient) in an amount equal to the fair market value of the shares on the date of delivery. Subject to the provisions of Section 162(m) of the Code and the satisfaction of a tax reporting obligation, we generally will be entitled to an income tax deduction equal to the amount of taxable ordinary income recognized by the recipient.

Stock Appreciation Rights

Generally, stock appreciation rights are subject to similar tax rules as nonstatutory stock options. This means that, generally, no taxable income is realized upon the receipt of a stock appreciation right. Upon exercise of the stock appreciation right, the fair market value of the shares (or cash in lieu of shares) received, less any strike price paid for such shares, is recognized as ordinary income to the recipient in the year of such exercise. Subject to the provisions of Section 162(m) of the Code, we will generally be entitled to an income tax deduction equal to the amount of taxable ordinary income recognized by the participant.

Section 162(m) of the Code

Generally, whenever a participant recognizes ordinary income under the 2020 Plan, a corresponding deduction is available to the Company, provided that the Company complies with certain reporting requirements. However, under Code Section 162(m), the Company will be denied a deduction for compensation paid to certain senior executives that exceeds $1,000,000, unless the compensation is “performance-based compensation” within the meaning of the Code.

ITEM 12. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED STOCKHOLDER MATTERS.

The following table sets forth certain information regarding beneficial ownership of Common Stock as of September 10, 2020 by (a) each person known by us to own beneficially 5% or more of each class of our outstanding voting shares (i.e. Common Stock and our Series B Preferred Stock), (b) each of our named executive officers listed in the Summary Compensation Table and each of our directors and (c) all executive officers and directors of GCEH as a group. As of September 10, 2020, there were 358,499,606 shares of Common Stock issued and outstanding. As of the same date, there were 13,000 shares of our Series B Preferred Stock issued and outstanding, which shares of preferred stock were convertible into an aggregate of 11,818,181 shares of Common Stock. Unless otherwise noted, we believe that all persons named in the table have sole voting and investment power with respect to all the shares beneficially owned by them.

Name and Address of Beneficial Owner (1)	Shares Beneficially Owned (2)	Percent of Class of Common Stock
Preferred Stock:		
Corporativo LODEMO S.A DE CV Calle 18, #201-B x 23 y 25, Colonias Garcia Gineres, C.P. 97070 Merida, Yucatan, Mexico	9,090,908(3)	2.5%
Greenrock Capital Holdings LLC 10531 Timberwood Circle, Suite D Louisville, Kentucky 40223	2,727,273(4)	.*
Common Stock:		
Pacific Sequoia Holdings LLC 250 University Avenue, Palo Alto, CA 94301	40,000,000(5)	11.2%
Roll Energy Investments LLC 11444 West Olympic Boulevard, 10th Floor Los Angeles, California 90064	33,094,500	9.3%
Michael Zilkha 1001 McKinney, Suite 1900 Houston TX 77002	36,515,690	10.2%
Directors/Named Executive Officers:		
Richard Palmer	228,893,587(6)	42.4%
David R. Walker	3,403,539(7)	*
Martin Wenzel	1,000,000(8)	*
Noah Verleun	65,205,500(9)	15.7%
Ralph Goehring	138,889(8)	*
All Named Executive Officers and Directors as a group (5 persons)	298,641,515(10)	49.7%

* Less than 1%

(1) Unless otherwise indicated, the business address of each person listed is c/o Global Clean Energy Holdings, Inc., 2790 Skypark Drive, Torrance, California, 90505. .

(2) For purposes of this table, shares of Common Stock are considered beneficially owned if the person directly or indirectly has the sole or shared power to vote or direct the voting of the securities or the sole or shared power to dispose of or direct the disposition of the securities. Shares of Common Stock are also considered beneficially owned if a person has the right to acquire beneficial ownership of the shares upon exercise or conversion of a security within 60 days of September 10, 2020.

(3) Consists of 9,090,908 shares of Common Stock that may be acquired upon the conversion of shares of Series B Preferred Stock. Corporativo LODEMO owns 10,000 shares of our Series B Preferred Stock, which represents 76.92% of the issued and outstanding shares of that class of securities.

(4) Consists of 2,727,273 shares of Common Stock that may be acquired upon the conversion of shares of Series B Preferred Stock. Greenrock owns 3,000 shares of our Series B Preferred Stock, which represents 23.08% of the issued and outstanding shares of that class of securities.

(5) Based on information disclosed in a Schedule 13G jointly filed with the SEC on February 1, 2019 by Pacific Sequoia Holdings LLC ("PSH"), Jeffrey S. Skoll, and GrowthWorks Canadian Fund Ltd. ("GWC"), according to which PSH, Mr. Skoll and GWC share voting and dispositive control over the shares. Jeffrey S. Skoll, as the indirect sole member of PSH, may be deemed to share the power to direct the voting or disposition of the shares on behalf of PSH. The address of PSH and Jeffrey S. Skoll is 250 University Avenue, Palo Alto, CA 94301. The address of GWC is McCarthy Tétrault LLP, Box 48, Suite 5300, Toronto Dominion Bank Tower, Toronto, ON M5K 1E6.

(6) Includes 71,108,346 shares that may be acquired upon the conversion of the principal balance, plus all accrued interest, under an outstanding convertible promissory note, and 110,000,000 shares that may be acquired upon the exercise of currently exercisable options.

(7) Includes 2,500,000 shares that may be acquired upon the exercise of options that were vested as of September 10, 2020.

(8) Consists of shares that may be acquired upon the exercise of options.

(9) Includes 57,444,643 shares that may be acquired upon the exercise of currently exercisable options.

(10) Includes (i) 171,803,532 shares that may be acquired upon the exercise of currently exercisable options, and (ii) 71,108,346 shares that may be acquired upon the conversion of the principal balance, plus all accrued interest, under an outstanding convertible promissory note.

ITEM 13. CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS, AND DIRECTOR INDEPENDENCE.

Certain Relationships and Related Transactions

From 2010 to 2018, Mr. Palmer deferred more than $1.7 million of his salary and annual bonus payable to him under his employment agreement with GCEH. On October 16, 2018, Mr. Palmer entered into a new employment agreement with GCEH. Concurrently with the execution of the new employment agreement, because of the Company's financial condition, Mr. Palmer agreed to defer $1 million of his accrued salary and bonus for an additional two years. In order to evidence the foregoing deferral, the Company and Mr. Palmer entered into a $1 million convertible promissory note (the "Convertible Note"). The Convertible Note is accruing simple interest on the outstanding principal balance of the note at the annual rate of five percent (5%) and matures and becomes due and payable on October 15, 2020. Under the Convertible Note, Mr. Palmer has the right, exercisable at any time until the Convertible Note is fully paid, to convert all or any portion of the outstanding principal balance and accrued and unpaid interest into shares of Common Stock at an exercise price of $0.0154 per share.

Martin Wenzel was appointed to the Board of Directors on May 7, 2020. Until his appointment as a director, Mr. Wenzel served as an advisor to the Board pursuant to that certain Board Advisor Agreement, dated June 21, 2019. Under the Board Advisor Agreement, Mr. Wenzel was granted a five-year non-qualified stock option to purchase 500,000 shares, which option automatically vested upon Mr. Wenzel's appointment to the Board. The foregoing options have an exercise price of $0.08 per share.

Director Independence

Common Stock is quoted on the OTC Pink marketplace. The OTC Pink market does not maintain any standards regarding the "independence" of the directors on GCHE's Board of Directors, and we are not otherwise subject to the requirements of any national securities exchange or an inter-dealer quotation system with respect to the need to have a majority of our directors be independent.

In the absence of such requirements, we have elected to use the definition for "director independence" under the Nasdaq Stock Market's listing standards, which defines an "independent director" as "a person other than an officer or employee of us or its subsidiaries or any other individual having a relationship, which in the opinion of our Board of Directors, would interfere with the exercise of independent judgment in carrying out the responsibilities of a director." The definition further provides that, among others, employment of a director by us (or any parent or subsidiary of ours) at any time during the past three years is considered a bar to independence regardless of the determination of our Board of Directors.

Our Board of Directors has determined that Mr. Walker, a non-employee director, is an independent director as defined in the Nasdaq rules relating to director independence.

ITEM 14. PRINCIPAL ACCOUNTING FEES AND SERVICES.

Aggregate fees billed to us by Hall & Company with respect to our 2016, 2017, 2018 and 2019 fiscal years were as follows:

	2016	2017	2018	2019
Audit Fees	$ —	$ —	$ —	$ 220,000
Audit-Related Fees	—	—	—	—
Tax Fees	—	—	—	—
All Other Fees	—	—	—	—
Total	$ —	$ —	$ —	$ 220,000

The Company did not previously file its annual reports for 2016,2017,2018 and 2019. The Company's auditors audited the Company's financial statements for 2016 – 2019 during 2019 and 2020. As such the audit fees for all these years have been included in 2019. In accordance with the SEC's definitions and rules, "audit fees" are fees that the Company paid for professional services for the audit of our consolidated financial statements included in our Form 10-K, and review of financial statements included in its quarterly reports on Form 10-Q and for services that are normally provided in connection with regulatory filings. "Audit-related fees" represent fees for professional services for assurance and related services that are reasonably related to the performance of the audit or review of financial statements and that are not reported under the "audit fees" category. "Tax fees" are fees for tax compliance, tax advice and tax planning.

During the periods covered by this Form 10-K, the Company only had two directors, one of whom represented the Company's sole member of the Audit Committee. Because of the size of the Board and a one-member Audit Committee, all of the audit-related services and other services described in the above table were pre-approved by our Board, including the sole member of the Audit Committee.

PART IV

ITEM 15. EXHIBITS AND FINANCIAL STATEMENT SCHEDULES.

(a) The following documents are filed as part of this Annual Report:

(1) Financial Statements. Reference is made to the Index to Consolidated Financial Statements of the Company attached hereto following the signature page of the Annual Report.

(2) Financial Statement Schedule. All consolidated financial statement schedules are omitted because they are not applicable or the amounts are immaterial, not required, or the required information is presented in the Consolidated Financial Statements of the Company attached hereto following the signature page of the Annual Report.

(b) The exhibits listed in the Exhibit Index below are filed with, or are incorporated by reference into, this Annual Report on Form 10-K.

Exhibit Number	Description
2.1	Agreement and Plan of Merger regarding the reincorporation of Registrant as a Delaware corporation (incorporated herein by reference to Appendix C to the Registrant's Definitive Proxy Statement on Schedule 14A filed with the Commission on June 2, 2010).
3.1	Certificate of Incorporation (incorporated herein by reference to Appendix D to the Registrant's Definitive Proxy Statement on Schedule 14A filed with the Commission on June 2, 2010).
3.2	Bylaws (incorporated herein by reference to Appendix E to the Registrant's Definitive Proxy Statement on Schedule 14A filed with the Commission on June 2, 2010).
4.1	Specimen stock certificate*
4.2	Description of the Securities of Global Clean Energy Holdings, Inc. Registered Pursuant to Section 12 of the Securities Exchange Act of 1934*
10.1	Office Lease, dated as of February 2, 2014, between Global Clean Energy Holdings, Inc. and Skypark Atrium, LLC (filed as Exhibit 10.9 to the Registrant's Annual Report on Form 10-K filed on March 31, 2015, and incorporated herein by reference)
10.2	First Amendment to Office Lease, dated as of January 15, 2019, between Global Clean Energy Holdings, Inc. and Skypark Atrium, LLC*
10.3	Second Amendment to Lease, dated June 4, 2019, between Global Clean Energy Holdings, Inc. and Skypark Atrium, LLC*
10.4	Global Clean Energy Holdings, Inc. 2010 Equity Incentive Plan (incorporated herein by reference to Appendix B to the Registrant's Definitive Proxy Statement on Schedule 14A filed with the Commission on June 2, 2010).#

10.5	Form of Indemnification Agreement entered into between Registrant and its directors and executive officers*#
10.6	Omitted
10.7	Employment Agreement, dated October 15, 2018, by and between Global Clean Energy Holdings, Inc. and Richard Palmer*#
10.8	Amendment No. 1 to Employment Agreement, dated May 7, 2020, by and between Global Clean Energy Holdings, Inc. and Richard Palmer*#
10.9	Convertible Promissory Note, dated October 16, 2018, issued by Global Clean Energy Holdings, Inc. to Richard Palmer*#
10.10	Employment Agreement, dated January 15, 2019, by and between Global Clean Energy Holdings, Inc. and Noah Verleun*#
10.11	Amendment No. 1 to Employment Agreement, dated May 7, 2020, by and between Global Clean Energy Holdings, Inc. and Noah Verleun*#
10.12	Offer Letter, dated May 17, 2020, by and between Global Clean Energy Holdings, Inc. and Ralph Goehring*#
10.13	Global Clean Energy Holdings, Inc. 2020 Equity Incentive Plan (incorporated herein by reference to Appendix B to the Registrant's Proxy Statement on Schedule PRE 14A filed with the Commission on July 30, 2020)#
10.14	Form of Stock Option Grant Notice of Global Clean Energy Holdings, Inc. 2020 Equity Incentive Plan*
10.15	Share Purchase Agreement, dated April 29, 2019, by and between Alon Paramount Holdings, Inc. and GCE Holdings Acquisitions, LLC*
10.16	First Amendment to Share Purchase Agreement, dated as of September 27, 2019, by and between Alon Paramount Holdings, Inc. and GCE Holdings Acquisitions, LLC*
10.17	Second Amendment to Share Purchase Agreement, dated as of October 4, 2019, by and between Alon Paramount Holdings, Inc. and GCE Holdings Acquisitions, LLC*
10.18	Third Amendment to Share Purchase Agreement, dated as of October 11, 2019, by and between Alon Paramount Holdings, Inc. and GCE Holdings Acquisitions, LLC*
10.19	Fourth Amendment to Share Purchase Agreement, dated as of October 28, 2019, by and between Alon Paramount Holdings, Inc. and GCE Holdings Acquisitions, LLC*

10.20	Fifth Amendment to Share Purchase Agreement, dated as of March 23, 2020, by and between Alon Paramount Holdings, Inc. and GCE Holdings Acquisitions, LLC*
10.21	Sixth Amendment to Share Purchase Agreement, dated as of May 4, 2020, by and between Alon Paramount Holdings, Inc. and GCE Holdings Acquisitions, LLC*
10.22	Control, Operation And Maintenance Agreement, dated May 4, 2020, by and between GCE Operating Company, LLC and BKRF OCB, LLC*
10.23	Call Option Agreement, dated May 7, 2020, by and among Global Clean Energy Holdings, Inc., Alon Paramount Holdings, Inc., and GCE Holdings Acquisitions, LLC*
10.24	Credit Agreement, dated as of May 4, 2020, between BKRF OCB, LLC, BKRF OCP, LLC, and the senior lenders referred to therein*
10.25	Credit Agreement, dated as of May 4, 2020, between BKRF HCB, LLC, BKRF HCP, LLC, and the mezzanine lenders referred to therein*
10.26	Product Offtake Agreement, dated as of April 10, 2019, between ExxonMobil Oil Corporation and*GCE* Holdings Acquisitions LLC*†
10.27	Engineering, Procurement and Construction Agreement, dated April 30, 2020, between ARB, Inc. and GCE Holdings Acquisitions, LLC†
10.28	License Agreement, dated October 24, 2018, between Haldor Topsoe A/S and GCE Holdings Acquisitions, LLC*†
21.1	Subsidiaries of Registrant*
23.1	Consent of Hall & Company Certified Public Accountants, Inc.*
31.1	Certification of the Chief Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.*
31.2	Certification of the Chief Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.*
32.1	Certification of the Chief Executive Officer pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.*
32.2	Certification of the Chief Financial Officer pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.*
101	The following financial information from the Annual Report on Form 10-K of Global Clean Energy Holdings, Inc. for the years ended December 31, 2016, 2017, 2018 and 2019, formatted in XBRL (eXtensible Business Reporting Language): (1) Balance Sheets as of December 31, 2016, 2017, 2018 and 2019; (2) Statements of Income for the years ended December 31, 2016, 2017, 2018 and 2019; (3) Statements of Shareholders' Equity for the years ended December 31, 2016, 2017, 2018 and 2019; (4) Statements of Cash Flows for the years ended December 31, 2016, 2017, 2018 and 2019; and (5) Notes to Financial Statements.

* Filed herewith

† Certain confidential portions of this Exhibit were omitted by means of marking such portions with an asterisk because the identified confidential portions are (i) not material and (ii) would be competitively harmful if publicly disclosed.

# Indicates a management contract or compensatory plan or arrangement.

ITEM 16. FORM 10-K SUMMARY

We may voluntarily include a summary of information required by Form 10-K under this Item 16. We have elected not to include such summary information.

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SIGNATURES

In accordance with Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

GLOBAL CLEAN ENERGY HOLDINGS, INC.

October 6, 2020

By: /s/ RICHARD PALMER
Richard Palmer
President and Chief Executive Officer

POWER OF ATTORNEY

Know all persons by these presents, that each person whose signature appears below constitutes and appoints Richard Palmer and Ralph Goehring, and each of them, as his true and lawful attorneys-in-fact and agents, with full power of substitution and resubstitution, for him and in his name, place, and stead, in any and all capacities, to sign any and all amendments to this Annual Report, and to file the same, with all exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing requisite and necessary to be done in connection therewith, as fully to all intents and purposes as he might or could do in person, hereby ratifying and confirming that all said attorneys-in-fact and agents, or any of them or their or his substitute or substituted, may lawfully do or cause to be done by virtue thereof.

In accordance with the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the registrant in the capacities and on the dates indicated.

Signature	Title	Date
/s/ RICHARD PALMER Richard Palmer	President and Chief Executive Officer (Principal Executive Officer) and Director	October 6, 2020
/s/ RALPH GOEHRING Ralph Goehring	Chief Financial Officer (Principal Financial Officer and Principal Accounting Officer)	October 6, 2020
/s/ DAVID WALKER David Walker	Chairman, the Board of Directors	October 6, 2020
/s/ MARTIN WENZEL Martin Wenzel	Director	October 6, 2020

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Financial Statements:

HALL & COMPANY Certified Public Accountants, Inc.
TAX, FINANCIAL AND MANAGEMENT CONSULTING SERVICES

Report of Independent Registered Public Accounting Firm

Board of Directors and Shareholders
Global Clean Energy Holdings, Inc., and Subsidiaries

Opinion on the Financial Statements

We have audited the accompanying consolidated balance sheets of Global Clean Energy Holdings, Inc., and Subsidiaries (collectively referred to as the "Company") as of December 31, 2019, 2018, 2017, 2016 and 2015, and the related consolidated statements of operations, comprehensive income, changes in equity (deficit) and cash flows for each of the five years then ended, and the related notes (collectively referred to as the "financial statements"). In our opinion, the financial statements present fairly, in all material respects, the financial position of the Company as of as of December 31, 2019, 2018, 2017, 2016 and 2015, and the results of its operations and its cash flows for each of the five years then ended, in conformity with accounting principles generally accepted in the United States of America.

Basis for Opinion

These financial statements are the responsibility of the entity's management. Our responsibility is to express an opinion on these financial statements based on our audits. We are a public accounting firm registered with the Public Company Accounting Oversight Board (United States) ("PCAOB") and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether due to error or fraud. The Company is not required to have, nor were we engaged to perform, an audit of its internal control over financial reporting. As part of our audits we are required to obtain an understanding of internal control over financial reporting but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control over financial reporting. Accordingly, we express no such opinion.

Our audits included performing procedures to assess the risks of material misstatement of the financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the financial statements. We believe that our audits provide a reasonable basis for our opinion.

We have served as the Company's auditor since 2015.

Irvine, California
October 6, 2020

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GLOBAL CLEAN ENERGY HOLDINGS, INC. AND SUBSIDIARIES
CONSOLIDATED BALANCE SHEETS

	As of December 31,		
	2019	**2018**	**2017**
ASSETS			
CURRENT ASSETS			
Cash and cash equivalents	$ 457,331	$ 5,226,489	$ 3,733
Accounts receivable	—	—	19,082
Inventory	22,942	22,941	22,942
Total Current Assets	480,273	5,249,430	45,757
PROPERTY AND EQUIPMENT, NET	—	1,706	1,706
RIGHT-OF-USE ASSET	82,450	—	—
INTANGIBLE ASSETS, NET	2,501,592	2,746,818	2,992,045
DEBT ISSUANCE COSTS	500,000	—	—
PRE-ACQUISITION COSTS	2,588,441	—	—
DEPOSITS	3,253,253	5,253	5,253
TOTAL ASSETS	$ 9,406,009	$ 8,003,207	$ 3,044,761
LIABILITIES AND STOCKHOLDERS' DEFICIT			
CURRENT LIABILITIES			
Accounts payable and accrued expenses	$ 1,778,434	$ 3,057,500	$ 2,880,915
Accrued compensation and related liabilities	2,055,167	1,469,121	2,006,031
Accrued interest	1,734,527	1,372,413	1,049,888
Lease liabilities	82,882	—	—
Notes payable	1,369,856	1,369,856	1,369,856
Convertible notes payable	1,697,000	697,000	697,000
Derivative liability	24,767,000	11,917,000	—
Total Current Liabilities	33,484,866	19,882,890	8,003,690
LONG-TERM LIABILITIES			
Convertible notes payable	—	1,000,000	—
TOTAL LIABILITIES	33,484,866	20,882,890	8,003,690
STOCKHOLDERS' DEFICIT			
Preferred stock - $0.001 par value; 50,000,000 shares authorized Series B, convertible; 13,000 shares issued and outstanding (aggregate liquidation preference of $1,300,000)	13	13	13
Common stock, $0.001 par value; 500,000,000 shares authorized; 344,029,434, 341,529,434, and 341,529,434 shares issued and outstanding, respectively	344,029	341,529	341,529
Additional paid-in capital	31,259,365	30,669,220	30,599,931
Accumulated deficit	(55,682,264)	(43,890,445)	(35,900,402)
Total Stockholders' Deficit	(24,078,857)	(12,879,683)	(4,958,929)
TOTAL LIABILITIES AND STOCKHOLDERS' DEFICIT	$ 9,406,009	$ 8,003,207	$ 3,044,761

The accompanying notes are an integral part of these financial statements

GLOBAL CLEAN ENERGY HOLDINGS, INC. AND SUBSIDIARIES
CONSOLIDATED BALANCE SHEETS

	As of December 31,	
	2016	**2015**
ASSETS		
CURRENT ASSETS		
Cash and cash equivalents	$ 22,164	$ 34,704
Accounts receivable	112,254	10,160
Inventory	22,942	26,544
Other current assets	—	36,846
Current asset, of discontinued operations	—	218,015
Total Current Assets	157,360	326,269
PROPERTY AND EQUIPMENT, NET	2,170	7,868
RIGHT-OF-USE ASSET	—	—
INTANGIBLE ASSETS, NET	3,237,272	3,482,498
OTHER NONCURRENT ASSETS	5,254	2,626
TOTAL ASSETS	$ 3,402,056	$ 3,819,261
LIABILITIES AND STOCKHOLDERS' DEFICIT		
CURRENT LIABILITIES		
Accounts payable and accrued expenses	$ 2,805,689	$ 3,041,612
Accrued compensation and related liabilities	1,598,254	1,380,155
Accrued interest	737,774	455,029
Notes Payable	1,369,856	1,369,856
Convertible notes payable	697,000	697,000
Derivative liability	—	106,000
Total Current Liabilities	7,208,573	7,049,652
STOCKHOLDERS' DEFICIT		
Preferred stock, $0.001 par value; 50,000,000 shares authorized; Series B, convertible; 13,000 shares issued and outstanding (aggregate liquidation preference of $1,300,000)	13	13
Common stock, $0.001 par value; 500,000,000 shares authorized; 341,529,434, and 341,529,434 shares issued and outstanding, respectively	341,529	341,529
Additional paid-in capital	30,564,371	30,533,060
Accumulated deficit	(34,712,430)	(34,210,969)
Accumulated other comprehensive income	—	105,976
Total Stockholders' Deficit	(3,806,517)	(3,230,391)
TOTAL LIABILITIES AND STOCKHOLDERS' DEFICIT	$ 3,402,056	$ 3,819,261

The accompanying notes are an integral part of these financial statements

GLOBAL CLEAN ENERGY HOLDINGS, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF OPERATIONS

	Years Ended December 31,		
	2019	**2018**	**2017**
REVENUE	$ —	$ —	$ 369,702
OPERATING EXPENSES			
General and Administrative	3,061,580	1,282,037	1,012,614
Amortization of intangible assets	245,226	245,226	245,226
Preliminary stage acquisition costs	1,625,834	529,454	—
Total Operating Expenses	4,932,640	2,056,717	1,257,840
OPERATING LOSS	(4,932,640)	(2,056,717)	(888,138)
OTHER INCOME (EXPENSE)			
Other income (expense), net	—	425,000	12,279
Interest expense, net	(439,479)	(441,326)	(312,113)
Gain on settlement of liabilities	2,430,300	—	—
Change in fair value derivative and finance charges related to derivative liability	(8,850,000)	(5,917,000)	—
Other Income (Expense), Net	(6,859,179)	(5,933,326)	(299,834)
NET LOSS	$ (11,791,819)	$ (7,990,043)	$ (1,187,972)
BASIC AND DILUTED LOSS PER COMMON SHARE:			
Net loss per common share	$ (0.03)	$ (0.02)	$ (0.00)
BASIC AND DILUTED WEIGHTED-AVERAGE COMMON SHARES OUTSTANDING	342,789,708	341,529,434	341,529,434

The accompanying notes are an integral part of these financial statements

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GLOBAL CLEAN ENERGY HOLDINGS, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF OPERATIONS

	Years Ended December 31,	
	2016	**2015**
REVENUE	$ 656,500	$ 537,807
OPERATING EXPENSES		
General and Administrative	1,587,966	1,707,496
Other operating	3,825	438,367
Total Operating Expenses	1,591,791	2,145,863
OPERATING LOSS	(935,291)	(1,608,056)
OTHER INCOME (EXPENSE)		
Other Income (Expense), Net	72,704	10
Interest expense, net	(283,049)	(334,618)
Gain on settlement of liabilities	537,612	376,157
Change in fair value derivative	—	(6,500)
Foreign currency transaction gain (loss)	106,563	(405)
Total Other Income (Expense)	433,830	34,644
LOSS FROM CONTINUING OPERATIONS	(501,461)	(1,573,412)
LOSS FROM DISCONTINUED OPERATIONS	—	(7,444,940)
NET LOSS	$ (501,461)	$ (9,018,352)
BASIC AND DILUTED LOSS PER COMMON SHARE:		
Net loss per common share	$ (0.00)	$ (0.00)
BASIC AND DILUTED WEIGHTED-AVERAGE COMMON SHARES OUTSTANDING	341,529,434	341,529,434

The accompanying notes are an integral part of these financial statements

GLOBAL CLEAN ENERGY HOLDINGS, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME

	For the Years Ended December 31,				
	2019	**2018**	**2017**	**2016**	**2015**
Net loss	$ (11,791,819)	$ (7,990,043)	$ (1,187,972)	$ (501,461)	$ (9,018,352)
Other comprehensive (Loss)	—	—	—	—	—
Foreign currency translation adjustment	—	—	—	—	(1,150,651)
Reclassification adjustment for accumulated foreign currency translation included in earnings	—	—	—	(105,976)	—
	(11,791,819)	(7,990,043)	(1,187,972)	(607,437)	(10,169,003)
Add: net loss attributable to noncontrolling interest	—	—	—	—	7,444,940
Add: other comprehensive income loss attributable to controlling interest	—	—	—	—	(2,368,241)
	$ (11,791,819)	$ (7,990,043)	$ (1,187,972)	$ (607,437)	$ (5,092,304)

The accompanying notes are an integral part of these financial statements

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GLOBAL CLEAN ENERGY HOLDINGS, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF CHANGES IN EQUITY (DEFICIT)
For the Years Ended December 31, 2019, 2018, 2017, and 2016

	Series B		Common Stock		Additional Paid in	Accumulated	Accumulated Other Comprehensive	
	Shares	Amount	Shares	Amount	Capital	Deficit	Income	Total
Balance at December 31, 2015	13,000	$ 13	341,529,434	$ 341,529	$ 30,533,060	$ (34,210,969)	$ 105,976	$ (3,230,391)
Share-based compensation from issuance of options and compensation-based warrants	—	—	—	—	$ 31,311	—	—	31,311
Net loss for the year ended December 31, 2016	—	—	—	—	—	(501,461)	—	(501,461)
Other Comprehensive Income:	—	—	—	—	—	—	—	—
Reclassification adjustment of foreign currency translation adjustment	—	—	—	—	—	—	(105,976)	(105,976)
Balance at December 31, 2016	13,000	13	341,529,434	341,529	30,564,371	(34,712,430)	—	(3,806,517)
Share-based compensation from issuance of options and compensation-based warrants	—	—	—	—	$ 35,560	—	—	35,560
Net loss for the year ended December 31, 2017	—	—	—	—	—	(1,187,972)	—	(1,187,972)
Balance at December 31, 2017	13,000	13	341,529,434	341,529	30,599,931	(35,900,402)	—	(4,958,929)
Share-based compensation from issuance of options and compensation-based warrants	—	—	—	—	$ 69,289	—	—	69,289
Net loss for the year ended December 31, 2018	—	—	—	—	—	(7,990,043)	—	(7,990,043)
Balance at December 31, 2018	13,000	13	341,529,434	341,529	30,669,220	(43,890,445)	—	(12,879,683)
Share-based compensation from issuance of options and compensation-based warrants	—	—	—	—	$ 577,645	—	—	577,645
Exercise of stock options	—	—	2,500,000	$ 2,500	$ 12,500	—	—	15,000
Net loss for the year ended December 31, 2019	—	—	—	—	—	(11,791,819)	—	(11,791,819)
Balance at December 31, 2019	13,000	$ 13	344,029,434	$ 344,029	$ 31,259,365	$ (55,682,264)	$ —	$ (24,078,857)

The accompanying notes are an integral part of these financial statements

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GLOBAL CLEAN ENERGY HOLDINGS, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF CHANGES IN EQUITY (DEFICIT)
For the Year Ended December 31, 2015

	Series B		Common Stock		Additional Paid in Capital	Accumulated Deficit	Accumulated Other Comprehensive Income	Non-Controlling Interest	Total
	Shares	Amount	Shares	Amount					
Balance at December 31, 2014	13,000	$ 13	339,311,434	$ 339,311	$ 25,657,053	$ (28,946,103)	$ (66,586)	$ (5,204,123)	$ (8,220,435)
Contributions from noncontrolling interests	—	—	—	—	—	—	—	429,743	429,743
Distribution to noncontrolling interest	—	—	—	—	—	—	—	(250,000)	(250,000)
Issuance of common stock for services	—	—	2,218,000	$ 2,218	$ 8,872	—	—	—	11,090
Share-based compensation from issuance of options and compensation-based warrants	—	—	—	—	$ 133,172	—	—	—	133,172
Accrual of preferential return for the noncontrolling interests	—	—	—	—	—	—	—	(2,039,224)	(2,039,224)
Write off of accrued interest and preferred return forgiven by partner	—	—	—	—	$ 4,733,963	—	—	12,140,304	16,874,267
Foreign currency translation loss	—	—	—	—	—	(3,691,454)	172,562	2,368,240	(1,150,652)
Net loss for the year ended December 31, 2015	—	—	—	—	—	(1,573,412)	—	(7,444,940)	(9,018,352)
Balance at December 31, 2015	13,000	$ 13	341,529,434	$ 341,529	$ 30,533,060	$ (34,210,969)	$ 105,976	$ —	$ (3,230,391)

The accompanying notes are an integral part of these consolidated financial statements

GLOBAL CLEAN ENERGY HOLDINGS, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF CASH FLOWS

	For the Year Ended December 31,		
	2019	**2018**	**2017**
Operating Activities:			
Net loss	$ (11,791,819)	$ (7,990,043)	$ (1,187,972)
Adjustments to reconcile net loss to net cash used in operating activities:			
Gain on settlement of liabilities	(2,430,300)	—	—
Share-based compensation	577,645	69,289	35,560
Depreciation and amortization	246,932	245,227	245,691
Change in fair value of derivative liability	8,850,000	5,917,000	—
Changes in operating assets and liabilities:			
Accounts receivable	—	19,083	93,172
Inventory			
Accounts payable and accrued expenses	1,151,234	176,585	75,227
Accrued compensation and related liabilities	586,046	463,090	407,777
Interest payable	362,114	322,525	312,114
Other Operating Activities	431	—	—
Net Cash Used in Operating Activities	(2,447,717)	(777,244)	(18,431)
Investing Activities:			
Pre-acquisition costs and deposit on refinery acquisition	(5,836,,441)	—	—
Net Cash Used in Investing Activities	(5,836,441)	—	—
Financing Activities:			
Proceeds received from derivative forward contract	4,000,000	6,000,000	
Proceeds received from exercise of stock options	15,000		
Debt issuance costs	(500,000)	—	—
Net Cash Provided by Financing Activities	3,515,000	6,000,000	—
Net Change in Cash and Cash Equivalents	(4,769,158)	5,222,756	(18,431)
Cash and Cash Equivalents at Beginning of Period	5,226,489	3,733	22,164
Cash and Cash Equivalents at End of Period	$ 457,331	$ 5,226,489	$ 3,733
Supplemental Disclosures of Cash Flow Information			
Cash Paid for Interest	$ —	$ —	$ —
Cash Paid for Income Tax	$ —	$ —	$ —

Non-cash Financing Activities:

During 2018, the Company converted $1,000,000 of accrued compensation owed to its Chief Executive Officer into a note payable.

The accompanying notes are an integral part of these consolidated financial statements

GLOBAL CLEAN ENERGY HOLDINGS, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF CASH FLOWS

	For the Year Ended December 31, 2016	2015
Operating Activities:		
Net loss	$ (501,461)	$ (9,018,352)
Net loss from discontinued operations		(7,444,940)
Net loss from continuing operations	(510,461)	(1,573,412)
Adjustments to reconcile net loss to net cash used in operating activities:		
Foreign currency transaction gain	(105,976)	28
Gain on settlement of liabilities	(537,612)	(376,157)
Share-based compensation	31,311	133,172
Write-down of long-lived assets	—	438,320
Change in fair value of derivative liability	(106,000)	
Depreciation and amortization	250,924	312,085
Changes in operating assets and liabilities:		
Accounts receivable	(102,094)	1,012,977
Inventory	3,602	1,239
Other current assets	36,846	(15,665)
Accounts payable and accrued expenses	45,937	341,741
Accrued compensation and related liabilities	473,851	—
Interest payable	282,745	—
Other Operating Activities		
Other noncurrent assets	(5,254)	5,760
Net Cash Used in Operating Activities	(233,181)	280,088
Cash Flows of discontinued operations:		
Operating cash flows	220,641	(1,910,841)
Investing cash flows	—	6,416,913
Financing cash flows (including cash at year-end)	—	(4,907,060)
Net Cash flows from discontinued operations	220,641	(400,988)
Effect of exchange rate changes on cash	—	(35,940)
Net Change in Cash and Cash Equivalents	(12,540)	(156,840)
Cash and Cash Equivalents at Beginning of Period	34,704	191,544
Cash and Cash Equivalents at End of Period	$ 22,164	$ 34,704
Supplemental Disclosures of Cash Flow Information		
Cash Paid for Interest	$ —	$ —
Cash Paid for Income Tax	$ —	$ —

The accompanying notes are an integral part of these consolidated financial statements

GLOBAL CLEAN ENERGY HOLDINGS, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

NOTE A — ORGANIZATION AND SIGNIFICANT ACCOUNTING POLICIES

Description of Business

Global Clean Energy Holdings, Inc., a Delaware corporation, and its wholly owned subsidiaries (collectively, the "Company") is a U.S.-based integrated agricultural-energy biofuels company, and together with its subsidiaries holds assets across feedstocks and plant genetics, agronomics, cultivation, and regulatory approvals, commercialization, and downstream biorefining and storage. The Company is focused on the development and refining of non-food based bio-feedstocks and has a proprietary investment in Camelina sativa ("Camelina"), a fast growing, low input and ultra-low carbon intensity crop used as a feedstock for renewable fuels. The Company currently holds the Camelina assets (including all related intellectual property related rights and approvals) and operates its Camelina business through a subsidiary, Sustainable Oils Inc., a Delaware corporation.

In 2018 and 2019 the Company pursued the acquisition of a crude oil refinery in Bakersfield, California with the objective of retrofitting it to produce renewable diesel from Camelina and other non-food feedstocks. Subsequent to year end 2019, the Company completed the acquisition of the targeted refinery. The retrofitting of the refinery is expected to be completed in the first quarter of 2022. The Company has entered into a product offtake agreement with a major oil company for the majority of the renewable diesel that it will produce. See Note B which describes the agreement in more detail.

Basis of Presentation

The accompanying consolidated financial statements include the accounts of Global Clean Energy Holdings, Inc., and its wholly owned subsidiaries, and have been prepared in accordance with U.S. generally accepted accounting principles ("U.S. GAAP"). Intercompany accounts and transactions have been eliminated. In the opinion of the Company's management, the consolidated financial statements reflect all adjustments, which are normal and recurring in nature, necessary for fair financial statement presentation.

Cash and Cash Equivalents; Concentration of Credit Risk

For purposes of the statement of cash flows, the Company had no cash and cash equivalents in excess of federally-insured limits. The Company considers all highly liquid debt instruments maturing in three months or less to be cash equivalents. The Company has maintained its cash balances at what management considers to be high credit-quality financial institutions.

Accounts and Other Receivables

Trade receivables are recorded at net realizable value. The allowance for doubtful accounts reflects the Company's best estimate of probable losses inherent in the accounts receivable balance. The Company determines the allowance based on known troubled accounts, historical experience, and other currently available evidence. The Company reviews its allowance for doubtful accounts quarterly. Past due balances over 90 days and over a specified amount are reviewed individually for collectability. Account balances are charged off against the allowance after all means of collection have been exhausted and the potential for recovery is considered remote.

GLOBAL CLEAN ENERGY HOLDINGS, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

NOTE A — ORGANIZATION AND SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

Property and Equipment

Property and equipment are stated at cost. Depreciation of office equipment is computed using the straight-line method over estimated useful lives of 3 to 5 years. Field equipment is depreciated using the straight-line method over estimated useful lives of 5 to 15 years. Normal maintenance and repair items are charged to operating costs and are expensed as incurred. The cost and accumulated depreciation of property and equipment sold or otherwise retired are removed from the accounts and gain or loss on disposition is reflected in results of operations.

Long-Lived Assets

In accordance with U.S. GAAP the carrying values of intangible assets and other long-lived assets are reviewed on a regular basis for the existence of facts or circumstances that may suggest impairment. The Company recognizes impairment when the aggregate of the expected undiscounted future cash flows is less than the carrying amount of the asset. Impairment losses, if any, are measured as the excess of the carrying amount of the asset over its estimated fair value.

Pre-Acquisition Costs

The Company capitalizes its pre-acquisition costs once management determines that it is probable that the project will occur. Probability is determined based on i) management, having the requisite authority, has implicitly or explicitly authorized and committed to funding the acquisition or construction of a specific asset, ii) the financial resources are available consistent with such authorization, and iii) the ability exists to meet the necessary local and other governmental regulations. Cost capitalization occurs when the acquisition is probable. We capitalize those costs that are directly identifiable with the specific property and those costs that would be capitalized if the property were already acquired. We expense general and administrative and overhead costs and costs, including payroll, that would be considered support functions. In 2019, we capitalized $2.6 million of these costs which included financing costs, legal costs, pre-engineering costs and other contractual costs and expenses directly related to the purchase of the Bakersfield refinery in May 2020. In addition, we paid $3.2 million of deposits for the acquisition of the property.

Debt Issuance Costs

During 2018, we signed a letter of intent to acquire our Bakersfield Refinery. The acquisition of the refinery and the related $365 million of financing to retrofit it closed in May 2020. During 2019, we incurred $0.5 million of costs related to obtaining financing for the Bakersfield Refinery. These debt issuance costs have been deferred and recorded on the balance sheet and will be amortized over the term of the financing. See Note J in Subsequent Events for more detail on the financing.

Derecognition of Liabilities

The Company reviews its liabilities, including but not limited to, accounts payable, notes payable, accrued expenses, accrued liabilities and other legal obligations for a determination of the legal enforcement or settlement of an obligation. Upon conclusive evidence that an obligation may be extinguished, has expired, is discharged, cancelled or otherwise no longer legally exists, then the Company will derecognize the respective liability on its balance sheet.

GLOBAL CLEAN ENERGY HOLDINGS, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

NOTE A — ORGANIZATION AND SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

Income Taxes

The Company utilizes the liability method of accounting for income taxes. Under the liability method, deferred tax assets and liabilities are determined based on differences between financial reporting and tax bases of assets and liabilities and the carryforward of operating losses and tax credits, and are measured using the enacted tax rates and laws that will be in effect when the differences are expected to reverse. A valuation allowance against deferred tax assets is recorded when it is more likely than not that such tax benefits will not be realized. Assets and liabilities are established for uncertain tax positions taken or positions expected to be taken in income tax returns when such positions are judged to not meet the "more-likely-than-not" threshold based on the technical merits of the positions. Estimated interest and penalties related to uncertain tax positions are included as a component of general and administrative expense.

Revenue Recognition

On January 1, 2018, the Company adopted ASU 2014-09 *Revenue from Contracts with Customers* and all subsequent amendments to the ASU (collectively, "ASC 606"). ASC 606 creates a single framework for recognizing revenue from contracts with customers that fall within its scope. Under ASC 606 revenue is recognized using the five-step model, including (1) identify the contract with the customer, (2) identify the performance obligations in the contract, (3) determine the transaction price, (4) allocate the transaction price to the performance obligations in the contract, and (5) recognize revenue. However, the Company has not recognized any revenue since the adoption of ASC 606. Based upon the Company's Product Offtake Agreement (see Note B), the Company expects to recognize revenue from the sale of biofuel beginning in 2022.

Prior to the adoption of ASC 606, the Company would recognize revenue when all of the following criteria were met: persuasive evidence of an arrangement exists; delivery occurred or services had been rendered; the seller's price to the buyer is fixed or determinable; collectability was reasonably assured; and title and the risks and rewards of ownership have transferred to the buyer. The Company's revenues during 2015 – 2017 primarily consisted of contract advisory services, which included development and management services to other companies regarding their bio-fuels and/or feedstock development operations, on a fee for services basis. The advisory services revenue was recognized upon completion of the work in accordance with each advisory contract.

Research and Development

Research and development costs are charged to operating expenses when incurred.

Fair Value Measurements and Fair Value of Financial Instruments

The carrying amounts of the Company's financial instruments that are not reported at fair value in the accompanying consolidated balance sheets, including cash and cash equivalents, accounts receivable, accounts payable, and accrued liabilities approximate their carrying value due to their short-term nature. The Company's derivative liability related to its derivative forward contract is reported at fair value.

GLOBAL CLEAN ENERGY HOLDINGS, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

NOTE A — ORGANIZATION AND SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

U.S. GAAP specifies a hierarchy of valuation techniques based on whether the inputs to those valuation techniques are observable or unobservable. Observable inputs reflect market data obtained from independent sources, while unobservable inputs reflect the Company's market assumptions. These two types of inputs have created the following fair-value hierarchy:

Level 1— Quoted prices for identical instruments in active markets.

Level 2— Quoted prices for similar instruments in active markets, quoted prices for identical or similar instruments in markets that are not active, and model-derived valuations in which all significant inputs and significant value drivers are observable in active markets; and

Level 3— Valuations derived from valuation techniques in which one or more significant inputs or significant value drivers are unobservable.

During October 2018, the Company entered into a derivative forward contract that also included a call option. This contract was used as a source of financing, and the Company received $6 million at the inception of the contract from the counterparty. The notional amount of the forward contract related to gallons of the commodity, Ultra Low Sulfur Diesel. Under the terms of the contract the Company was obligated to pay the equivalent of the notional amount multiplied by the market price of Ultra Low Sulfur Diesel at the settlement dates; however, the call option of the contract capped the market price of Ultra Low Sulfur Diesel. At the inception of the contract the fair value of the derivative liability exceeded the $6 million received by the Company, and as a result, the Company recognized a financing cost of $9.1 million. During October 2019, the derivative forward contract was amended, and the Company received an additional $4 million and the notional amount and liability increased accordingly.

The derivative forward contract was amended again in April 2020. Under the amendment, the contract was replaced with a fixed payment obligation, whereby the Company agreed to pay the counterparty a total of $24.8 million, which included a payment of $4.5 million in June 2020, and six installment payments in 2022 totaling $20.3 million.

The fair value of the derivative forward contract is primarily based upon the notional amount and the forward strip market prices of Ultra Low Sulfur Diesel, and is reduced by the fair value of the call option. The forward strip market prices are observable. However, to determine the fair value of the call option, Company used the Black's 76 option pricing model. As a result, the contract as a whole is included in the Level 3 of the fair value hierarchy.

The following presents changes in the derivative liability:

	Year Ended	Quarter Ended				
	12/31/19	12/31/19	09/30/19	06/30/19	03/31/19	12/31/18
Beginning Balance	$ 11,917,000	$ 14,130,000	$ 14,536,000	$ 15,854,000	$ 11,917,000	$ —
New contract / contract additions	4,000,000	4,000,000	—	—	—	15,114,000
(Gain) loss in fair value recognized in earnings	8,850,000	6,637,000	(406,000)	(1,318,000)	3,937,000	(3,197,000)
	$ 24,767,000	**$ 24,767,000**	**$ 14,130,000**	**$ 14,536,000**	**$ 15,854,000**	**$ 11,917,000**

During the quarter ended December 31, 2018, the Company recognized a charge in earnings of $5.9 million related to the derivative forward contract. This charge consisted of $9.1 million finance costs of the derivative, less a decrease in fair value of $3.2 million.

GLOBAL CLEAN ENERGY HOLDINGS, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

NOTE A — ORGANIZATION AND SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

Estimates

Management uses estimates and assumptions in preparing financial statements. Those estimates and assumptions affect the reported amounts of assets and liabilities, the disclosure of contingent assets and liabilities, and reported revenues and expenses. Significant estimates used in preparing these financial statements include a) those assumed in determining the valuation of common stock, warrants, and stock options, b) those assumed in determining the value of the derivative transactions, c) estimated useful lives of equipment and patent costs, and d) undiscounted future cash flows for purpose of evaluating possible impairment of long-term assets. It is at least reasonably possible that the significant estimates used will change within the next year.

Income/Loss per Common Share

Income/Loss per share amounts are computed by dividing income or loss applicable to the common stockholders of the Company by the weighted-average number of common shares outstanding during each period. Diluted income or loss per share amounts are computed assuming the issuance of common stock for potentially dilutive common stock equivalents. The number of dilutive warrants and options is computed using the treasury stock method, whereby the dilutive effect is reduced by the number of treasury shares the Company could purchase with the proceeds from exercises of warrants and options.

The following instruments are currently antidilutive and have been excluded from the calculations of diluted income or loss per share at December 31, 2016, 2017, 2018 and 2019, as follows:

	December 31,			
	2019	**2018**	**2017**	**2016**
Convertible notes and accrued interest	98,794,390	93,657,637	26,156,533	24,266,533
Convertible preferred stock - Series B	11,818,181	11,818,181	11,818,181	11,818,181
Warrants	—	—	—	3,083,332
Compensation-based stock options and warrants	199,027,315	137,427,315	52,586,692	84,782,003

Stock Based Compensation

The Company recognizes compensation expenses for stock-based awards expected to vest on a straight-line basis over the requisite service period of the award based on their grant date fair value. However, in the case of awards with accelerated vesting, the amount of compensation expense recognized at any date will be based upon the portion of the award that is vested at that date. The Company estimates the fair value of stock options using a Black-Scholes option pricing model which requires management to make estimates for certain assumptions regarding risk-free interest rate, expected life of options, expected volatility of stock and expected dividend yield of stock. For the fiscal years ended December 31, 2019, 2018, 2017 and 2016, charges related to stock-based compensation amounted to approximately $577,645, $68,289, $33,560 and $33,311, respectively. For the fiscal years ended December 31, 2019, 2018, 2017 and 2016, all stock-based compensation is classified in general and administrative expense.

Subsequent Events

The Company has evaluated subsequent events through October 6, 2020, the date these consolidated financial statements were issued. See Note J to these consolidated financial statements for a description of events occurring subsequent to December 31, 2019.

GLOBAL CLEAN ENERGY HOLDINGS, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

NOTE A — ORGANIZATION AND SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

Recently Issued Accounting Statements

Revenue Recognition

In May 2014, the FASB issued Accounting Standards Update ("ASU") No. 2014-09, *Revenue from Contracts with Customers.* This new standard replaces most of the existing revenue recognition guidance in U.S. GAAP permits the use of either the retrospective or cumulative effect transition method. The new standard, as amended, became effective in the first quarter of fiscal year 2018. The Company adopted the standard using the modified retrospective method. There was no effect for any adjustments to retained earnings (accumulated deficit) upon adoption of the standard on January 1, 2018.

Leasing

Effective January 1, 2019 the Company adopted the Financial Accounting Standards Board's ("FASB") Accounting Standards Update No. 2016-02, *Leases* (Topic 842) which superseded previous lease guidance ASC 840, Leases. Topic 842 is a new lease model that requires a company to recognize right-of-use ("ROU") assets and lease liabilities on the balance sheet. The Company adopted the standard using the modified retrospective approach that does not require the restatement of prior year financial statements. The adoption of Topic 842 did not have a material impact on the Company's consolidated income statement or consolidated cash flow statement. The adoption of Topic 842 resulted in the recognition of a ROU asset and corresponding lease liability of $112,000 as of January 1, 2019 for leases classified as operating leases.

Stock Compensation

In June 2018, the FASB issued ASU No. 2018-07 *Improvements to Non-employee Share-based Payment Accounting* ("ASU 2018-07"). ASU 2018-07 amends ASC 718, *Compensation - Stock Compensation* ("ASC 718"), with the intent of simplifying the accounting for share-based payments granted to non-employees for goods and services and aligning the accounting for share-based payments granted to non-employees with the accounting for share-based payments granted to employees. The Company adopted ASU 2018-07 on January 1, 2019 using the modified retrospective approach as required. ASU 2018-07 replaced ASC 505-50, *Equity-Based Payments to Non-employees* ("ASC 505-50") which was previously applied by the Company for warrants granted to consultants and nonemployees. The adoption of ASU 2018-07 did not have a material impact on the Company's consolidated financial statements.

GLOBAL CLEAN ENERGY HOLDINGS, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

NOTE B — BASIS OF PRESENTATION AND LIQUIDITY

The accompanying consolidated financial statements have been prepared assuming that the Company will continue as a going concern. As shown in the accompanying consolidated financial statements, the Company incurred losses from continuing operations applicable to its common shareholders of $11.8 million, $8.0 million, $1.2 million, and $0.5 million, during the years ended December 31, 2019, 2018, 2017 and 2016, respectively, and has an accumulated deficit applicable to its common stockholders of $55.7 million, at December 31, 2019. The Company incurred operating losses of $4.9 million, $2.1 million, $0.9 million, and $0.9 million, during the years ended December 31, 2019, 2018, 2017 and 2016, respectively. At December 31, 2019, the Company had negative working capital of $33.0 million and a stockholders' deficit of $24.5 million.

On May 4, 2020, a group of lenders agreed to provide a $300 million senior secured term loan facility to one of Global Clean Energy Holdings, Inc.'s subsidiaries to enable that subsidiary to acquire the equity interests of Bakersfield Renewable Fuels, LLC and to pay the costs of the retooling of the refinery owned by Bakersfield Renewable Fuels, LLC. Concurrently with the senior credit facility, a group of mezzanine lenders have agreed to provide a $65 million secured term loan facility to be used to pay the costs of repurposing and starting up the Bakersfield biorefinery. See, *"Note J Subsequent Events."* Although the funds provided by the senior and mezzanine lenders may only be used for the Bakersfield refinery and servicing these debt obligations, since the Company shares facilities and personnel, Global Clean Energy Holdings, Inc. will realize a reduction in certain of its operating expenses. As of October 6, 2020, the Company believes that these cost savings, plus the Company's other financial resources should be sufficient to fund the Company's operations for the next eighteen months from the date that the accompanying financial statements were available to be issued.

In April of 2019, the Company executed a binding Product Offtake Agreement (the "Offtake Agreement") with a major oil company ("Purchaser") pursuant to which Purchaser has committed to purchase approximately 2.5 million barrels of renewable diesel annually from the Bakersfield Biorefinery, and the Company will be obligated to sell these quantities of renewable diesel to Purchaser. Purchaser's obligation to purchase renewable diesel will last for a period of five years following the date that the Bakersfield Biorefinery commences operations. Purchaser has the option to extend the initial five-year term. Either party may terminate the Offtake Agreement if the Bakersfield Biorefinery does not meet certain production levels by certain milestone dates following the commencement of the Bakersfield Biorefinery's operations.

NOTE C – PROPERTY AND EQUIPMENT

Property and equipment as of December 31, 2019, 2018, 2017, 2016 and 2015 are as follows:

	2019	2018	2017	2016	2015
Field Equipment	$ —	$ 10,305	$ 10,305	$ 10,305	$ 10,574
Office Equipment	61,078	61,601	61,601	61,601	64,729
Total Cost	61,078	71,906	71,906	71,906	75,303
Less accumulated depreciation	61,078	70,200	70,200	69,736	67,435
Property and equipment, net	$ —	$ 1,706	$ 1,706	$ 2,170	$ 7,868

Depreciation expense for property and equipment was $0, $0, $464, $2,301 and $66,859 for the years ended December 31, 2019, 2018, 2017, 2016 and 2015 respectively.

GLOBAL CLEAN ENERGY HOLDINGS, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

NOTE D - PATENT LICENSE FEES

Through a 2013 acquisition, the Company acquired certain patents, intellectual property and rights related to the development of Camelina as a biofuels feedstock, as a result of which it continues to incur costs related to patent license fees and patent applications for Camelina sativa plant improvements. These assets include three patents and the related intellectual property associated with these patents. These patents have an expected useful life of 17 years and are carried at cost less any accumulated amortization and any impairment losses. Amortization is calculated using the straight-line method over their remaining patent life. The termination of the patents are in 2029. Any future costs associated with the maintenance of these patents and patent and registration costs for any new patents that are essential to its business will be capitalized and amortized over the life of the patent once issued. The patent license assets as of the year ended December 31, 2019, 2018, 2017, 2016 and 2015 is shown in the following table:

	December 31				
	2019	**2018**	**2017**	**2016**	**2015**
Patent license fees	$ 4,187,902	$ 4,186,289	$ 4,168,841	$ 4,168,841	$ 4,168,841
Less accumulated amortization	(1,686,3107)	(1,439,471)	(1,176,796)	(931,569)	(686,343)
Intangible Assets, Net	$ 2,501,592	$ 2,746,818	$ 2,992,045	$ 3,237,272	$ 3,482,498

Amortization expense for intangible assets was approximately $245,000 for the years ended December 31, 2015, 2016, 2017, 2018 and 2019. The estimated amortization expense for the next five years is expected to be approximately $245,000 annually.

NOTE E –DEBT

Promissory Notes

Prior to 2016 the Company invested in and purchased various assets and is carrying a note, that is due upon demand, related to such assets in the principal amount of $1.3 million and an interest rate of 18% per annum.

Convertible Note Payable to Executive Officer

On October 16, 2018, Richard Palmer, the Company's Chief Executive Officer and President, entered into a new employment agreement with the Company and concurrently agreed to defer $1 million of his accrues salary and bonus for two years. In order to evidence the foregoing deferral, the Company and Mr. Palmer entered into a $1 million convertible promissory note (the "Convertible Note"). The Convertible Note accrued simple interest on the outstanding principal balance of the note at the annual rate of five percent (5%) and matures and becomes due and payable on October 15, 2020. The Company accrued interest expense on this note in 2018 and 2019 of $10,411 and $50,000 respectively. As of year end 2018 and 2019 the Company had recorded accrued interest payable of $10,411 and $60,411. Under the Convertible Note, Mr. Palmer has the right, exercisable at any time until the Convertible Note is fully paid, to convert all or any portion of the outstanding principal balance and accrued and unpaid interest into shares of Common Stock at an exercise price of $0.0154 per share.

Convertible Notes Payable

The Company has several notes that are convertible into the Company or the Company's subsidiaries shares at different prices: from $0.03 per share into the parent company's stock and up to $1.48 per share into a subsidiary's common stock. These notes are past due their original maturity date and they continue to accrue interest at varying rates, from 8% to 10%. On a combined basis, as of December 31, 2019 the principal amount of these notes is $0.7 million.

Settlement of Liabilities

In 2019 the Company derecognized $2.4 million of previously outstanding liabilities upon concluding that these were no further legal obligations. In 2016, the Company derecognized $0.5 million of liabilities based upon analysis of its accounts payable aging. These amounts are included in gain on settlement of liabilities in the accompanying statement of operations.

GLOBAL CLEAN ENERGY HOLDINGS, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

NOTE F – STOCKHOLDERS' EQUITY

Common Stock

During 2016 through 2019, the Company issued a total of 2,500,000 shares of common stock related to the exercise of stock options.

Series B Preferred Stock

On November 6, 2007, the Company sold a total of 13,000 shares of Series B Convertible Preferred Stock ("Series B Shares") to two investors for an aggregate purchase price of $1.3 million, less offering costs of $9,265. Each share of the Series B Shares has a stated value of $100.

The Series B Shares may, at the option of each holder, be converted at any time or from time to time into shares of the Company's common stock at the conversion price then in effect. The number of shares into which one Series B Share shall be convertible is determined by dividing $100 per share by the conversion price then in effect. The initial conversion price per share for the Series B Shares is $0.11, which is subject to adjustment for certain events, including stock splits, stock dividends, combinations, or other recapitalizations affecting the Series B Shares.

Each holder of Series B Shares is entitled to the number of votes equal to the number of shares of the Company's common stock into which the Series B Shares could be converted on the record date for such vote, and has voting rights and powers equal to the voting rights and powers of the holders of the Company's common stock.

No dividends are required to be paid to holders of the Series B shares. However, the Company may not declare, pay or set aside any dividends on shares of any class or series of the Company's capital stock (other than dividends on shares of our common stock payable in shares of common stock) unless the holders of the Series B shares shall first receive, or simultaneously receive, an equal dividend on each outstanding share of Series B shares.

In the event of any liquidation, dissolution or winding up of the Company, the holders of the Series B Preferred Stock shall be entitled to receive, prior to any distribution to the holders of the Common Stock, an amount equal to $100 per share, or $1,300,000 in the aggregate, plus an amount equal to any dividends declared and unpaid with respect to each such share.

NOTE G – STOCK OPTIONS AND WARRANTS

2010 Stock Plan

In 2010, the Company's Board of Directors adopted the Global Clean Energy Holdings, Inc. 2010 Equity Incentive Plan (the "2010 Plan") wherein 20,000,000 shares of the Company's common stock were reserved for issuance thereunder. Options and awards granted to new or existing officers, directors, employees, and non-employees vest ratably over a period as individually approved by the Board of Directors generally over four years, but not in all cases. The 2010 Plan provides for a three-month exercise period of vested options upon termination of service. The exercise price of options granted under the 2010 Plan is equal to the fair market value of the Company's common stock on the date of grant. Options issued under the 2010 Plan have a maximum term of ten years for exercise and may be exercised with cash consideration or through a cashless exercise in which the holder forfeits a portion of the award in exchange for shares of common stock of the remaining portion of the award. As of December 31, 2019, there were no shares available for future option grants under the 2010 Plan. The 2010 Plan expired in April 2020 and was replaced with the 2020 Equity Incentive Plan. See Note J for additional information.

GLOBAL CLEAN ENERGY HOLDINGS, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

NOTE G – STOCK OPTIONS AND WARRANTS (CONTINUED)

The Company's Board of Directors has granted stock options to certain officers, directors, employees, and non-employees, which options were not part of the 2010 Plan or any other formal equity incentive plan.

During the fiscal years ended December 31, 2016, 2017, 2018 and 2019, the Company granted the following stock options under the 2010 Plan and outside of the 2010 Plan:

2016:

On May 26, 2016, the Company granted employees and consultants a total of 2,300,000 incentive stock options and 1,000,000 non-qualified stock options respectively. These options vest 25% annually on the anniversary of the date of grant beginning on May 25, 2017 and each year thereafter until fully vested. The options expire five years from the date of grant and have an exercise price of $0.003.

On July 1, 2016, the Company granted its Chairman of the Board a five-year non-qualified stock option to purchase 500,000 shares of Common Stock at an exercise price of $0.003. The options vest monthly over one year beginning on the grant date.

On December 14, 2016, the Company granted employees and consultants a total of 3,000,000 incentive stock options and 500,000 non-qualified stock options respectively. These options vest quarterly over three years beginning on the grant date. The options expire five years from the date of grant and have an exercise price of $0.0017.

2017:

On July 1, 2017, the Company granted its Chairman of the Board a five-year non-qualified stock option to purchase 500,000 shares of Common Stock at an exercise price of $0.015. The options vest monthly over one year beginning on the grant date.

On November 1, 2017, the Company granted employees and consultants a total of 2,500,000 incentive stock options and 500,000 non-qualified stock options respectively. These options vest quarterly over three years beginning on the grant date. The options expire five years from the date of grant and have an exercise price of $0.0022.

2018:

For legal services rendered, on January 29, 2018 the Company granted to one of its attorneys a fully vested, five-year, non-qualified stock option to purchase 750,000 shares of the Company's common stock at an exercise price of $0.0056 per share.

On July 1, 2018, the Company granted its Chairman of the Board a five-year non-qualified stock option to purchase 500,000 shares of Common Stock at an exercise price of $0.0056. The options vest monthly over one year beginning on the grant date.

On September 17, 2018, the Company granted its Executive Vice President a five-year non-qualified stock option to purchase 5,000,000 shares of Common Stock at an exercise price of $0.035. The options vested immediately upon grant.

On October 16, 2018, the Company granted its Chief Executive Officer a five-year non-qualified stock option to purchase 110 million shares of Common Stock at an exercise price of $0.0154, subject to the Company's achievement of certain market capitalization goals.

On December 14, 2018, the Company granted a non-qualified stock option to purchase up to 2,500,000 to a consultant. The option (i) has an exercise price of $0.007(equal to the closing market price on the date of the grant), (ii) has a five-year term, and (iii) was fully vested and immediately exercisable upon grant.

GLOBAL CLEAN ENERGY HOLDINGS, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

NOTE G – STOCK OPTIONS AND WARRANTS (CONTINUED)

2019:

On January 15, 2019, the Company granted its Executive Vice President a five-year non-qualified stock option to purchase 50 million shares of Common Stock at an exercise price of $0.02, subject to the Company's achievement of certain market capitalization goals.

On June 21, 2019 the Company entered into a Board Advisor Agreement with a prospective Board member (who subsequently became a member of the Board of Directors). As compensation for his services under the Board Advisor Agreement, the Board granted to this Director a non-qualified stock option to purchase up to 500,000 shares of the Company's common stock, which option has an exercise price of $0.08 (based on the closing market price), a five year term, and the following vesting schedule: (i) Options to purchase 125,000 shares vested immediately as of the date grant, and (ii) options to purchase 125,000 additional shares vested on each of September 20, 2019, December 20, 2019 and March 20, 2020. The Board also granted to this prospective Director a second non-qualified stock option to purchase up to 500,000 shares of the Company's common stock, which option has an exercise price of $0.08, a five year term, and would vest if/when this prospective Director joins the Board of Directors of the Company, provided that this prospective Director is appointed to the Board during the term of the Board Advisor Agreement. This appointment occurred in May 2020.

On June 21, 2019 the Company granted its Executive Vice President a five-year non-qualified stock option to purchase 10,000,000 shares at an exercise price of $0.0165. The option vests at 25% at issuance and the balance over 36 months.

On July 1, 2019, the Company granted its Chairman of the Board a five-year non-qualified stock option to purchase 500,000 shares of Common Stock at an exercise price of $0.065. The options vest monthly over one year beginning on the grant date.

On July 5, 2019 the Company granted to a consultant a five-year non-qualified stock option to purchase 5,000,000 shares of Common Stock at an exercise price of $0.09. The option vesting is conditional upon the Company consummating its contemplated acquisition by March 31, 2020 and upon such acquisition will vest at one-third upon closing and one-third each on the first and second anniversary of closing.

GLOBAL CLEAN ENERGY HOLDINGS, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

NOTE G – STOCK OPTIONS AND WARRANTS (CONTINUED)

A summary of the option award activity and awards outstanding at December 31, 2019 is as follows:

	Shares Under Option	Weighted Average Exercise Price	Weighted Average Remaining Contractual Life	Aggregate Intrinsic Value
Outstanding at December 31, 2015	93,208,997	$ 0.015	2.2 years	$ —
Granted	7,300,000	0.002		
Exercised	—			
Forfeited	(4,800,000)	0.024		—
Expired	(10,926,994)	0.008		—
Outstanding at December 31, 2016	84,782,003	0.015	1.7 years	—
Granted	3,500,000	0.004		
Exercised	—			
Forfeited	(7,500,000)	0.006		—
Expired	(28,195,311)	0.018		—
Outstanding at December 31, 2017	52,586,692	0.013	1.6 years	600
Granted	118,750,000	0.015		
Exercised	—			
Forfeited	(24,959,377)	0.015		—
Expired	(8,950,000)	0.022		—
Outstanding at December 31, 2018	137,427,315	0.014	4.4 years	28,260
Granted	66,500,000	0.019		
Exercised	(2,500,000)	0.006		
Forfeited	—			—
Expired	(2,400,000)	0.010		—
Outstanding at December 31, 2019	199,027,315	0.016	3.6 years	14,360,463
Vested and exercisable at December 31, 2019	184,964,315	$ 0.016	3.6 years	$ 13,468,745

GLOBAL CLEAN ENERGY HOLDINGS, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

NOTE G – STOCK OPTIONS AND WARRANTS (CONTINUED)

The fair value of stock option grants with only continued service conditions for vesting is estimated on the grant date using a Black-Scholes option pricing model. The Company estimates the fair value of stock options that have both service and market conditions on the grant date using a lattice model. The following table illustrates the assumptions used in estimating the fair value of options granted during the periods presented:

	For the Years Ended December 31,			
	2019	**2018**	**2017**	**2016**
Expected Term (in Years)	2 to 5	2 to 5	3 to 3.75	3.75
Volatility	123%	123%	175%-189%	142%-156%
Risk Free Rate	2.8%	2.8%	1.9%-2.0%	1.4%-2.0%
Dividend Yield	0%	0%	0%	0%
Suboptimal Exercise Factor (1)	1.3	1.3	n/a	n/a
Exit Rate Pre-vesting (2)	0%	0%	n/a	n/a
Exit Rate Post-vesting (3)	0%	0%	n/a	n/a
Aggregate Grant Date Fair Value	$ 326,644	$ 396,074	$ 12,737	$ 19,038

(1)The suboptimal exercise factor estimates the value realized by the holder upon exercise of the option and the estimated point at which an option holder would exercise an in-the-money option. The Company estimated the suboptimal factor based on the holder realizing a pre-tax profit of $500,000. Used for lattice model purposes only.
(2) Assumed forfeiture rate for market condition option awards prior to vesting. Used for lattice model purposes only.
(3) Assumed expiration or forfeiture rate for market condition option awards after vesting. Used for lattice model purposes only.

During the years ended December 31, 2019 and 2018 the Company granted 110,000,000 and 50,000,000 options, respectively, to related parties that have both requisite service conditions and market conditions. The requisite service period for the market condition options granted during 2019 was three years and the options vest in three tranches: 28% of the award vests when the market cap exceeds $7 million for a thirty day period; 33% of the award vests when the market cap exceeds $15 million for a thirty day period; and 40% of the award vests when the market cap exceeds $25 million for a thirty day period. The requisite service period for the market condition options granted during 2018 was three years and the options vest in three tranches: 28% of the award vests when the market cap exceeds $7 million for a thirty day period; 36% of the award vests when the market cap exceeds $15 million for a thirty day period; and 36% of the award vests when the market cap exceeds $25 million for a thirty day period. As of May 31, 2019, all of the outstanding market condition awards issued during 2019 and 2018 were fully vested.

GLOBAL CLEAN ENERGY HOLDINGS, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

NOTE G – STOCK OPTIONS AND WARRANTS (CONTINUED)

For the years ended December 31, 2019, 2018, 2017, and 2016 the Company recognized stock compensation expenses related to stock option awards of $577,645; $69,289; $35,560; and $31,311; respectively. The Company recognizes all stock-based compensation in general and administrative expenses in the accompanying consolidated statements of operations. As of December 31, 2019, there was approximately $106,000 of unrecognized compensation cost related to option awards that will be recognized over the remaining service period of approximately 2.25 years.

Stock Purchase Warrants

The Company has, from time to time, previously issued warrants for the purchase of Common Stock. During the year ended December 31, 2016 all 3,083,332 previously outstanding fully vested stock warrants expired. As of December 31, 2019 there were no outstanding stock warrants.

In 2020, the Company issued, to a party interested in Camelina development, a non-transferable warrant for approximately eight-percent interest in its subsidiary, Sustainable Oils, Inc. for approximately $20 million. The warrant expires on June 1, 2021.

NOTE H – INCOME TAXES

Income taxes are provided for temporary differences between financial and tax bases of assets and liabilities. The following is a reconciliation of the amount of benefit that would result from applying the federal statutory rate to pre-tax loss with the benefit from income taxes for the years ended December 31, 2015, 2016, 2017, 2018 and 2019:

The components of deferred tax assets and liabilities are as follows at December 31, 2015, 2016, 2017, 2018 and 2019, using a combined deferred income tax rate of 40% for 2015 and 2016 and 28% for 2017, 2018 and 2019:

The provisions for income taxes for the years ended December 31, 2019 and 2018 through 2016 are as follows:

	2019	2018	2017	2016	2015
Current:					
Federal	$ (265,000)	$ (418,000)	$ (127,000)	$ 110,000	$ (319,000)
State	(123,000)	(193,000)	(36,000)	31,000	
Deferred:					
Federal	(1,992,000)	(1,111,000)	(241,000)	129,000	140,000
State	(920,000)	(513,000)	(69,000)	37,000	
Change in Valuation Allowance	3,300,000	2,235,000	473,000	(307,000)	179,000
Provision for income taxes	$ —	$ —	$ —	$ —	$ —

A reconciliation of the federal statutory tax rate to the effective tax rate is as follows:

	2019	2018	2017	2016	2015
Federal statutory rate	21%	21%	21%	34%	34%
State, net of federal tax benefit	6.98%	6.98%	6.98%	5.83%	5.83%
Effect of permanent differences					
State return to provision					
Change in valuation allowance	-28%	-28%	-28%	-40%	-40%
Effective tax rate	—	—	—	—	—

GLOBAL CLEAN ENERGY HOLDINGS, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

NOTE H – INCOME TAXES (CONTINUED)

The company uses the asset-liability method of computing deferred taxes in accordance with FASB ASC Topic 740.

The difference between the effective tax rate and the statutory tax rates is due primarily to the impact of the valuation allowance resulting in zero tax provision being recorded.

Tax law changes enacted in 2018 reduced the statutory federal rate from 34% to 21%. The deferred tax asset has been reduced to reflect the newly enacted rate, and was equally offset by the change in valuation allowance.

At December 31, 2019 and 2018 through 2015, the deferred income tax assets consisted of the following:

	2019	2018	2017	2016	2015
Deferred tax assets:	$ 14,563,000	$ 11,263,000	$ 9,028,000	$ 8,555,000	$ 8,862,000
Less: Valuation Allowance	(14,563,000)	(11,263,000)	(9,028,000)	(8,555,000)	(8,862,000)
Net deferred income taxes	$ —	$ —	$ —	$ —	$ —

Deferred income taxes arise from temporary differences between the tax basis of assets and liabilities and their reported amounts in the financial statements, which will result in taxable or deductible amounts in the future. The majority of the balance is due deferred compensation, share based payments, the fair value of derivatives, and to continued losses resulting in NOL carryforwards, which may not be realized in future periods. As such, the company has recorded a 100% valuation allowance against the deferred tax assets.

At December 31, 2019 and 2018 through 2015, the deferred income tax assets consisted of the following temporary differences:

	2019	2018	2017	2016	2015
Net operating losses	$ 8,530,000	$ 8,140,000	$ 7,529,000	$ 7,366,000	$ 7,507,000
Share based compensation	269,000	107,000	87,000	73,000	483,000
Accrued payroll	1,631,000	1,359,000	1,412,000	1,116,000	830,000
Impairment	—	—	—	—	42,000
Derivative Liability	4,132,000	1,656,000	—	—	—
Total deferred tax assets	14,562,000	11,262,000	9,028,000	8,555,000	8,862,000
Less: Valuation allowance	(14,562,000)	(11,262,000)	(9,028,000)	(8,555,000)	(8,862,000)
	$ —	$ —	$ —	$ —	$ —

At December 31, 2019 through 2015, the Company has federal net operating loss carryforwards of approximately:

	2019	2018	2017	2016	2015
Net operating losses	$ 21,152,000	$ 19,765,000	$ 17,579,000	$ 17,169,000	$ 17,523,343

Net operating losses begin to expire in the year ending 2021 through 2029.

Inasmuch as it is not possible to determine when or if the net operating losses will be utilized, a valuation allowance has been established to offset the benefit of the utilization of the net operating losses.

GLOBAL CLEAN ENERGY HOLDINGS, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

NOTE H— INCOME TAXES (CONTINUED)

As of December 31, 2019, the Company had available net operating losses of approximately $21.2 million which can be utilized to offset future earnings of the Company. The utilization of the net operating losses is dependent upon the tax laws in effect at the time such losses can be utilized. The loss carryforwards expire between the years 2021 and 2037. Should the Company experience a significant change of ownership, the utilization of net operating losses could be reduced.

The Company and its subsidiaries file tax returns in the U.S. Federal jurisdiction and, in the state of California. The Company is no longer subject to U.S. federal tax examinations for tax years before and including December 31, 2015. The Company is no longer subject to examination by state tax authorities for tax years before and including December 31, 2015. During the years ended December 31, 2016, 2017, 2018 and 2019, the Company did not recognize interest and penalties.

NOTE I – COMMITMENTS AND CONTINGENCIES

Employment Agreements

President and Chief Executive Officer. Effective December 31, 2014, the Company entered into an employment agreement (the "2014 Employment Agreement") with its President and Chief Executive Officer ("CEO"), for a term of five years. Under the Employment Agreement, we granted the CEO an incentive option to purchase up to 16,959,377 shares of Common Stock at an exercise price of $0.0041 (the closing trading price on the date the agreement was signed and approved), with 25% vesting immediately and the balance vesting in equal amounts over the next 48 months. Under the 2014 Employment Agreement, the CEO was entitled to receive a base salary of $250,000 and an annual bonus payment contingent on the CEO's satisfaction of certain performance criteria. The target annual bonus amount was 50% of the CEO's base salary, subject to the Board's discretion to increase the amount of the bonus or adjust the performance criteria

On October 16, 2018, the Company and the CEO entered into a new Executive Employment Agreement (the "2018 Employment Agreement") that replaced the 2014 Employment Agreement. The 2018 Employment Agreement runs through October 15, 2023 and compensates the CEO at an annual base salary of $300,000 per year. Upon the closing of the acquisition of the Company's Bakersfield, California, refinery on May 7, 2020 the Company and the CEO amended the 2018 Employment Agreement to increase the CEO's annual base salary to $350,000, effective immediately. Under the 2018 Employment Agreement, the CEO's target annual bonus amount is 50% of the CEO's base salary, subject to the Board's discretion to increase the amount of the bonus or adjust the performance criteria. Under the 2018 Employment Agreement, the Company granted the CEO a five-year non-qualified stock option ("Option") to purchase 110 million shares of Common Stock at an exercise price of $0.0154, subject to the Company's achievement of certain market capitalization goals. Under the Option, Mr. Palmer vests, and can exercise the Option, with respect to 30,000,000 shares when the Company's market capitalization first reaches $7 million, another 40,000,000 shares vest under the Option when the Company's market capitalization reaches $15 million, and 40,000,000 shares vest when the Company's market capitalization first reaches $25 million. The term "market capitalization" is defined in the 2018 Employment Agreement to mean the product of the number of shares of Common Stock issued and outstanding at the time market capitalization is calculated, multiplied by the average closing price of the Common Stock for the 30 consecutive trading days prior to the date of calculation as reported on the principal securities trading system on which the Common Stock is then listed for trading, including the OTC Pink marketplace, the NASDAQ Stock Market, or any other applicable stock exchange.

GLOBAL CLEAN ENERGY HOLDINGS, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

NOTE I – COMMITMENTS AND CONTINGENCIES (CONTINUED)

Executive Vice President - Development & Regulatory Affairs (the "EVP"). Effective January 15, 2019, the Company entered into a three-year employment agreement with its EVP which agreement was amended on May 7, 2020. Under the employment agreement, the EVP is paid an annual base salary of $310,000 and is entitled to receive an annual bonus of up to 50% of his annual base salary if the EVP meets certain performance targets.

Under the EVP's employment agreement, the Company granted the EVP a five-year non-qualified stock option to purchase 50 million shares of Common Stock at an exercise price of $0.02, subject to the Company's achievement of certain market capitalization goals. The foregoing option vest in three tranches when the Company's market capitalization reached $7 million, $15 million, and $25 million.

Leases

On May 1, 2019, the Company amended its office lease to extend the lease term to July 31, 2022.

Year Ending December 31,	Gross Payments	Less: Discount Discount	Operating Lease Obligation
2020	$ 34,000	$ 5,000	$ 29,000
2021	35,000	3,000	32,000
2022	20,000	1,000	19,000
Total	$ 89,000	$ 9,000	$ 80,000

Legal

In the ordinary course of business, the Company may face various claims brought by third parties and the Company may, from time to time, make claims or take legal actions to assert the Company's rights, including intellectual property rights, contractual disputes and other commercial disputes. Any of these claims could subject the Company to litigation.

In the first quarter of 2018 we received $0.4 million as part of a settlement we entered into with the purchaser of our former Mexican biofuel farms. This settlement was in regards to the use of our intellectual property rights.

In August 2020, a complaint was filed against GCE Holdings Acquisitions, LLC for a claimed breach of a certain consulting agreement. The claim is for $1.2 million. The Company is in the process of evaluating the merits of the claim and will determine a course of action in the near future. Management believes the outcomes of currently pending claims will not likely have a material effect on the Company's consolidated financial position and results of operations.

Indemnities and Guarantees

In addition to the indemnification provisions contained in the Company's organization documents, the Company generally enters into separate indemnification agreements with the Company's directors and officers. These agreements require the Company, among other things, to indemnify the director or officer against specified expenses and liabilities, such as attorneys' fees, judgments, fines and settlements, paid by the individual in connection with any action, suit or proceeding arising out of the individual's status or service as the Company's directors or officers, other than liabilities arising from willful misconduct or conduct that is knowingly fraudulent or deliberately dishonest, and to advance expenses incurred by the individual in connection with any proceeding against the individual with respect to which the individual may be entitled to indemnification by the Company. The Company also indemnifies its lessor in connection with its facility lease for certain claims arising from the use of the facility. These guarantees and indemnities do not provide for any limitation of the maximum potential future payments the Company could be obligated to make. Historically, the Company has not been obligated nor incurred any payments for these obligations and, therefore, no liabilities have been recorded for these indemnities and guarantees in the accompanying consolidated balance sheets.

GLOBAL CLEAN ENERGY HOLDINGS, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

NOTE J – SUBSEQUENT EVENTS

On May 7, 2020 through BKRF OCB, LLC, one of the Company's indirect subsidiaries, the Company purchased all of the outstanding equity interests of Bakersfield Renewable Fuels, LLC from Alon Paramount Holdings, Inc. ("Alon Paramount") for $40,000,000. Bakersfield Renewable Fuels, LLC owns an oil refinery in Bakersfield, California that the Company is retooling into a biorefinery. In connection with the acquisition, BKRF OCB, LLC agreed to undertake certain cleanup activities at the refinery and provide a guarantee for liabilities arising from the cleanup. The Company has assumed significant environmental and clean-up liabilities associated with the purchase of the Bakersfield Refinery.

Bakersfield Renewable Fuels, LLC, formerly Alon Bakersfield Property, Inc. is a party to an action pending in the United States Court of Appeals for the Ninth Circuit. In June 2019, the jury awarded the plaintiffs approximately $6.7 million against the Company and Paramount Petroleum Corporation (a parent company of Alon Bakersfield in 2019). Bakersfield Renewable Fuels has filed post-trial motions to alter or amend the judgment, or, in the alternative, for a new trial. Bakersfield Renewable Fuels is also assessing options for legal action. The hearing on this matter was heard in October of 2019, and the ruling is pending. Under the Share Purchase Agreement, Alon Paramount agreed to assume and be liable for (and to indemnify, defend, and save Bakersfield Renewable Fuels harmless from) this litigation. All legal fees in this matter are being paid by Paramount Petroleum Corporation. Concurrently with the closing of the acquisition, the Company entered into a Call Option Agreement with Alon Paramount pursuant to which the Company granted to Alon Paramount an option to purchase from Global Clean Energy Holdings, Inc. up to 33 1/3% of the membership interests of another subsidiary that indirectly owns Bakersfield Renewable Fuels, LLC based on the Company's purchase price. The foregoing option can be exercised by Alon Paramount until the 90 th day after the refinery meets certain operational criteria. Upon the exercise of the option, Alon Paramount will be allocated its share of the refinery's assets and liabilities and profits and losses. Bakersfield Renewable Fuels, LLC is also responsible for all of the environmental liabilities and clean-up costs associated with the Bakersfield Refinery.

On May 4, 2020, in order to fund the purchase of Bakersfield Renewable Fuels, LLC, BKRF OCB, LLC entered into a senior secured credit agreement with a group of lenders (the "Senior Lenders") pursuant to which the Senior Lenders agreed to provide a $300 million senior secured term loan facility to BKRF OCB, and to pay the costs of the retooling the Bakersfield Biorefinery. The senior loan bears interest at the rate of 12.5% per annum, payable quarterly. The principal of the senior loans is due at maturity, provided that BKRF OCB, LLC must offer to prepay the senior loans with any proceeds of such asset dispositions, borrowings other than permitted borrowings, proceeds from losses, and excess net cash flow. BKRF OCB, LLC may also prepay the senior loan in whole or in part with the payment of a prepayment premium. As additional consideration for the senior loans, the Senior Lenders were issued Class B Units in BKRF HCP, LLC, an indirect parent company of BKRF OCB, LLC. The senior loans are secured by all of the assets of BKRF OCB, LLC (including its membership interests in Bakersfield Renewable Fuels, LLC), all of the outstanding membership interest in BKRF OCB, LLC, and all of the assets of Bakersfield Renewable Fuels, LLC.

On May 4, 2020, BKRF HCB, LLC, the indirect parent of BKRF OCB, LLC, entered into a credit agreement with a group of mezzanine lenders who agreed to provide a $65 million secured term loan facility to be used to pay the costs of repurposing and starting up the Bakersfield biorefinery. As of September 30, 2020, BKRF HCB, LLC has not drawn down on the credit facility. The mezzanine loans bear interest at the rate of 15.0% per annum on amounts borrowed, payable quarterly, provided that the borrower may defer interest to the extent it does not have sufficient cash to pay the interest, such deferred interest being added to principal. As additional consideration for the mezzanine loans, the mezzanine lenders will be issued Class C Units in BKRF HCP, LLC at such times as advances are made under the mezzanine loans. The mezzanine loans will be secured by all of the assets of BKRF HCP, LLC, including all of the outstanding membership interest in BKRF FHCB, LLC. The mezzanine loans mature in November 2027.

GLOBAL CLEAN ENERGY HOLDINGS, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

NOTE J – SUBSEQUENT EVENTS (CONTINUED)

In December 2019, a novel strain of coronavirus diseases ("COVID-19") was first reported in Wuhan, China. Less than four months later, on March 11, 2020, the World Health Organization declared COVID-19 a global pandemic. The extent of COVID-19's effect on the Company's operational and financial performance will depend on future developments, including the duration, spread and intensity of the pandemic, all of which are uncertain and difficult to predict considered the rapidly evolving landscape. The Company is currently analyzing the potential impacts to its business. At this time, it is not possible to determine the magnitude of the overall impact of COVID-19 on the Company.

On April 30, 2020 GCE Acquisitions entered into an Engineering, Procurement and Construction Agreement with ARB, Inc. ("ARB") pursuant to which ARB has agreed to provide services for the engineering, procurement, construction, start-up and testing of the Bakersfield Biorefinery. The agreement, which was assigned by GCE Acquisitions to BKRF Senior Borrower, provides for ARB to be paid on a cost-plus fee basis subject to a guaranteed maximum price of $201.4 million, subject to increase for approved change orders.

On May 7, 2020, the Board of Directors of the Company amended the employment agreements of Richard Palmer, the Company's Chief Executive Officer, and Noah Verleun, the Company's Executive Vice President, to increase their annual base salaries to $350,000 and $310,000, respectively.

On April 10, 2020, the Company's Board of Directors adopted the 2020 Equity Incentive Plan ("2020 Plan") pursuant to which the Board of Directors reserved an aggregate of 20,000,000 shares of Common Stock for future issuance. The 2020 Plan became effective on April 10, 2020. As of September 10, 2020, options for the purchase of 7,095,000 shares have been granted under the 2020 Plan to attract and retain the necessary personnel to meet the Company's objectives. The 2020 Plan will expire on April 9, 2030, and no further awards may be granted after such date. The 2020 Plan provides for the following types of awards: incentive stock options, nonstatutory stock options, restricted stock awards, restricted stock unit awards, stock appreciation rights, performance stock awards, performance cash awards, and other stock-based awards. Stock awards may be granted under the 2020 Plan to employees (including officers) and consultants of the Company or affiliates, and to members of the Company's Board of Directors.

In 2020, the Company issued 5,542,857 shares, 7,677,315 shares and 750,000 shares upon exercises of outstanding options to an officer of the Company, a consultant to the company and an attorney who provided services to the Company (who is also a family member of the CEO), respectively.

QUARTERLY FINANCIAL DATA
(Unaudited)

As described in the "Explanatory Note" prior to Part I to this comprehensive Annual Report, the following unaudited quarterly periods for the three-months ending March 31, the three and six month periods ending June 30 and the three and nine month periods ending September 30 for each year 2019, 2018, 2017 and 2016, and the respective periods for comparative purposes are being filed herein and in lieu of the filing Quarterly Reports on Form 10-Q for 2019, 2018, 2017 and 2016. The quarterly information for 2015 was previously filed in three Forms 10-Q that were filed in 2015. The quarterly information in 2015 reflects the Mexico Jatropha operations that were discontinued in the fourth quarter of 2015.

The following unaudited interim financial statements have been prepared pursuant to the rules and regulations of the SEC. The footnote disclosures normally included in financial statements prepared in accordance with United States generally accepted accounting principles (GAAP) have been omitted.. These unaudited statements reflect all adjustments, consisting of normal recurring adjustments, which in the opinion of management are necessary for fair presentation of the information contained therein. Interim results are not necessarily indicative of results for a full year.

The following unaudited financial statements should be read in conjunction with the audited financial statements and notes thereto included above in this Annual Report for the year ended December 31, 2019. The accounting policies in preparation of interim reports are the same as those used for the above audited annual reports included in this Annual Report.

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GLOBAL CLEAN ENERGY HOLDINGS, INC. AND SUBSIDIARIES
CONSOLIDATED BALANCE SHEETS
(Unaudited)

	As of March 31,		
	2019	**2018**	**2017**
ASSETS			
CURRENT ASSETS			
Cash and cash equivalents	$ 4,166,517	$ 285,890	$ 63,244
Accounts receivable	—	19,082	—
Inventory	22,942	22,942	22,942
Total Current Assets	4,189,459	327,914	86,186
PROPERTY AND EQUIPMENT, NET	1,706	1,706	1,706
RIGHT-OF-USE ASSET	104,000	—	—
INTANGIBLE ASSETS, NET	2,685,512	2,930,738	3,175,965
DEBT ISSUANCE COSTS	—	—	—
PRE-ACQUISITION COSTS	—	—	—
DEPOSITS	5,253	5,253	5,253
TOTAL ASSETS	$ 6,985,930	$ 3,265,611	$ 3,269,110
LIABILITIES AND STOCKHOLDERS' DEFICIT			
CURRENT LIABILITIES			
Accounts payable and accrued expenses	$ 3,916,364	$ 2,854,488	$ 2,837,354
Accrued compensation and related liabilities	1,469,100	2,006,031	1,625,199
Accrued interest	1,462,941	1,130,519	815,802
Lease liabilities	104,000	—	—
Notes payable	1,369,856	1,369,856	1,369,856
Convertible notes payable	697,000	697,000	697,000
Derivative liability	15,854,000	—	—
Total Current Liabilities	24,873,261	8,057,894	7,345,211
LONG-TERM LIABILITIES			
Convertible notes payable	1,000,000	—	—
TOTAL LIABILITIES	25,873,261	8,057,894	7,345,211
STOCKHOLDERS' DEFICIT			
Series A preferred stock	13	13	13
Common stock	341,529	341,529	341,529
Additional paid-in capital	30,712,228	30,610,179	30,599,931
Accumulated deficit	(49,941,101)	(35,744,004)	(35,017,574)
Total Stockholders' Deficit	(18,887,331)	(4,792,283)	(4,076,101)
TOTAL LIABILITIES AND STOCKHOLDERS' DEFICIT	$ 6,985,930	$ 3,265,611	$ 3,269,110

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GLOBAL CLEAN ENERGY HOLDINGS, INC. AND SUBSIDIARIES
CONSOLIDATED BALANCE SHEETS
(Unaudited)

	As of March 31, 2016
ASSETS	
CURRENT ASSETS	
Cash and cash equivalents	$ 2,256
Accounts receivable	13,595
Inventory	25,921
Other current assets	100,149
Total Current Assets	141,921
PROPERTY AND EQUIPMENT, NET	7,094
RIGHT-OF-USE ASSET	—
INTANGIBLE ASSETS, NET	3,421,191
OTHER NONCURRENT ASSETS	2,626
TOTAL ASSETS	$ 3,572,832
LIABILITIES AND STOCKHOLDERS' DEFICIT	
CURRENT LIABILITIES	
Accounts payable and accrued expenses	$ 3,060,695
Accrued compensation and related liabilities	1,435,216
Accrued interest	528,573
Notes payable	1,369,856
Convertible notes payable	697,000
Derivative liability	106,000
Total Current Liabilities	7,197,340
LONG-TERM LIABILITIES	
Accrued interest payable	—
Accrued return on noncontrolling interest	—
Mortgage notes payable	—
Total Long-Term Liabilities	—
STOCKHOLDERS' DEFICIT	
Series A preferred stock	13
Common stock	341,405
Additional paid-in capital	30,559,890
Accumulated deficit	(34,629,719)
Accumulated other comprehensive income	103,903
Total Stockholders' Deficit	(3,624,508)
TOTAL LIABILITIES AND STOCKHOLDERS' DEFICIT	$ 3,572,832

GLOBAL CLEAN ENERGY HOLDINGS, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF OPERATIONS
(Unaudited)

	For the three months ended March 31,		
	2019	**2018**	**2017**
REVENUE	$ —	$ —	$ 50,334
OPERATING EXPENSES			
General and administrative	1,027,577	126,664	216,869
Amortization of intangible assets	61,307	61,307	61,307
Preliminary stage acquisition costs	934,243	—	—
Total Operating Expenses	2,023,127	187,971	278,176
OPERATING LOSS	(2,023,127)	(187,971)	(227,842)
OTHER INCOME (EXPENSE)			
Other Income (Expense)	—	425,000	—
Interest expense, net	(90,529)	(80,631)	(77,302)
Gain on settlement of liabilities	—	—	—
Change in fair value derivative and finance charges related to derivative liability	(3,937,000)	344,369	—
Other Income (Expense), Net	(4,027,529)	—	(77,302)
NET (LOSS)/INCOME	$ (6,050,656)	$ 156,398	$ (305,144)
BASIC AND DILUTED LOSS PER COMMON SHARE:			
Net Loss per Common Share	$ (0.02)	$ 0.00	$ (0.00)
BASIC AND DILUTED WEIGHTED-AVERAGE COMMON SHARES OUTSTANDING	341,529,434	341,529,434	341,529,434

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GLOBAL CLEAN ENERGY HOLDINGS, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF OPERATIONS
(Unaudited)

	For the three months ended March 31, 2016
REVENUE	$ 121,647
OPERATING EXPENSES	
General and administrative	454,060
Other operating	—
Total Operating Expenses	454,060
OPERATING LOSS	(332,413)
OTHER INCOME (EXPENSE)	
Other Income (Expense)	(12,820)
Interest expense, net	(73,517)
Gain on settlement of liabilities	—
Change in fair value derivative	—
Foreign currency transaction gain (loss)	—
Total Other Income (Expense)	(86,337)
NET LOSS	$ (418,750)

GLOBAL CLEAN ENERGY HOLDINGS, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF CASH FLOWS
(Unaudited)

	For the three months ended March 31,		
	2019	**2018**	**2017**
Operating Activities:			
Net loss	$ (6,050,656)	$ 156,398	$ (305,144)
Adjustments to reconcile net loss to net cash used in operating activities:			
Gain on settlement of liabilities	—	—	—
Share-based compensation	43,008	10,248	35,560
Depreciation and amortization	61,306	61,307	61,307
Change in fair value of derivative liability	3,397,000	—	—
Changes in operating assets and liabilities:			
Accounts receivable	—	—	112,254
Inventory	—	—	—
Accounts payable and accrued expenses	858,863	(26,427)	32,130
Accrued compensation and related liabilities	(21)	—	26,944
Interest payable	90,528	80,631	78,029
Other Operating Activities	—	—	—
Net Cash Used in Operating Activities	(1,059,972)	282,157	41,080
Investing Activities:			
Pre-acquisition costs	—	—	—
Cash received from derivative forward contract	—	—	—
Net Cash Used in Investing Activities	—	—	—
Financing Activities:			
Debt issuance costs	—	—	—
Proceeds from exercise of stock options	—	—	—
Net Cash Used in Financing Activities	—	—	—
Net Change in Cash and Cash Equivalents	(1,059,972)	282,157	41,080
Cash and Cash Equivalents at Beginning of Period	5,226,489	3,733	22,164
Cash and Cash Equivalents at End of Period	$ 4,166,517	$ 285,890	$ 63,244

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GLOBAL CLEAN ENERGY HOLDINGS, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF CASH FLOWS
(Unaudited)

	For the three months ended March 31, 2016
Operating Activities:	
Net loss	$ (418,750)
Adjustments to reconcile net loss to net cash used in operating activities:	
Foreign currency transaction gain	—
Gain on settlement of liabilities	—
Share-based compensation	26,705
Write-down of long-lived assets	
Depreciation and amortization	62,096
Amortization of debt discount	—
Change in fair value of derivative liability	—
Changes in operating assets and liabilities:	
Accounts receivable	—
Inventory	623
Accounts payable and accrued expenses	150,185
Accrued compensation and related liabilities	—
Interest payable	—
Other Operating Activities	—
Other noncurrent assets	—
Other current assets	(4,460)
Net Cash Used in Operating Activities:	(183,601)
Cash Flows of discontinued operations:	
Operating cash flows	153,758
Investing cash flows	—
Financing cash flows (including cash at year-end)	—
Net Cash flows from discontinued operations	153,758
Effect of exchange rate changes on cash	(2,605)
Net Change in Cash and Cash Equivalents	(32,448)
Cash and Cash Equivalents at Beginning of Period	34,704
Cash and Cash Equivalents at End of Period	$ 2,256

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GLOBAL CLEAN ENERGY HOLDINGS, INC. AND SUBSIDIARIES
CONSOLIDATED BALANCE SHEETS
(Unaudited)

	As of June 30,		
	2019	**2018**	**2017**
ASSETS			
CURRENT ASSETS			
Cash and cash equivalents	$ 2,275,500	$ 161,014	$ 64,978
Accounts receivable	—	19,082	25,081
Inventory	22,942	22,942	22,942
Total Current Assets	2,298,442	203,038	113,001
PROPERTY AND EQUIPMENT, NET	1,706	1,706	1,706
RIGHT-OF-USE ASSET	98,000	—	—
INTANGIBLE ASSETS, NET	2,624,205	2,869,432	3,114,659
DEBT ISSUANCE COSTS	100,000	—	—
PRE-ACQUISITION COSTS	755,382	—	—
DEPOSITS	505,253	5,253	5,253
TOTAL ASSETS	$ 6,382,988	$ 3,079,429	$ 3,234,619
LIABILITIES AND STOCKHOLDERS' DEFICIT			
CURRENT LIABILITIES			
Accounts payable and accrued expenses	$ 3,939,808	$ 2,808,299	$ 2,879,783
Accrued compensation and related liabilities	1,469,100	2,003,482	1,652,143
Accrued interest	1,553,470	1,211,150	967,545
Lease liabilities	98,000	—	—
Notes payable	1,369,856	1,369,856	1,369,856
Convertible notes payable	697,000	697,000	697,000
Derivative liability	14,536,000	—	—
Total Current Liabilities	23,663,234	8,089,787	7,566,327
LONG-TERM LIABILITIES			
Convertible notes payable	1,000,000	—	—
TOTAL LIABILITIES	24,663,234	8,089,787	7,566,327
STOCKHOLDERS' DEFICIT			
Series A preferred stock	13	13	13
Common stock	341,529	341,529	341,529
Additional paid-in capital	31,179,041	30,669,220	30,599,931
Accumulated deficit	(49,800,829)	(36,021,120)	(35,273,181)
Total Stockholders' Deficit	(18,280,246)	(5,010,358)	(4,331,708)
TOTAL LIABILITIES AND STOCKHOLDERS' DEFICIT	$ 6,382,988	$ 3,079,429	$ 3,234,619

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GLOBAL CLEAN ENERGY HOLDINGS, INC. AND SUBSIDIARIES
CONSOLIDATED BALANCE SHEETS
(Unaudited)

	As of June 30, 2016
ASSETS	
CURRENT ASSETS	
Cash and cash equivalents	$ 12,205
Accounts receivable	62,924
Inventory	24,431
Other current assets	—
Total Current Assets	99,560
PROPERTY AND EQUIPMENT, NET	5,453
RIGHT-OF-USE ASSET	—
INTANGIBLE ASSETS, NET	3,359,885
OTHER NONCURRENT ASSETS	2,626
TOTAL ASSETS	$ 3,467,524
LIABILITIES AND STOCKHOLDERS' DEFICIT	
CURRENT LIABILITIES	
Accounts payable and accrued expenses	$ 3,011,834
Accrued compensation and related liabilities	1,228,969
Accrued interest	633,173
Notes Payable	1,369,856
Convertible notes payable	697,000
Derivative liability	—
Total Current Liabilities	6,940,832
LONG-TERM LIABILITIES	
Accrued interest payable	—
Accrued return on non-controlling interest	—
Mortgage notes payable	—
Total Long-Term Liabilities	—
TOTAL LIABILITIES	6,940,832
STOCKHOLDERS' DEFICIT	
Series A preferred stock	13
Common stock	341,529
Additional paid-in capital	30,564,371
Accumulated deficit	(34,379,221)
Accumulated other comprehensive income	—
Total Stockholders' Deficit	(3,473,308)
Noncontrolling interests	—
TOTAL LIABILITIES AND STOCKHOLDERS' DEFICIT	$ 3,467,524

GLOBAL CLEAN ENERGY HOLDINGS, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF OPERATIONS
(Unaudited)

	For the three months ended June 30,		
	2019	**2018**	**2017**
Revenue	$ —	$ —	$ 109,539
Operating Expenses			
General and Administrative	937,765	135,178	179,566
Amortization of intangible assets	61,306	61,306	61,306
Preliminary stage acquisition costs	82,693	—	—
Total Operating Expenses	1,081,764	196,484	240,872
Operating Loss	(1,081,764)	(196,484)	(131,333)
Other Income (Expense)			
Other Income (Expenses)	—	—	28,279
Interest expense, net	(89,546)	(80,632)	(152,553)
Gain on settlement of liabilities	—	—	—
Change in fair value derivative and finance	—	—	—
charges related to derivative liability	1,318,000	—	—
Other Income (Expense), Net	1,228,454	(80,632)	(124,274)
Net (Loss)/Income	$ 149,690	$ (277,116)	$ (255,607)
Basic and diluted Loss per Common Share:			
Net Loss per Common Share	$ (0.00)	$ 0.00	$ (0.00)
Basic and diluted Weighted-Average Common Shares Outstanding	341,546,009	341,529,434	341,529,434

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GLOBAL CLEAN ENERGY HOLDINGS, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF OPERATIONS
(Unaudited)

	For the three months ended June 30, 2016
Revenue	$ 79,583
Operating Expenses	—
General and Administrative	401,838
Other Operating	—
Total Operating Expenses	401,838
Operating Loss	(322,255)
Other Income (Expense)	
Other Income (Expense)	67,349
Interest expense, net	(138,770)
Gain on settlement of liabilities	537,612
Change in fair value derivative	—
Foreign currency transaction gain (loss)	106,563
Total Other Income (Expense), Net	572,753
Loss from Continuing Operations	250,498
Loss from Discontinued Operations	—
Net (Loss)/Income	$ 250,498
Basic and diluted Loss per Common Share:	
Net Loss per Common Share	$ (0.00)
Basic and diluted Weighted-Average Common Shares Outstanding	341,529,434

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GLOBAL CLEAN ENERGY HOLDINGS, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF OPERATIONS
(Unaudited)

	For the six months ended June 30,		
	2019	**2018**	**2017**
Revenue	$ —	$ —	$ 159,873
Operating Expenses			
General and Administrative	1,065,342	261,842	396,434
Amortization of intangible assets	122,613	122,613	122,613
Preliminary stage acquisition costs	1,016,936	—	—
Total Operating Expenses	3,104,891	384,455	519,047
Operating Loss	(3,104,891)	(384,455)	(359,174)
Other Income (Expense)			
Other Income (Expense)	—	425,000	28,279
Interest expense, net	(180,075)	(161,263)	(229,856)
Gain on settlement of liabilities	—	—	—
Change in fair value derivative and finance charges related to derivative liability	(2,619,000)	—	—
Other Income (Expense), Net	(2,799,075)	263,737	(201,577)
Net Loss	$ (5,903,966)	$ (120,718)	$ (560,751)
Basic and diluted Loss per Common Share:			
Net Loss per Common Share	$ (0.02)	$ (0.00)	$ (0.00)
Basic and diluted Weighted-Average Common Shares Outstanding	341,546,009	341,529,434	341,529,434

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GLOBAL CLEAN ENERGY HOLDINGS, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF OPERATIONS
(Unaudited)

	For the six months ended June 30, 2016
Revenue	$ 201,230
Operating Expenses	
General and Administrative	855,898
Other operating	—
Total Operating Expenses	855,899
Operating Loss	(654,668)
Other Income (Expense)	
Other Income (Expense)	54,528
Interest expense, net	(212,287)
Gain on settlement of liabilities	537,612
Change in fair value derivative	—
Foreign currency transaction gain (loss)	105,563
Total Other Income (Expense), Net	486,416
Net Loss	$ (168,252)
Basic and diluted Loss per Common Share:	
Net Loss per Common Share	$ (0.00)
Basic and diluted Weighted-Average Common Shares Outstanding	341,149,556
Statement of Comprehensive Income	
Net Loss	$ (168,252)
Other comprehensive loss-foreign currency translation adjustment	—
Comprehensive Loss	$ (168,252)

GLOBAL CLEAN ENERGY HOLDINGS, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF CASH FLOWS
(Unaudited)

	For the three months ended June 30,		
	2019	**2018**	**2017**
Operating Activities:			
Net loss	$ 146,690	$ (277,116)	$ (255,607)
Adjustments to reconcile net loss to net cash used in operating activities:			
Gain on settlement of liabilities	—	—	—
Share-based compensation	460,395	59,041	—
Depreciation and amortization	61,307	61,306	61,306
Change in fair value of derivative liability	(1,318,000)	—	—
Changes in operating assets and liabilities:			
Accounts receivable	—	—	(25,081)
Inventory	—	—	—
Accounts payable and accrued expenses	23,444	(46,189)	42,429
Accrued compensation and related liabilities	—	(2,549)	26,944
Interest payable	90,529	80,631	151,743
Other Operating Activities	—	—	—
Net Cash Used in Operating Activities	(535,635)	(124,876)	1,734
Investing Activities:			
Pre-acquisition costs and deposits	(1,255,382)	—	—
Cash received from derivative forward contract	—	—	—
Net Cash Used in Investing Activities	(1,255,382)	—	—
Financing Activities:			
Debt issuance costs	(100,000)	—	—
Proceeds from exercise of stock options	—	—	—
Net Cash Used in Financing Activities	(100,000)	—	—
Net change in Cash and Cash Equivalents	(1,891,017)	(124,876)	1,734
Cash and Cash Equivalents at Beginning of Period	4,166,517	285,890	63,244
Cash and Cash Equivalents at End of Period	$ 2,275,500	$ 161,014	$ 64,978

GLOBAL CLEAN ENERGY HOLDINGS, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF CASH FLOWS
(Unaudited)

	For the three months ended June 30, 2016
Operating Activities:	
Net loss	$ 250,498
Adjustments to reconcile net loss to net cash used in operating activities:	
Foreign currency transaction gain	—
Gain on settlement of liabilities	(255,752)
Share-based compensation	4,606
Write-down of long lived assets	—
Depreciation and amortization	62,933
Amortization of debt discount	—
Change in fair value of derivative	(106,000)
Changes in operating assets and liabilities:	
Accounts receivable	(52,764)
Inventory	1,490
Accounts payable and accrued expenses	(179,963)
Accrued compensation and related liabilities	104,566
Interest payable	178,144
Other Operating Activities	—
Other noncurrent assets	—
Other current assets	41,306
Net Cash Used in Operating Activities	49,063
Investing Activities:	
Plantation developments costs	
Net Cash Used in Investing Activities	—
Financing Activities:	
Proceeds from issuance of preferred membership in GCE Mexico I, LLC	—
Net Cash Provided by Financing Activities	—
Cash Flows of discontinued operations:	
Operating cash flows	64,257
Investing cash flows	—
Financing cash flows (including cash at year-end)	—
Net Cash flows from discontinued operations	64,257
Effect of exchange rate changes on cash	(103,371)
Net change in Cash and Cash Equivalents	9,949
Cash and Cash Equivalents at Beginning of Period	2,256
Cash and Cash Equivalents at End of Period	$ 12,205

GLOBAL CLEAN ENERGY HOLDINGS, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF CASH FLOWS
(Unaudited)

	For the six months ended June 30,		
	2019	**2018**	**2017**
Operating Activities:			
Net loss	$ (5,903,966)	$ (120,718)	$ (560,751)
Adjustments to reconcile net loss to net cash used in operating activities:			
Gain on settlement of liabilities	—	—	—
Share-based compensation	503,403	69,289	35,560
Depreciation and amortization	122,613	122,613	122,613
Change in fair value of derivative liability	2,619,000	—	—
Changes in operating assets and liabilities:			
Accounts receivable	—	—	87,173
Inventory	—	—	—
Accounts payable and accrued expenses	882,307	(72,616)	74,559
Accrued compensation and related liabilities	(21)	(2,549)	53,889
Interest payable	181,057	161,262	229,771
Other Operating Activities	—	—	—
Net Cash Used in Operating Activities	(1,595,607)	157,281	42,814
Investing Activities:			
Pre-acquisition costs and deposits	(1,255,382)	—	—
Net Cash Used in Investing Activities	(1,255,382)	—	—
Financing Activities:			
Debt issuance costs	(100,000)	—	—
Proceeds from exercise of stock options	—	—	—
Net Cash Used in Financing Activities	(100,000)	—	—
Net change in Cash and Cash Equivalents	(2,950,989)	157,281	42,814
Cash and Cash Equivalents at Beginning of Period	5,226,489	3,733	22,164
Cash and Cash Equivalents at End of Period	$ 2,275,500	$ 161,014	$ 64,978

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GLOBAL CLEAN ENERGY HOLDINGS, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF CASH FLOWS
(Unaudited)

	For the six months ended June 30, 2016
Operating Activities:	
Net loss	$ (168,252)
Adjustments to reconcile net loss to net cash used in operating activities:	
Foreign currency transaction gain	—
Gain on settlement of liabilities	(255,752)
Share-based compensation	31,311
Depreciation and amortization	125,029
Amortization of debt discount	—
Change in fair value of derivative	(106,000)
Changes in operating assets and liabilities:	
Accounts receivable	(52,764)
Inventory	2,113
Accounts payable and accrued expenses	(29,778)
Accrued compensation and related liabilities	104,566
Interest payable	178,144
Other current assets	36,846
Other noncurrent assets	—
Net Cash Used in Operating Activities	(134,538)
Investing Activities:	
Plantation developments costs	—
Net Cash Used in Investing Activities	—
Financing Activities:	
Proceeds from issuance of preferred membership in GCE Mexico I, LLC	—
Net Cash Provided by Financing Activities	—
Cash Flows of discontinued operations:	
Operating cash flows	218,015
Investing cash flows	—
Financing cash flows (including cash at year-end)	—
Net Cash flows from discontinued operations	218,015
Effect of exchange rate changes on cash	(105,976)
Net change in Cash and Cash Equivalents	(22,499)
Cash and Cash Equivalents at Beginning of Period	34,704
Cash and Cash Equivalents at End of Period	$ 12,205

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GLOBAL CLEAN ENERGY HOLDINGS, INC. AND SUBSIDIARIES
CONSOLIDATED BALANCE SHEETS
(Unaudited)

	As of September 30,		
	2019	**2018**	**2017**
ASSETS			
CURRENT ASSETS			
Cash and cash equivalents	$ 217,214	$ 57,414	$ 70,996
Accounts receivable	—	19,082	—
Inventory	22,942	22,942	22,942
Total Current Assets	240,156	99,438	93,938
PROPERTY AND EQUIPMENT, NET	1,706	1,706	1,706
RIGHT-OF-USE ASSET	89,911	—	—
INTANGIBLE ASSETS, NET	2,562,899	2,808,125	3,053,352
DEBT ISSUANCE COSTS	250,000	—	—
PRE-ACQUISITION COSTS	1,861,481	—	—
DEPOSITS	1,005,253	5,253	5,253
TOTAL ASSETS	$ 6,011,406	$ 2,914,522	$ 3,154,249
LIABILITIES AND STOCKHOLDERS' DEFICIT			
CURRENT LIABILITIES			
Accounts payable and accrued expenses	$ 3,779,971	$ 2,832,289	$ 2,944,450
Accrued compensation and related liabilities	1,469,100	2,003,482	1,679,087
Accrued interest	1,643,998	1,291,782	1,008,717
Lease liabilities	90,083	—	—
Notes payable	1,369,856	1,369,856	1,369,856
Convertible notes payable	1,697,000	697,000	697,000
Derivative liability	14,130,000	—	—
Total Current Liabilities	24,180,008	8,194,409	7,699,110
LONG-TERM LIABILITIES			
Convertible notes payable	—	—	—
TOTAL LIABILITIES	24,180,008	8,194,409	7,699,110
STOCKHOLDERS' DEFICIT			
Series A preferred stock	13	13	13
Common stock	344,029	341,529	341,529
Additional paid-in capital	31,216,468	30,669,220	30,599,931
Accumulated deficit	(49,729,112)	(36,290,649)	(35,486,334)
Total Stockholders' Deficit	(18,168,602)	(5,279,887)	(4544,861)
TOTAL LIABILITIES AND STOCKHOLDERS' DEFICIT	$ 6,011,406	$ 2,914,522	$ 3,154,249

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GLOBAL CLEAN ENERGY HOLDINGS, INC. AND SUBSIDIARIES
CONSOLIDATED BALANCE SHEETS
(Unaudited)

	As of September 30, 2016
ASSETS	
CURRENT ASSETS	
Cash and cash equivalents	$ 17,179
Accounts receivable	87,589
Inventory	23,686
Other current assets	—
Total Current Assets	128,454
PROPERTY AND EQUIPMENT, NET	3,812
RIGHT-OF-USE ASSET	—
INTANGIBLE ASSETS, NET	3,298,578
OTHER NONCURRENT ASSETS	5,253
TOTAL ASSETS	$ 3,436,097
LIABILITIES AND STOCKHOLDERS' DEFICIT	
CURRENT LIABILITIES	
Accounts payable and accrued expenses	$ 2,917,748
Accrued compensation and related liabilities	1,283,056
Accrued interest	685,474
Notes Payable	1,369,856
Convertible notes payable	697,000
Derivative liability	—
Total Current Liabilities	6,953,134
LONG-TERM LIABILITIES	
Accrued interest payable	—
Accrued return on non-controlling interest	—
Mortgage notes payable	—
Total Long-Term Liabilities	6,953,134
TOTAL LONG-TERM LIABILITIES	6,953,134
STOCKHOLDERS' DEFICIT	
Series A preferred stock	13
Common stock	341,529
Additional paid-in capital	30,564,371
Accumulated deficit	(34,422,950)
Accumulated other comprehensive income	—
Total Stockholders' Deficit	(3,517,037)
Noncontrolling interests	—
TOTAL LIABILITIES AND STOCKHOLDERS' DEFICIT	$ 3,436,097

GLOBAL CLEAN ENERGY HOLDINGS, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF OPERATIONS
(Unaudited)

	For the three months ended September 30,		
	2019	**2018**	**2017**
Revenue	$ —	$ —	$ 179,288
Operating Expenses			
General and Administrative	126,509	127,591	289,158
Amortization of intangible assets	61,307	61,307	61,307
Preliminary stage acquisition costs	106,381	—	—
Total Operating Expenses	294,197	188,898	350,465
Operating Loss	(294,197)	(188,898)	(171,177)
Other Income (Expense)			
Other Income (Expense)	—	—	—
Interest expense, net	(89,401)	(80,631)	(41,976)
Gain on settlement of liabilities	—	—	—
Change in fair value derivative and finance	—	—	—
charges related to derivative liability	406,000	—	—
Other Income (Expense), Net	316,599	(80,631)	(41,976)
Net (Loss)/Income	$ 22,402	$ (269,529)	$ (213,153)
Basic and diluted Loss per Common Share:			
Net Loss per Common Share	$ (0.00)	$ (0.00)	$ (0.00)
Basic and diluted Weighted-Average Common Shares Outstanding	341,529,434	341,529,434	341,529,434

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GLOBAL CLEAN ENERGY HOLDINGS, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF OPERATIONS
(Unaudited)

	For the three months ended September 30, 2016
Revenue	$ 117,087
Operating Expenses	
General and Administrative	150,299
Other Operating	—
Total Operating Expenses	150,299
Operating Loss	(33,212)
Other Income (Expense)	
Other Income (Expense)	3,635
Interest expense, net	(14,152)
Gain on settlement of liabilities	—
Change in fair value derivative	—
Foreign currency transaction gain (loss)	—
Total Other Income (Expense), Net	(10,517)
Loss from Continuing Operations	(43,729)
Loss from Discontinued Operations	—
Net Loss	$ (43,729)
Basic and diluted Loss per Common Share:	
Net Loss per Common Share	$ (0.00)
Basic and diluted Weighted-Average Common Shares Outstanding	341,529,454
Statement of Comprehensive Income	
Net Loss	$ (43,729)
Other comprehensive income (loss)-foreign currency translation adjustment	—
Comprehensive Loss	$ (43,729)

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GLOBAL CLEAN ENERGY HOLDINGS, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF OPERATIONS
(Unaudited)

	For the nine months ended September 30,		
	2019	**2018**	**2017**
Revenue	$ —	$ —	$ 339,161
Operating Expenses			
General and Administrative	2,091,851	389,433	685,592
Amortization of intangible assets	183,920	183,920	183,920
Preliminary stage acquisition costs	1,123,317	—	—
Total Operating Expenses	3,399,088	573,353	869,512
Operating Loss	(3,399,088)	(573,353)	(530,351)
Other Income (Expense)			
Other Income (Expense)	—	425,000	28,279
Interest expense, net	(269,476)	(241,894)	(271,832)
Gain on settlement of liabilities	—	—	—
Change in fair value derivative and finance	—	—	—
charges related to derivative liability	(2,213,000)	—	—
Other Income (Expense), Net	(2,482,476)	(183,106)	(243,553)
Net Loss	$ (5,881,564)	$ (390,247)	$ (773,904)
Basic and diluted Loss per Common Share:			
Net Loss per Common Share	$ (0.02)	$ (0.00)	$ (0.00)
Basic and diluted Weighted-Average Common Shares Outstanding	342,208,921	341,529,434	341,529,434

GLOBAL CLEAN ENERGY HOLDINGS, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF OPERATIONS
(Unaudited)

	For the nine months ended September 30, 2016
Revenue	$ 318,317
Operating Expenses	
General and Administrative	1,006,197
Other Operating	—
Total Operating Expenses	1,006,197
Operating Loss	(687,880)
Other Income (Expense)	
Other Income (Expense)	58,163
Interest expense, net	(226,439)
Gain on settlement of liabilities	537,612
Change in fair value derivative	—
Foreign currency transaction gain (loss)	106,563
Total Other Income (Expense), Net	475,899
Net Loss	$ (211,981)
Basic and diluted Loss per Common Share:	
Net Loss per Common Share	$ (0.00)
Basic and diluted Weighted-Average Common Shares Outstanding	341,529,454
Statement of Comprehensive Income	
Net Loss	$ (211,981)
Other comprehensive income (loss)-foreign currency translation adjustment	—
Comprehensive Loss	$ (211,981)

GLOBAL CLEAN ENERGY HOLDINGS, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF CASH FLOWS
(Unaudited)

	For the three months ended September 30,		
	2019	**2018**	**2017**
Operating Activities:			
Net loss	$ 22,402	$ (269,529)	$ (213,153)
Adjustments to reconcile net loss to net cash used in operating activities:			
Gain on settlement of liabilities	—	—	—
Share-based compensation	71,742	—	—
Depreciation and amortization	61,306	61,307	61,307
Change in fair value of derivative liability	(406,000)	—	—
Changes in operating assets and liabilities:			
Accounts receivable	—	—	25,081
Inventory	—	—	—
Accounts payable and accrued expenses	(159,665)	23,990	64,667
Accrued compensation and related liabilities	—	—	26,944
Interest payable	90,528	80,632	41,171
Other Operating Activities	—	—	—
Net Cash Used in Operating Activities	(319,687)	(103,600)	6,018
Investing Activities:			
Pre-acquisition costs and deposits	(1,606,099)	—	—
Cash received from derivative forward contract	—	—	—
Net Cash Used in Investing Activities	(1,606,099)	—	—
Financing Activities:			
Debt issuance costs	(150,000)	—	—
Proceeds from exercise of stock options	17,500	—	—
Net Cash Used in Financing Activities	132,500	—	—
Net change in Cash and Cash Equivalents	(2,058,286)	(103,599)	6,018
Cash and Cash Equivalents at Beginning of Period	2,275,500	161,014	64,978
Cash and Cash Equivalents at End of Period	$ 217,214	$ 57,415	$ 70,996

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GLOBAL CLEAN ENERGY HOLDINGS, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF CASH FLOWS
(Unaudited)

	For the three months ended September 30, 2016
Operating Activities:	
Net loss	$ (43,729)
Adjustments to reconcile net loss to net cash used in operating activities:	
Foreign currency transaction gain	—
Gain on settlement of liabilities	—
Share-based compensation	—
Write-down of long lived assets	—
Loss on disposal of fixed assets	—
Depreciation and amortization	62,947
Amortization of debt discount	—
Change in fair value of derivative	—
Changes in operating assets and liabilities:	
Accounts receivable	(24,665)
Inventory	(745)
Accounts payable and accrued expenses	(94,086)
Accrued compensation and related liabilities	54,087
Interest payable	52,301
Other Operating Activities	—
Other current assets	(2,627)
Other noncurrent assets	—
Net Cash Used in Operating Activities	4,974
Investing Activities:	
Plantation developments costs	—
Proceeds from sale of property and equipment	—
Net Cash Used in Investing Activities	—
Financing Activities:	
Proceeds from issuance of preferred membership in GCE Mexico I, LLC	—
Net Cash Provided by Financing Activities	—
Cash Flows of discontinued operations:	
Operating cash flows	
Investing cash flows	—
Financing cash flows (including cash at year-end)	—
Net Cash flows from discontinued operations	—
Effect of exchange rate changes on cash	—
Net Change in Cash and Cash Equivalents	4,974
Cash and Cash Equivalents at Beginning of Period	12,205
Cash and Cash Equivalents at End of Period	$ 17,179

GLOBAL CLEAN ENERGY HOLDINGS, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF CASH FLOWS
(Unaudited)

	For the nine months ended September 30,		
	2019	**2018**	**2017**
Operating Activities:			
Net loss	$ (5,881,564)	$ (390,247)	$ (773,904)
Adjustments to reconcile net loss to net cash used in operating activities:			
Gain on settlement of liabilities	—	—	—
Share-based compensation	575,145	69,289	35,560
Depreciation and amortization	183,919	183,920	183,920
Change in fair value of derivative liability	2,213,000	—	—
Changes in operating assets and liabilities:			
Accounts receivable	—	—	112,254
Inventory	—	—	—
Accounts payable and accrued expenses	722,642	(48,626)	139,226
Accrued compensation and related liabilities	(21)	(2,549)	80,833
Interest payable	271,585	241,894	270,943
Other Operating Activities	—	—	—
Net Cash Used in Operating Activities	(1,915,294)	53,681	48,832
Investing Activities:			
Pre-acquisition costs and deposits	(2,861,481)		
Net Cash Used in Investing Activities	(2,861,481)	—	—
Financing Activities:			
Debt issuance costs	(250,000)		
Proceeds from exercise of stock options	17,500	—	—
Net Cash Used in Financing Activities	(232,500)	—	—
Net Change in Cash and Cash Equivalents	(5,009,275)	53,681	48,832
Cash and Cash Equivalents at Beginning of Period	5,226,489	3,733	22,164
Cash and Cash Equivalents at End of Period	$ 217,214	$ 57,414	$ 70,996

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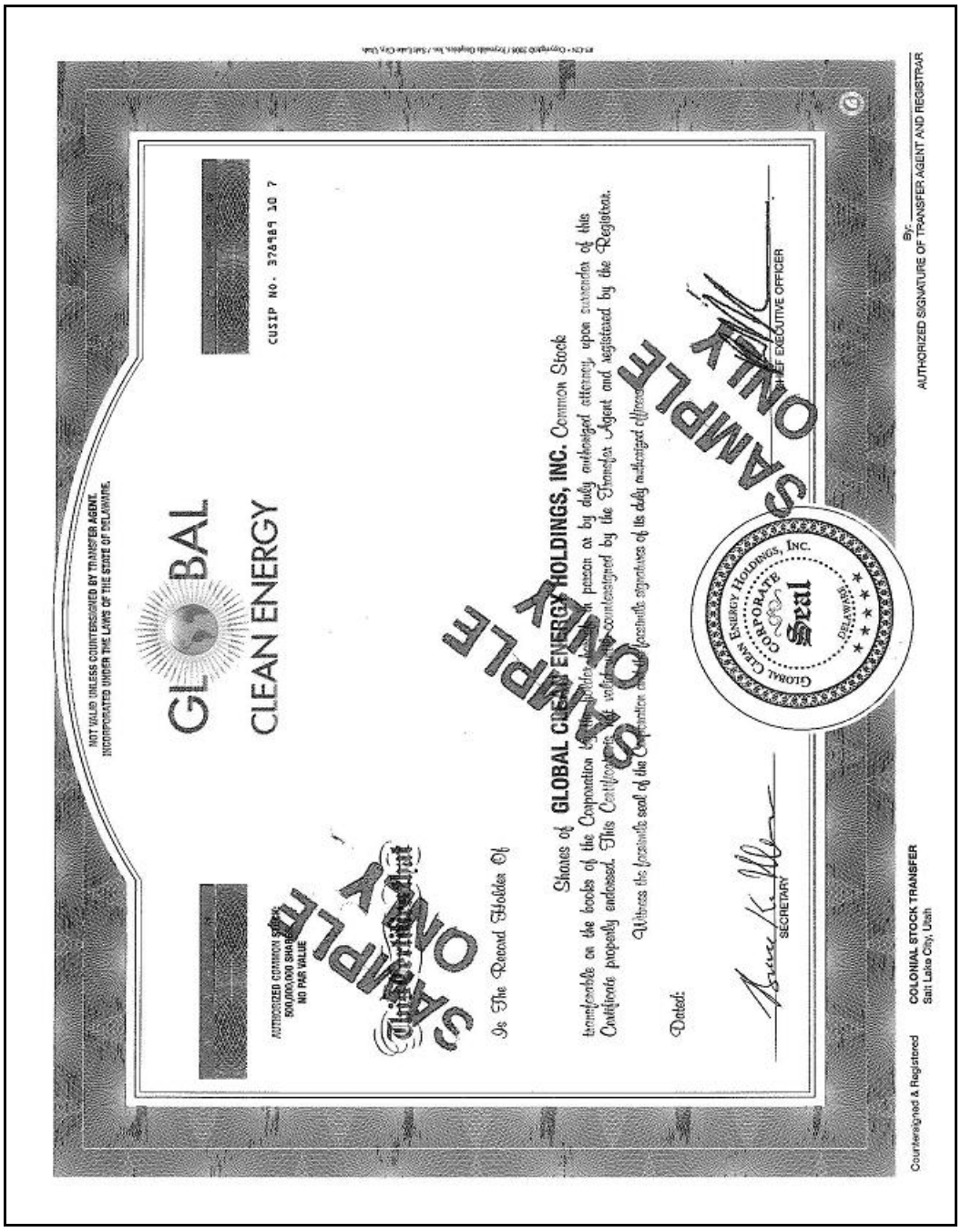
GLOBAL CLEAN ENERGY HOLDINGS, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF CASH FLOWS
(Unaudited)

	For the nine months ended September 30, 2016
Operating Activities:	
Net loss	$ (211,981)
Adjustments to reconcile net loss to net cash used in operating activities:	
Foreign currency transaction gain	—
Gain on settlement of liabilities	(255,752)
Share-based compensation	31,311
Write-down of long-lived assets	—
Loss on disposal of fixed assets	—
Depreciation and amortization	187,976
Amortization of debt discount	—
Change in fair value of derivative	(106,000)
Changes in operating assets and liabilities:	
Accounts receivable	(77,429)
Inventory	2,858
Accounts payable and accrued expenses	(123,864)
Accrued compensation and related liabilities	158,653
Interest payable	230,445
Other current assets	34,219
Other noncurrent assets	—
Net Cash Used in Operating Activities	(129,564)
Investing Activities:	
Plantation developments costs	—
Proceeds from sale of property and equipment	—
Net Cash Used in Investing Activities	—
Financing Activities:	
Proceeds from issuance of preferred membership in GCE Mexico I, LLC	
Net Cash Provided by Financing Activities	—
Cash Flows of discontinued operations:	
Operating cash flows	218,015
Investing cash flows	—
Financing cash flows (including cash at year-end)	—
Net Cash flows from discontinued operations	218,015
Effect of exchange rate changes on cash	(105,976)
Net Change in Cash and Cash Equivalents	(17,525)
Cash and Cash Equivalents at Beginning of Period	34,704
Cash and Cash Equivalents at End of Period	$ 17,179

Exhibit 4.1


NOT VALID UNLESS COUNTERSIGNED BY TRANSFER AGENT.
INCORPORATED UNDER THE LAWS OF THE STATE OF DELAWARE.
GLOBAL
CLEAN ENERGY
CUSIP NO. 378489 10 7
AUTHORIZED COMMON STOCK
500,000,000 SHARES
NO PAR VALUE
SAMPLE ONLY
This certifies that
Is The Record Holder Of
Shares of GLOBAL CLEAN ENERGY HOLDINGS, INC. Common Stock
transferable on the books of the Corporation by the holder hereof in person or by duly authorized attorney, upon surrender of this Certificate properly endorsed. This Certificate is not valid until countersigned by the Transfer Agent and registered by the Registrar.
Witness the facsimile seal of the Corporation and the facsimile signatures of its duly authorized officers.
Dated:
SECRETARY
GLOBAL CLEAN ENERGY HOLDINGS, INC.
CORPORATE
Seal
DELAWARE
CHIEF EXECUTIVE OFFICER
SAMPLE ONLY
Countersigned & Registered
COLONIAL STOCK TRANSFER
Salt Lake City, Utah
By:
AUTHORIZED SIGNATURE OF TRANSFER AGENT AND REGISTRAR

The following abbreviations, when used in the inscription on the face of this certificate, shall be construed as though they were written out in full according to applicable laws or regulations.

TEN COM - as tenants in common
TEN ENT - as tenants by the entireties
JT TEN - as joint tenants with right of survivorship and not as tenants in common

UNIF GIFT MIN ACT - ..... Custodian .....
(Cust) (Minor)
under Uniform Gifts to Minors
Act.....
(State)

Additional abbreviations may also be used though not in the above list.

For Value Received, _____ hereby sell, assign and transfer unto

PLEASE INSERT SOCIAL SECURITY OR OTHER IDENTIFYING NUMBER OF ASSIGNEE

_____

_____
(PLEASE PRINT OR TYPEWRITE NAME AND ADDRESS, INCLUDING ZIP CODE, OF ASSIGNEE)

_____

_____

_____ Shares
of the capital stock represented by the within certificate, and do hereby irrevocably constitute and appoint

_____ Attorney
to transfer the said stock on the books of the within named Corporation with full power of substitution in the premises.

Dated _____

NOTICE: THE SIGNATURE MUST CORRESPOND TO THE NAME AS WRITTEN UPON THE FACE OF THIS CERTIFICATE IN EVERY PARTICULAR, WITHOUT ALTERATION OR ENLARGEMENT OR ANY CHANGE WHATSOEVER. SIGNATURES MUST BE MEDALLION GUARANTEED BY AN ELIGIBLE FINANCIAL INSTITUTION (COMMERCIAL BANK, TRUST COMPANY, OR A BROKER) PARTICIPATING IN A MEDALLION SIGNATURE GUARANTEE PROGRAM. ALL EXISTING REGISTERED OWNERS MUST SIGN.

Exhibit 4.2

DESCRIPTION OF THE REGISTRANT'S SECURITIES REGISTERED PURSUANT TO SECTION 12 OF THE SECURITIES EXCHANGE ACT OF 1934

The common stock, par value $0.001 per share (the "common stock") of Global Clean Energy Holdings, Inc. ("GCEH," "we," "our," and "us") is registered under Section 12 of the Securities Exchange Act of 1934, as amended. The following description of our common stock and preferred stock is a summary and does not purport to be complete. It is subject to and qualified in its entirety by reference to our Certificate of Incorporation (the "Certificate of Incorporation") and our Bylaws (the "Bylaws"), each of which is filed as an exhibit to our Annual Report on Form 10-K of which this Exhibit 4.3 is a part. We encourage you to read the Certificate of Incorporation and the Bylaws, as well as the applicable provisions of the Delaware General Corporation Law (the "DGCL"), for additional information.

Authorized Capital Stock

Our authorized capital stock consists of 500,000,000 shares of common stock and 50,000,000 shares of preferred stock, par value $0.001 per share (the "preferred stock"). As of October 10, 2020, 358,499,606 shares of our common stock were issued and outstanding, and 13,000 shares of Series B Convertible Preferred Stock were issued and outstanding, which shares were convertible into 11,818,181 shares of common stock

Common Stock

Voting Rights

Holders of our common stock are entitled to one vote for each share held on all matters submitted to a vote of stockholders and do not have cumulative voting rights. An election of directors by our stockholders will be determined by a plurality of the votes cast by the stockholders entitled to vote on the election.

Dividend Rights

Holders of common stock are entitled to receive proportionately any dividends that may be declared by our Board of Directors, subject to any preferential dividend rights of any series of preferred stock that may be outstanding.

Liquidation Rights

In the event of our liquidation or dissolution, the holders of common stock are entitled to receive proportionately our net assets available for distribution to stockholders after the payment of all debts and other liabilities and subject to the preferential rights of any outstanding preferred stock.

Absence of Other Rights

Holders of common stock have no preemptive, subscription, redemption, or conversion rights. The rights, preferences, and privileges of holders of common stock are subject to and may be adversely affected by the rights of the holders of shares of any series of preferred stock that we may designate and issue.

Trading Symbol and Transfer Agent

Our common stock is traded on the OTC.PK pink marketplace under the symbol "GCEH." The transfer agent and registrar for our common stock is Colonial Stock Transfer Co, Inc. The address of our transfer agent and registrar is 66 Exchange Place, Ste 100 Salt Lake City, UT 84111, and its telephone number is (801) 355-5740.

Preferred Stock

Under our Certificate of Incorporation, our Board of Directors has the authority, without further action by stockholders, to designate one or more series of preferred stock and to fix the voting powers, designations, preferences, limitations, restrictions, and relative rights granted to or imposed upon the preferred stock, including dividend rights, conversion rights, voting rights, rights and terms of redemption, liquidation preference, and sinking fund terms, any or all of which may be preferential to or greater than the rights of the common stock.

The authority possessed by our Board of Directors to issue preferred stock could potentially be used to discourage attempts by third parties to obtain control of our company through a merger, tender offer, proxy contest, or otherwise by making such attempts more difficult or more costly. Our Board of Directors may issue preferred stock with voting rights, conversion rights, and other rights that, if exercised, could adversely affect the voting power of the holders of common stock.

Series B Convertible Preferred Stock

In 2007, we created a new class of preferred stock, the Series B Convertible Preferred Stock, designated as "Series B Convertible Preferred Stock." The shares of Series B Convertible Preferred Stock have a stated value of $100 per share for the purpose of calculating amounts payable upon liquidation, dissolution or winding up, and adjustments to the conversion price. The rights of the Series B Convertible Preferred Stock are set forth in the Certificate of Incorporation, which gives the holders of the Series B Convertible Preferred Stock the rights, preferences and privileges described in the following paragraphs.

The Series B Convertible Preferred Stock shall, with respect to the rights of the stockholders upon liquidation, dissolution or winding up of the affairs of the corporation, rank senior and prior to the common stock. In case of the voluntary or involuntary liquidation, dissolution or winding-up of the affairs of GCEH, each share of Series B Convertible Preferred Stok shall be entitled to $100 per share, plus an amount equal to the dividends declared and unpaid with respect to each such share.

No dividends are required to be paid to the holders of Series B Convertible Preferred Stock. However, no dividend shall be declared or paid on the common stock, other than dividends payable solely in capital stock, unless an equivalent dividend (computed in proportion to the number of shares of common stock into which each share of Series B Convertible Preferred Stock is then convertible) is paid and declared for all outstanding shares of Series B Convertible Preferred Stock.

The holders of Series B Convertible Preferred Stock shall be entitled to vote upon all matters presented to GCEH's stockholders, together with the holders of the common stock as one class. Each share of Series B Convertible Preferred Stock shall entitle the holder thereof to that

number of votes equal to the number of shares of common stock into which each such share of Series B Convertible Preferred Stock would have been convertible.

The Series B Convertible Preferred Stock may, at the option of the holder, be converted at any time or from time to time into fully paid and non-assessable shares of common stock at the conversion price in effect at the time of conversion. Each share of Series B Convertible Preferred Stock may be converted into a number of shares of common stock determined by dividing (i) $100 by (ii) the conversion price of such shares as in effect on the date of conversion. The conversion price currently is $0.11 per share. The initial conversion price shall be subject to adjustment upon stock dividends, subdivisions, reclassification and combinations of our stock.

Anti-Takeover Effects of Our Certificate of Incorporation and Bylaws

Certain provisions of our Certificate of Incorporation and Bylaws contain provisions that could have the effect of delaying or discouraging another party from acquiring control of us. These provisions, which are summarized below, are expected to discourage certain types of coercive takeover practices and inadequate takeover bids. These provisions are also designed in part to encourage anyone seeking to acquire control of us to first negotiate with our Board of Directors. We believe that the advantages gained by protecting our ability to negotiate with any unsolicited and potentially unfriendly acquirer outweigh the disadvantages of discouraging such proposals, including those priced above the then-current market value of our common stock because, among other reasons, the negotiation of such proposals could improve their terms. However, these provisions may have the effect of preventing changes in our management. It is also possible that these provisions could make it more difficult to accomplish transactions that stockholders may otherwise deem to be in their best interests.

Our Certificate of Incorporation and Bylaws include provisions that:

- authorize our Board of Directors to issue, without further action by the stockholders, up to 50,000,000 shares of preferred stock in one or more series designated by the Board of Directors;
- provide that our board of directors will establish the authorized number of directors from time to time within the limits specified in the bylaws;
- specify that special meetings of our stockholders can be called only by our Board of Directors, the Chairman of the Board, the Chief Executive Officer, or the President;
- establish an advance notice procedure for stockholder approvals to be brought before an annual meeting of our stockholders, including proposed nominations of persons for election to our Board of Directors; and
- provide that vacancies on our Board of Directors may be filled only by a majority of directors then in office, even though less than a quorum.

Delaware Anti-Takeover Statute

We are subject to the provisions of Section 203 of the DGCL regulating corporate takeovers. In general, Section 203 prohibits a publicly-held Delaware corporation such as GCEH from engaging in a “business combination” with an “interested stockholder” for a period of three years following the date the person became an interested stockholder unless:

- prior to the date of the transaction, the board of directors of the corporation approved either the business combination or the transaction which resulted in the stockholder becoming an interested stockholder;

- upon completion of the transaction that resulted in the stockholder becoming an interested stockholder, the interested stockholder owned at least 85% of the voting stock of the corporation outstanding at the time the transaction commenced, excluding for purposes of determining the voting stock outstanding, but not for determining the outstanding voting stock owned by the interested stockholder, (1) shares owned by persons who are directors and also officers of the corporation and (2) shares owned by employee stock plans in which employee participants do not have the right to determine confidentially whether shares held subject to the plan will be tendered in a tender or exchange offer; or

- at or subsequent to the date of the transaction, the business combination is approved by the board of directors of the corporation and authorized at an annual or special meeting of stockholders, and not by written consent, by the affirmative vote of at least 66-2/3% of the outstanding voting stock which is not owned by the interested stockholder.

In this context, a "business combination" includes a merger, asset or stock sale, or other transaction resulting in a financial benefit to the interested stockholder. An "interested stockholder" is a person who, together with affiliates and associates, owns or, within three years prior to the determination of interested stockholder status, did own 15% or more of a corporation's outstanding voting stock. We expect the existence of this provision to have an anti-takeover effect with respect to transactions our Board of Directors does not approve in advance. We also anticipate that Section 203 may discourage business combinations or other attempts that might result in a premium over the market price for the shares of common stock held by our stockholders.

Exhibit 10.2

FIRST AMENDMENT TO STANDARD MULTI-TENANT OFFICE LEASE - GROSS

This FIRST Amendment to Lease (this "Agreement") dated as of January 15, 2019 is entered into by and between Skypark Atrium, LLC ("Lessor") and Global Clean Energy Holdings, Inc. a Deleware Corporation ("Lessee"), with reference to the following:

RECITALS

A. Lessor and Lessee have entered into that certain Lease dated January 7, 2014 collectively refered to as (the "Lease"), with reference to Suite 105 (the "Premises") of the building located at 2790 Skypark Dr., Torrance, California (the "Building").

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, upon execution of this Agreement, the Parties hereby agree as follows:

1. **Capitalized Terms:** All capitalized terms when used herein shall have the same meanings given such terms in the Lease unless expressly superseded by the terms of this Agreement. All references in the Lease and in this Agreement to " **the Lease**" or "**this Lease**" shall be construed to mean the Lease referenced above as amended and supplemented by this Agreement.

2. **Effective Date:** Effective Februry 1, 2019 (the "Effective Date"), the parties hereto desire to modify the Lease in the respects hereinafter set forth.

3. **Termination Date:** The Termination Date shall be amended to be July 31, 2019

4. **Term:** Lessor and Lessee agree that the term of the Lease is hereby extended for an additional six (6) months commencing Febuary 1, 2019 and ending July 31, 2019.

5. **Base Rent:** Notwithstanding anything to the contrary contained in the Lease, Lessor and Lessee agree that commencing on the Effective Date the Base Rent shall be amended as follows:

Period:	**Monthly Base Rent:**
Febuary 1, 2019 – July 31, 2019	$2,851.20

6. **Prior Tenancy:** Lessee is the current Lessee in the Premises under the Lease. Accordingly, notwithstanding anything to the contrary in the Lease, the following shall apply:

6.1 Lessee accepts the Premises in its existing "as is" condition, without representation or warranty of any kind.

6.2 To the extent that Lessee is obligated or would be obligated upon the passage of time or the giving of notice, or both, under the Lease to remove any addition, improvement, alteration or fixture existing in the Premises or to restore the Premises to the condition that would exist except for such addition, improvement, alteration or fixture, Lessee shall also be obligated under this lease to perform such removal and restoration as if such additions, improvements, alterations or fixtures had been made or installed by Lessee under this Lease, and Lessee shall have been obligated to remove the same and restore the Premises with respect to the same in accordance with this Lease.

6.3 Lessor has no obligation to improve or modify the Premises pursuant to the terms of the lease.

6.4 Lessee has accepted full and complete possession of the Premises and is the actual occupant in possession and has not sublet, assigned or hypothecated or otherwise transferred all or any portion of Lessee's leasehold interest.

7. **California Mandatory Disclosures regarding the Nature of A Real Estate Agency Relationship and Indemnity:** When entering into a discussion with a real estate agent regarding a real estate transaction, a Lessee or Lessor should from the outset understand what type of agency relationship or representation it has with the agent or agents in the transaction. Lessee and Lessor acknowledge being advised by the Brokers in this transaction as follows:

A real estate agent, either acting directly or through one or more associate licenses, can legally be the agent of both the Lessor and the Lessee in a transaction, but only with the knowledge and consent of both the Lessor and the Lessee. In a dual agency situation, the agent has the following affirmative obligations to both the Lessor and the Lessee: A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealing with the Lessor and Lessee. A diligent exercise of reasonable skills and care in performance of the agent's duties. A duty of honest and fair dealing and good faith. A duty to disclose all facts, known to the agent, materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the Parties. An agent is not obligated to reveal to either Party any confidential information obtained from the other Party which does not involve the affirmative duties set forth above.

In representing both Lessor and Lessee, the agent may not without the express written permission of the respective party, disclose to the other party that the Lessor will accept rent in an mount less than indicated in the listing or that the Lessee is willing to pay a higher rent than that offered. The above duties of the agent in the real estate transaction do not relieve Lessor or Lessee from the responsibility to protect their own interests. Lessor and Lessee should carefully read all agreements to assure that they adequately express their understanding of the transaction. A real estate agent is a person qualified to advise about real estate. If legal or tax advice is desired, consult a competent professional.

Brokers have no responsibility with respect to any default or breach hereof by either Party. The Parties agree that no lawsuit or other legal proceeding involving any breach of duty, error or omission relating to the proposed Lease may be brought against Broker, except where Broker is found liable for gross negligence or wrongful misconduct. The liability (including court costs and attorney's fees), shall not exceed the fee received by such Broker pursuant to the proposed Lease.

Lessee acknowledges that Medical Asset Management has made no representations, oral, written, or implied as to whether or not the Lease contains the terms as agreed upon between Lessor and Lessee and Lessee is not relying upon any statement or fact or opinion from Medical Asset Management as to the contents of the lease documents and/or the legal effects.

Medical Asset Management is hereby advising Lessee to have the Lease documents reviewed by your attorney, accountant(s), and/or insurance agents for professional advice. Lessee agrees to indemnify, defend and hold harmless Medical Asset Management its representatives, contractors, agents, and employees for any liability or loss, including without limitations, attorney fees and cost that may be occasioned as a result of the execution of this Lease.

8. **Limitation of Liability:** To the maximum extent permitted by law, in no event will either party be responsible for any incidental damages, consequential damages, exemplary damages of any kind, lost goodwill, lost profits, lost business and/or any indirect economic damages whatsoever regardless of whether such damages arise from claims based upon contract, negligence, tort (including strict liability or other legal theory), a breach of any warranty or term of this Agreement, and regardless of whether a party was advised or had reason to know of the possibility of incurring such damages in advance.

Lessee acknowledges that Skypark Atrium, LLC. has made no representations, oral, written, or implied as to whether or not the Lease documents contain the terms as agreed upon between Lessor and Lessee and Lessee is not relying upon any statement or fact or opinion from Skypark Atrium, LLC as to the contents of this Agreement and/or the legal effects. Skypark Atrium, LLC is hereby advising Lessee to have this Agreement reviewed by its attorney, accountant(s), and/or insurance agents for professional advice. Lessee agrees to indemnify and hold harmless Skypark Atrium, LLC., its representatives, contractors, agents, and employees for any liability or loss, including without limitations, attorney fees and cost that may be occasioned as a result of the execution of this Agreement.

9. **No CASP Inspection:** Pursuant to California Civil Code Section 1938, Lessee is hereby notified that, as of the date hereof, the Property has not undergone an inspection by a "Certified Access Specialist" and except to the extent expressly set forth in this Lease, Lessor shall have no liability or responsibility to make any repairs or modifications to the Premises or the Property in order to comply with accessibility standards. The following disclosure is hereby made pursuant to applicable California law: "A Certified Access Specialist (CASp) can inspect the subject premises and determine whether the subject premises comply with all of the applicable construction-related accessibility standards under state law. Although state law does not require a CASp inspection of the subject premises, the commercial property owner or lessor may not prohibit the lessee or tenant from obtaining a CASp inspection of the subject premises for the occupancy or potential occupancy of the lessee or tenant, if requested by the lessee or tenant. The parties shall mutually agree on the arrangements for the time and manner of the CASp inspection, the payment of the fee for the CASp inspection, and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the premises." Tenant acknowledges that Lessor has made no representation regarding compliance of the Premises or the Property with accessibility standards. Any CASp inspection shall be conducted in compliance with reasonable rules in effect at the Building with regard to such inspections and shall be subject to Lessor’s prior written consent.

10. **Airport Proximity Disclosure:** Lessee acknowledges that the Building is located adjacent to an airport and is subject to occasional noise pollution from helicopters, planes and other airport activates

that can be a nuisance. Lessee and Lessor herby indemnify and hold harmless the other party from any claims, liability or damages related to the noise pollution or mitigation thereof.

11. **Broker:** Lessor hereby represents and warrants to Lessee that it has dealt with no broker; finder or similar person in connection with this Agreement other than Medical Asset Management., and Lessee hereby represents and warrants to Lessor that it has dealt with no broker, finder or similar person in connection with this Agreement. Lessor and Lessee shall each defend, indemnify and hold the other harmless with respect to all claims, causes of action, liabilities, losses, costs and expenses (including without limitation attorneys' fees) arising from a breach of the foregoing representation and warranty.

12. **Ratification**: This Agreement shall supplement and amend the Lease and the provisions set forth below shall supersede any inconsistent provisions set forth in the Lease. Except as otherwise specifically herein amended all of the terms, covenants, conditions, provisions and agreements of the Lease shall remain in full force and effect. This Agreement shall be construed to be part of the Lease and shall be deemed incorporated into the Lease by this reference.

13. **Counterparts:** This Agreement may be executed in several counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement.

14. **Confidentiality**: Lessor and Lessee agree that all terms and conditions of this Agreement are personal and confidential. The Agreement terms are not to be discussed with person or persons outside the parties to this Agreement.

IN WITNESS WHEREOF, Lessor and Lessee have caused this Agreement to be duly executed and delivered on the date shown below, their respective signatures to memorialize the agreement of the Parties, as of the date first above written.

LESSOR:
SKYPARK ATRIUM, LLC, a California limited liability company
BY: SKYPARK ATRIUM I, LLC, a California limited liability company,
ITS: Managing Member

By: /s/ STEVEN LOO
Name: Steven Loo, Executive Manager

LESSEE:
Global Clean Energy Holdings, Inc. a Deleware Corporation

By: /s/ RICHARD PALMER
Name: Richard Palmer
Title: President & CEO

Exhibit 10.3

SECOND AMENDMENT TO STANDARD MULTI-TENANT OFFICE LEASE - GROSS

This SECOND Amendment to Lease (this "Agreement") dated as of June 4, 2019 is entered into by and between Skypark Atrium, LLC ("Lessor") and Global Clean Energy Holdings, Inc. a Delaware Corporation ("Lessee"), with reference to the following:

RECITALS

A. Lessor and Lessee have entered into that certain Lease dated January 7, 2014 and that First Amendment dated January 15, 2019 collectively referred to as (the "Lease"), with reference to Suite 105 (the "Premises") of the building located at 2790 Skypark Dr., Torrance, California (the "Building").

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, upon execution of this Agreement, the Parties hereby agree as follows:

1. **Capitalized Terms:** All capitalized terms when used herein shall have the same meanings given such terms in the Lease unless expressly superseded by the terms of this Agreement. All references in the Lease and in this Agreement to " **the Lease**" or "**this Lease**" shall be construed to mean the Lease referenced above as amended and supplemented by this Agreement.

2. **Effective Date:** Effective August 1, 2019 (the "Effective Date"), the parties hereto desire to modify the Lease in the respects hereinafter set forth.

3. **Termination Date:** The Termination Date shall be amended to be July 31, 2022

4. **Term:** Lessor and Lessee agree that the term of the Lease is hereby extended for an additional thirty-six (36) months commencing August 1, 2019 and ending July 31, 2022.

5. **Base Rent:** Notwithstanding anything to the contrary contained in the Lease, Lessor and Lessee agree that commencing on the Effective Date the Base Rent shall be amended as follows:

Period:	**Monthly Base Rent:**
August 1, 2019 – July 31, 2020	$2,851.20
August 1, 2020 – July 31, 2021	$2,936.74
August 1, 2021 – July 31, 2022	$3,024.84

6. **Early Lease Termination:** Lessee shall have an ongoing Option to Terminate the Lease at the conclusion of the sixth (6th) month of the term (January 31, 2020) by providing Lessor with at least three (3) months' prior written notice ("Termination Notice").

7. **Prior Tenancy:** Lessee is the current Lessee in the Premises under the Lease. Accordingly, notwithstanding anything to the contrary in the Lease, the following shall apply:

7.1 Lessee accepts the Premises in its existing "as is" condition, without representation or warranty of any kind.

7.2 To the extent that Lessee is obligated or would be obligated upon the passage of time or the giving of notice, or both, under the Lease to remove any addition, improvement, alteration or fixture existing in the Premises or to restore the Premises to the condition that would exist except for such addition, improvement, alteration or fixture, Lessee shall also be obligated under this lease to perform such removal and restoration as if such additions, improvements, alterations or fixtures had been made or installed by Lessee under this Lease, and Lessee shall have been obligated to remove the same and restore the Premises with respect to the same in accordance with this Lease.

7.3 Lessor has no obligation to improve or modify the Premises pursuant to the terms of the lease.

7.4 Lessee has accepted full and complete possession of the Premises and is the actual occupant in possession and has not sublet, assigned or hypothecated or otherwise transferred all or any portion of Lessee's leasehold interest.

8. **California Mandatory Disclosures regarding the Nature of A Real Estate Agency Relationship and Indemnity:** When entering into a discussion with a real estate agent regarding a real estate transaction, a Lessee or Lessor should from the outset understand what type of agency relationship or representation it has with the agent or agents in the transaction. Lessee and Lessor acknowledge being advised by the Brokers in this transaction as follows:

A real estate agent, either acting directly or through one or more associate licenses, can legally be the agent of both the Lessor and the Lessee in a transaction, but only with the knowledge and consent of both the Lessor and the Lessee. In a dual agency situation, the agent has the following affirmative obligations to both the Lessor and the Lessee: A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealing with the Lessor and Lessee. A diligent exercise of reasonable skills and care in performance of the agent's duties. A duty of honest and fair dealing and good faith. A duty to disclose all facts, known to the agent, materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the Parties. An agent is not obligated to reveal to either Party any confidential information obtained from the other Party which does not involve the affirmative duties set forth above.

In representing both Lessor and Lessee, the agent may not without the express written permission of the respective party, disclose to the other party that the Lessor will accept rent in an mount less than indicated in the listing or that the Lessee is willing to pay a higher rent than that offered. The above duties of the agent in the real estate transaction do not relieve Lessor or Lessee from the responsibility to protect their own interests. Lessor and Lessee should carefully read all agreements to assure that they adequately express their understanding of the transaction. A real estate agent is a person qualified to advise about real estate. If legal or tax advice is desired, consult a competent professional.

Brokers have no responsibility with respect to any default or breach hereof by either Party. The Parties agree that no lawsuit or other legal proceeding involving any breach of duty, error or omission relating to the proposed Lease may be brought against Broker, except where Broker is found liable for gross negligence or wrongful misconduct. The liability (including court costs and attorney's fees), shall not exceed the fee received by such Broker pursuant to the proposed Lease.

Lessee acknowledges that Medical Asset Management has made no representations, oral, written, or implied as to whether or not the Lease contains the terms as agreed upon between Lessor and Lessee and Lessee is not relying upon any statement or fact or opinion from Medical Asset Management as to the contents of the lease documents and/or the legal effects.

Medical Asset Management is hereby advising Lessee to have the Lease documents reviewed by your attorney, accountant(s), and/or insurance agents for professional advice. Lessee agrees to indemnify, defend and hold harmless Medical Asset Management its representatives, contractors, agents, and employees for any liability or loss, including without limitations, attorney fees and cost that may be occasioned as a result of the execution of this Lease.

9. **Limitation of Liability:** To the maximum extent permitted by law, in no event will either party be responsible for any incidental damages, consequential damages, exemplary damages of any kind, lost goodwill, lost profits, lost business and/or any indirect economic damages whatsoever regardless of whether such damages arise from claims based upon contract, negligence, tort (including strict liability or other legal theory), a breach of any warranty or term of this Agreement, and regardless of whether a party was advised or had reason to know of the possibility of incurring such damages in advance.

Lessee acknowledges that Skypark Atrium, LLC. has made no representations, oral, written, or implied as to whether or not the Lease documents contain the terms as agreed upon between Lessor and Lessee and Lessee is not relying upon any statement or fact or opinion from Skypark Atrium, LLC as to the contents of this Agreement and/or the legal effects. Skypark Atrium, LLC is hereby advising Lessee to have this Agreement reviewed by its attorney, accountant(s), and/or insurance agents for professional advice. Lessee agrees to indemnify and hold harmless Skypark Atrium, LLC., its representatives, contractors, agents, and employees for any liability or loss, including without limitations, attorney fees and cost that may be occasioned as a result of the execution of this Agreement.

10. **No CASP Inspection:** Pursuant to California Civil Code Section 1938, Lessee is hereby notified that, as of the date hereof, the Property has not undergone an inspection by a "Certified Access Specialist" and except to the extent expressly set forth in this Lease, Lessor shall have no liability or responsibility to make any repairs or modifications to the Premises or the Property in order to comply with accessibility standards. The following disclosure is hereby made pursuant to applicable California law: "A Certified Access Specialist (CASp) can inspect the subject premises and determine whether the subject premises comply with all of the applicable construction-related accessibility standards under state law. Although state law does not require a CASp inspection of the subject premises, the commercial property owner or lessor may not prohibit the lessee or tenant from obtaining a CASp inspection of the subject premises for the occupancy or potential occupancy of the lessee or tenant, if requested by the lessee or tenant. The parties shall mutually agree on the arrangements for the time and manner of the CASp inspection, the payment of the fee for the CASp inspection, and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the premises." Tenant acknowledges that Lessor has made no representation regarding compliance of the Premises or the Property with accessibility standards. Any CASp inspection shall be conducted in compliance with reasonable rules in effect at the Building with regard to such inspections and shall be subject to Lessor’s prior written consent.

11. **Airport Proximity Disclosure:** Lessee acknowledges that the Building is located adjacent to an airport and is subject to occasional noise pollution from helicopters, planes and other airport activates that can be a nuisance. Lessee and Lessor herby indemnify and hold harmless the other party from any claims, liability or damages related to the noise pollution or mitigation thereof.

12. **Broker:** Lessor hereby represents and warrants to Lessee that it has dealt with no broker; finder or similar person in connection with this Agreement other than Medical Asset Management., and Lessee hereby represents and warrants to Lessor that it has dealt with no broker, finder or similar person in connection with this Agreement. Lessor and Lessee shall each defend, indemnify and hold the other harmless with respect to all claims, causes of action, liabilities, losses, costs and expenses (including without limitation attorneys' fees) arising from a breach of the foregoing representation and warranty.

13. **Ratification**: This Agreement shall supplement and amend the Lease and the provisions set forth below shall supersede any inconsistent provisions set forth in the Lease. Except as otherwise specifically herein amended all of the terms, covenants, conditions, provisions and agreements of the Lease shall remain in full force and effect. This Agreement shall be construed to be part of the Lease and shall be deemed incorporated into the Lease by this reference.

14. **Counterparts:** This Agreement may be executed in several counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement.

15. **Confidentiality**: Lessor and Lessee agree that all terms and conditions of this Agreement are personal and confidential. The Agreement terms are not to be discussed with person or persons outside the parties to this Agreement.

IN WITNESS WHEREOF, Lessor and Lessee have caused this Agreement to be duly executed and delivered on the date shown below, their respective signatures to memorialize the agreement of the Parties, as of the date first above written.

LESSOR:
SKYPARK ATRIUM, LLC, a California limited liability company
BY: SKYPARK ATRIUM I, LLC, a California limited liability company,
ITS: Managing Member

By: /s/ STEVEN LOO
Name: Steven Loo, Executive Manager

LESSEE:
Global Clean Energy Holdings, Inc. a Delaware Corporation

By: /s/ RICHARD PALMER
Name: Richard Palmer
Title: President & CEO

Exhibit 10.5

INDEMNIFICATION AGREEMENT

This Indemnification Agreement (this "Agreement") is made and entered into as of _____, 20__, by and between Global Clean Energy Holdings, Inc., a Delaware corporation (the "Company") and _____ (the "Indemnitee").

RECITALS

WHEREAS, the Company values the Indemnitee's service to the Company as a director and/or officer and desires that the Indemnitee continue to serve the Company in such capacity;

WHEREAS, the Indemnitee does not regard the protection available under the organizational documents of the Company and any insurance policies maintained by the Company as adequate in the present circumstances, and the Indemnitee may not be willing to continue to serve in his or her capacity as a director and/or officer of the Company without the additional protections set forth in this Agreement;

WHEREAS, the Board of Directors of the Company (the "Board") has determined that, on the basis of the foregoing, it is reasonable, prudent and necessary for the Company to obligate itself contractually to indemnify, and to advance expenses on behalf of, the Indemnitee on the terms described in this Agreement so that the Indemnitee will serve or continue to serve the Company free from undue concern that he or she will not be so indemnified;

WHEREAS, this Agreement is a supplement to and in furtherance of the Certificate of Incorporation and Bylaws of the Company and any resolutions adopted pursuant thereto, and shall not be deemed a substitute therefor nor to diminish or abrogate any rights of the Indemnitee thereunder; and

NOW, THEREFORE, in consideration of the mutual promises and agreements herein contained, and intending to be legally bound, the parties to this Agreement agree as follows:

AGREEMENT

1. Definitions. For purposes of this Agreement, the following capitalized terms shall have the meanings set forth below:

(a) "Corporate Status" describes the status of an individual who is or was at any time (including, without limitation, any time prior to the date of this Agreement) a director, officer, employee, agent or fiduciary of the Company or of any other corporation, partnership, joint venture, limited liability company, trust or other enterprise or entity that such individual is or was serving at the express written request of the Company.

(b) "Disinterested Director" means a director of the Company who is not and was not a party to the Proceeding in respect of which indemnification is sought by the Indemnitee.

(c) "Exchange Act" means the Securities Exchange Act of 1934, as amended.

(d) "Expenses" means all reasonable attorneys' fees, retainers, court costs, transcript costs, fees of experts, witness fees, travel expenses, duplicating costs, printing and binding costs, telephone charges, postage, delivery service fees and all other disbursements or expenses of the types customarily incurred in connection with prosecuting, defending, preparing to prosecute or defend, investigating, participating, or being or preparing to be a witness in a Proceeding, or responding to, or objecting to, a request to provide discovery in any Proceeding. Expenses also shall include Expenses incurred in connection with any appeal resulting from any Proceeding and any federal, state, local or foreign taxes imposed on the Indemnitee as a result of the actual or deemed receipt of any payments under this Agreement, including, without limitation, the premium, security for, and other costs relating to any cost bond, supersedeas bond, or other appeal bond or its equivalent. Expenses, however, shall not include amounts paid in settlement by the Indemnitee or the amount of judgments or fines against the Indemnitee.

(e) "Independent Counsel" means a law firm, or a member of a law firm, that is experienced in matters of corporation law and neither presently is, nor in the past five years has been, retained to represent (1) the Company or the Indemnitee in any matter material to either such party or (2) any other party to the Proceeding giving rise to a claim for indemnification hereunder. Notwithstanding the foregoing, the term "Independent Counsel" shall not include any Person who, under the applicable standards of professional conduct then prevailing, would have a conflict of interest in representing either the Company or the Indemnitee in an action to determine the Indemnitee's rights under this Agreement. The Company agrees to pay the reasonable fees of Independent Counsel referred to above and to fully indemnify such counsel against any and all Expenses, claims, liabilities and damages arising out of or relating to this Agreement or its engagement pursuant hereto.

(f) "Person" means any individual, corporation, partnership, joint venture, limited liability company, trust or other enterprise or entity.

(g) "Proceeding" means any threatened, pending or completed action, suit, arbitration, alternate dispute resolution mechanism, investigation, inquiry, administrative hearing or any other actual, threatened or completed proceeding (including one pending on or before the date of this Agreement but excluding one initiated by the Indemnitee pursuant to Section 7 of this Agreement to enforce his or her rights under this Agreement), whether brought by or in the right of the Company or otherwise and whether civil, criminal, administrative or investigative, in which the Indemnitee was, is or will be involved as a party or otherwise, by reason of the fact that the Indemnitee is or was an officer or director of the Company, by reason of any action taken by him or her or of any inaction on his or her part while acting as an officer or director of the Company, or by reason of the fact that he or she is or was serving at the request of the Company as a director, officer, employee, agent or fiduciary of another corporation, partnership, limited liability company, trust or other enterprise or entity, in each case whether or not he or she

is acting or serving in any such capacity at the time any liability or expense is incurred for which indemnification can be provided under this Agreement.

2. Indemnification of the Indemnitee. Subject to the terms of this Agreement, if, by reason of the Indemnitee's Corporate Status, the Indemnitee is, or is threatened to be made, a party to or participant in any Proceeding, the Company agrees to hold harmless and indemnify the Indemnitee to the fullest extent permitted by applicable law (as such law may be amended from time to time to increase the scope of such permitted indemnification) against all Expenses, judgments, penalties, fines and amounts paid in settlement actually and reasonably incurred by him or her, or on his or her behalf, in connection with such Proceeding or any claim, issue or matter therein. In furtherance of the foregoing indemnification, and without limiting the generality of the preceding sentence:

(a) The Indemnitee shall be entitled to the rights of indemnification provided in this Section 2(a) if, by reason of his or her Corporate Status, the Indemnitee is, or is threatened to be made, a party to or participant in any Proceeding other than a Proceeding by or in the right of the Company. Pursuant to this Section 2(a), the Indemnitee shall be indemnified against all Expenses, judgments, penalties, fines and amounts paid in settlement actually and reasonably incurred by him or her, or on his or her behalf, in connection with such Proceeding or any claim, issue or matter therein, if the Indemnitee acted in good faith and in a manner the Indemnitee reasonably believed to be in or not opposed to the best interests of the Company and, with respect to any criminal Proceeding, had no reasonable cause to believe the Indemnitee's conduct was unlawful.

(b) The Indemnitee shall be entitled to the rights of indemnification provided in this Section 2(b) if, by reason of his or her Corporate Status, the Indemnitee is, or is threatened to be made, a party to or participant in any Proceeding brought by or in the right of the Company. Pursuant to this Section 2(b), the Indemnitee shall be indemnified against all Expenses actually and reasonably incurred by the Indemnitee, or on the Indemnitee's behalf, in connection with such Proceeding if the Indemnitee acted in good faith and in a manner the Indemnitee reasonably believed to be in or not opposed to the best interests of the Company. However, if applicable law so provides and notwithstanding any provision in this Section 2 or elsewhere in this Agreement to the contrary, no indemnification against such Expenses (or against any judgments, penalties, fines and amounts paid in settlement) shall be made in respect of any claim, issue or matter in such Proceeding as to which the Indemnitee shall have been adjudged to be liable to the Company unless and to the extent that a court of competent jurisdiction shall determine that such indemnification may and should be made.

(c) Notwithstanding any other provision of this Agreement to the contrary, to the extent that the Indemnitee is, by reason of his or her Corporate Status, a party to and is successful, on the merits or otherwise, in any Proceeding, he or she shall be indemnified to the maximum extent permitted by law, as such may be amended from time to time to increase the scope of such permitted indemnification, against all Expenses actually and reasonably incurred by him or her or on his or her behalf in connection therewith. If the Indemnitee is not wholly successful in such Proceeding but is successful, on the merits or otherwise, as to one or more but

less than all claims, issues or matters in such Proceeding, the Company shall indemnify the Indemnitee against all Expenses actually and reasonably incurred by him or her or on his or her behalf in connection with each successfully resolved claim, issue or matter. For purposes of this Section 2(c) and without limitation, the termination of any claim, issue or matter in such a Proceeding by dismissal, with or without prejudice, shall be deemed to be a successful result as to such claim, issue or matter.

(d) Notwithstanding the foregoing, the Company shall not be obligated to make any payment to the Indemnitee that is finally determined (under the procedures, and subject to the presumptions, set forth in Sections 6 and 7 of this Agreement) to be unlawful.

3. Contribution.

(a) Whether or not the indemnification provided in Section 2 of this Agreement is available, in respect of any Proceeding in which the Company is jointly liable with the Indemnitee (or would be if joined in such Proceeding), the Company shall pay, in the first instance, the entire amount of any judgment or settlement of such Proceeding without requiring the Indemnitee to contribute to such payment and the Company hereby waives and relinquishes any right of contribution it may have against the Indemnitee. The Company shall not enter into any settlement of any Proceeding in which the Company is jointly liable with the Indemnitee (or would be if joined in such Proceeding) unless such settlement provides for a full and final release of all claims asserted against the Indemnitee.

(b) Without diminishing the obligations of the Company set forth in Section 3(a), if, for any reason, the Indemnitee shall elect or be required to pay all or any portion of any judgment or settlement in any Proceeding in which the Company is jointly liable with the Indemnitee (or would be if joined in such Proceeding), the Company shall contribute to the amount of Expenses, judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by the Indemnitee in proportion to the relative benefits received by the Company and all officers, directors or employees of the Company, other than the Indemnitee, who are jointly liable with the Indemnitee (or would be if joined in such Proceeding), on the one hand, and the Indemnitee, on the other hand, from the transaction from which such Proceeding arose; provided, however, that the proportion determined on the basis of relative benefit may, to the extent necessary to conform to law, be further adjusted by reference to the relative fault of the Company and all officers, directors or employees of the Company other than the Indemnitee who are jointly liable with the Indemnitee (or would be if joined in such Proceeding), on the one hand, and the Indemnitee, on the other hand, in connection with the events that resulted in such Expenses, judgments, fines or settlement amounts, as well as any other equitable considerations which applicable law may require to be considered. The relative fault of the Company and all officers, directors or employees of the Company, other than the Indemnitee, who are jointly liable with the Indemnitee (or would be if joined in such Proceeding), on the one hand, and the Indemnitee, on the other hand, shall be determined by reference to, among other things, the degree to which their actions were motivated by intent to gain personal profit or advantage, the degree to which their liability is primary or secondary and the degree to which their conduct is active or passive.

(c) The Company agrees to fully indemnify and hold the Indemnitee harmless from any claims of contribution which may be brought by officers, directors or employees of the Company, other than the Indemnitee, who may be jointly liable with the Indemnitee.

(d) If the indemnification required to be paid by the Company pursuant to this Agreement is unavailable to the Indemnitee for any reason whatsoever, the Company, in lieu of indemnifying the Indemnitee to the extent required by this Agreement, shall contribute to the amount incurred by the Indemnitee, whether for judgments, fines, penalties, excise taxes, amounts paid or to be paid in settlement and/or for Expenses, in connection with any claim relating to an indemnifiable event under this Agreement, in such proportion as is deemed fair and reasonable in light of all of the circumstances of such Proceeding in order to reflect (1) the relative benefits received by the Company and the Indemnitee as a result of the event(s) and/or transaction(s) giving cause to such Proceeding and/or (2) the relative fault of the Company (and its directors, officers, employees and agents) and the Indemnitee in connection with such event(s) and/or transaction(s).

4. Indemnification for Expenses of a Witness. Notwithstanding any provision of this Agreement to the contrary, to the extent that the Indemnitee is, by reason of his or her Corporate Status, a witness, or is made (or asked to) respond to discovery requests, in any Proceeding to which the Indemnitee is not a party, he or she shall be indemnified against all Expenses actually and reasonably incurred by him or her or on his or her behalf in connection with such Proceeding.

5. Advancement of Expenses. Notwithstanding any provision of this Agreement to the contrary, but subject to Section 9, the Company shall advance all Expenses incurred by or on behalf of the Indemnitee in connection with any Proceeding by reason of the Indemnitee's Corporate Status within thirty days after the receipt by the Company of a statement or statements from the Indemnitee requesting such advance or advances from time to time, whether prior to or after final disposition of such Proceeding. Such statement or statements shall reasonably evidence the Expenses incurred by the Indemnitee (but may omit such information as necessary to avoid having the Indemnitee waive any privilege with respect to legal work under applicable law) and shall include or be preceded or accompanied by a written undertaking by or on behalf of the Indemnitee to repay any Expenses advanced if it shall ultimately be determined that the Indemnitee is not entitled to be indemnified against such Expenses. Any advances and undertakings to repay pursuant to this Section 5 shall be unsecured and interest free.

6. Procedures and Presumptions for Determining Entitlement to Indemnification. The following procedures and presumptions shall apply in the event of any question as to whether the Indemnitee is entitled to indemnification under this Agreement:

(a) To obtain indemnification under this Agreement, the Indemnitee shall submit to the Company a written request, including therein or therewith such documentation and information as is reasonably available to the Indemnitee and is reasonably necessary to determine whether and to what extent the Indemnitee is entitled to indemnification. The Secretary of the Company shall, promptly upon receipt of such a request for indemnification, advise the Board in writing that the Indemnitee has requested indemnification. Notwithstanding

the foregoing, any failure of the Indemnitee to provide such a request to the Company, or to provide such a request in a timely fashion, shall not relieve the Company of any liability that it may have to the Indemnitee unless, and to the extent that, such failure actually and materially prejudices the interests of the Company.

(b) Upon written request by the Indemnitee for indemnification pursuant to the first sentence of Section 6(a), a determination with respect to the Indemnitee's entitlement to indemnification shall be made in the specific case by one of the following four methods, which shall be at the election of the Board: (1) by a majority vote of the Disinterested Directors, even though less than a quorum; (2) by a committee of those Disinterested Directors designated by a majority vote of the Disinterested Directors, even though less than a quorum; (3) if there are no Disinterested Directors or if the Disinterested Directors so direct, by Independent Counsel in a written opinion to the Board, a copy of which shall be delivered to the Indemnitee; or (4) if so directed by the Board and with the consent of the Indemnitee, by the stockholders of the Company.

(c) If the determination of entitlement to indemnification is to be made by Independent Counsel pursuant to Section 6(b), Independent Counsel shall be selected as provided in this Section 6(c). Independent Counsel shall be selected by the Board, and the Board shall notify the Indemnitee of the name of such Independent Counsel. The Indemnitee may, within ten days after such written notice of selection shall have been given, deliver to the Company a written objection to such selection; provided, however, that such objection may be asserted only on the ground that Independent Counsel so selected does not meet the requirements of Independent Counsel, and the objection shall set forth with particularity the factual basis of such assertion. Absent a proper and timely objection, the Person so selected shall act as Independent Counsel. If a written objection is made and substantiated, Independent Counsel selected may not serve as Independent Counsel unless and until such objection is withdrawn or a court has determined that such objection is without merit. The Company shall pay any and all reasonable fees and expenses of Independent Counsel incurred by such Independent Counsel in connection with acting pursuant to Section 6(b), and the Company shall pay all reasonable fees and expenses incident to the procedures of this Section 6(c), regardless of the manner in which such Independent Counsel was selected or appointed. Any costs or expenses (including attorneys' fees and disbursements) incurred by the Indemnitee in cooperating with the Independent Counsel or the Company with respect to a determination of entitlement to indemnification (and irrespective of the ultimate determination on such entitlement) shall be borne by the Company.

(d) In making a determination with respect to the Indemnitee's entitlement to indemnification under this Agreement, the Person or Persons making such determination shall presume that the Indemnitee is entitled to indemnification under this Agreement. Anyone seeking to overcome this presumption shall have the burden of proof and the burden of persuasion by clear and convincing evidence. Neither the failure of the Company (including by its directors or independent legal counsel) to have made a determination prior to the commencement of any action pursuant to this Agreement that indemnification is proper in the circumstances because the Indemnitee has met the applicable standard of conduct, nor an actual

determination by the Company (including by its directors or independent legal counsel) that the Indemnitee has not met such applicable standard of conduct, shall be a defense to the action or create a presumption that the Indemnitee has not met the applicable standard of conduct.

(e) It shall be presumed that the Indemnitee has acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the Company. Anyone seeking to overcome this presumption shall have the burden of proof and the burden of persuasion by clear and convincing evidence.

(f) If the Person or Persons empowered or selected under this Section 6 to determine whether the Indemnitee is entitled to indemnification shall not have made a determination within sixty days after receipt by the Company of the request for indemnification, the requisite determination of entitlement to indemnification shall be deemed to have been made and the Indemnitee shall be entitled to such indemnification absent (1) a misstatement by the Indemnitee of a material fact, or an omission of a material fact necessary to make the Indemnitee's statement not materially misleading, in connection with the request for indemnification or (2) a prohibition of such indemnification under applicable law. However, such sixty-day period may be extended for a reasonable time, not to exceed an additional thirty days, if the Person or Persons making such determination with respect to entitlement to indemnification in good faith requires such additional time to obtain or evaluate documentation and/or information relating thereto; and provided, further, that the foregoing provisions of this Section 6(f) shall not apply if the determination of entitlement to indemnification is to be made by the Company's stockholders pursuant to Section 6(b) and if (A) within fifteen days after receipt by the Company of the request for such determination, the Board resolves to submit such determination to the stockholders for their consideration at an annual meeting thereof to be held within seventy-five days after such receipt and such determination is made thereat or (B) a special meeting of stockholders is called within fifteen days after such receipt for the purpose of making such determination, such meeting is held for such purpose within sixty days after having been so called and such determination is made at such meeting.

(g) The Indemnitee shall cooperate with the Person or Persons making the determination with respect to the Indemnitee's entitlement to indemnification, including providing to such Person or Persons upon reasonable advance request any documentation or information which is not privileged or otherwise protected from disclosure and which is reasonably available to the Indemnitee and reasonably necessary to such determination. Any Independent Counsel, member of the Board or stockholder of the Company shall act reasonably and in good faith in making a determination regarding the Indemnitee's entitlement to indemnification under this Agreement. Any costs or expenses (including attorneys' fees and disbursements) incurred by the Indemnitee in so cooperating with the Person or Persons making such determination shall be borne by the Company (irrespective of the determination as to the Indemnitee's entitlement to indemnification), and the Company hereby indemnifies and agrees to hold the Indemnitee harmless from such costs and expenses.

(h) The Company acknowledges that a settlement or other disposition short of final judgment may be successful if it permits a party to avoid expense, delay, distraction,

disruption and uncertainty. In the event that any Proceeding to which the Indemnitee is a party is resolved in any manner other than by adverse judgment against the Indemnitee (including, without limitation, settlement of such Proceeding with or without payment of money or other consideration) it shall be presumed that the Indemnitee has been successful on the merits or otherwise in such Proceeding. Anyone seeking to overcome this presumption shall have the burden of proof and the burden of persuasion by clear and convincing evidence.

(i) The termination of any Proceeding or of any claim, issue or matter therein, by judgment, order, settlement or conviction, or upon a plea of nolo contendere or its equivalent, shall not (except as otherwise expressly provided in this Agreement) of itself adversely affect the right of the Indemnitee to indemnification or create a presumption that the Indemnitee did not act in good faith and in a manner which he or she reasonably believed to be in or not opposed to the best interests of the Company or, with respect to any criminal Proceeding, that the Indemnitee had reasonable cause to believe that his or her conduct was unlawful.

7. Remedies of the Indemnitee.

(a) In the event that (1) a determination is made pursuant to Section 6 of this Agreement that the Indemnitee is not entitled to indemnification under this Agreement, (2) advancement of Expenses is not timely made pursuant to Section 5 of this Agreement, (3) no determination of entitlement to indemnification is made pursuant to Section 6 of this Agreement within ninety days after the later of receipt by the Company of the request for indemnification (as such deadline may be extended pursuant to Section 6(f) upon a determination to be made by the stockholders of the Company) and the final disposition of the Proceeding for which indemnification is sought, (4) payment of indemnification is not made as required by Section 4 or Section 2(c) or the last sentence of Section 6(c) of this Agreement within ten days after receipt by the Company of a written request therefor, or (5) payment of indemnification is not made within ten days after a determination has been made that the Indemnitee is entitled to indemnification or such determination is deemed to have been made pursuant to Section 6 of this Agreement, the Indemnitee shall be entitled to an adjudication in any court of competent jurisdiction of the Indemnitee's entitlement to such indemnification. The Company shall not oppose the Indemnitee's right to seek any such adjudication.

(b) In the event that a determination shall have been made pursuant to Section 6 of this Agreement that the Indemnitee is not entitled to indemnification, any judicial proceeding commenced pursuant to this Section 7 shall be conducted in all respects as a de novo trial on the merits, and the Indemnitee shall not be prejudiced by reason of the adverse determination under Section 6.

(c) If a determination shall have been made pursuant to Section 6 of this Agreement that the Indemnitee is entitled to indemnification, the Company shall be bound by such determination in any judicial proceeding commenced pursuant to this Section 7 absent (1) a misstatement by the Indemnitee of a material fact or an omission of a material fact necessary to make the Indemnitee's misstatement not materially misleading in connection with the application for indemnification or (2) a prohibition of such indemnification under applicable law.

(d) In the event that the Indemnitee, pursuant to this Section 7, seeks a judicial adjudication of his or her rights under, or to recover damages for breach of, this Agreement, or to recover under any directors' and officers' liability insurance policies maintained by the Company, the Company shall, to the fullest extent permitted by law, pay on his or her behalf, in advance of such final adjudication, and shall indemnify the Indemnitee against, any and all expenses (including attorneys' fees and any and all other costs that would qualify as Expenses, as defined herein, if the proceeding contemplated by this paragraph or the next paragraph were a "Proceeding," as defined herein, hereinafter, "Enforcement Expenses")) actually and reasonably incurred by him or her in such judicial adjudication, regardless of whether the Indemnitee ultimately is determined to be entitled to such indemnification, advancement of Expenses or insurance recovery.

(e) The Company shall be precluded from asserting in any judicial proceeding commenced pursuant to this Section 7 that the procedures and presumptions of this Agreement are not valid, binding and enforceable and shall stipulate in any such court that the Company is bound by all of the provisions of this Agreement. The Company shall indemnify the Indemnitee against any and all Enforcement Expenses and, if requested by the Indemnitee, shall (within ten days after receipt by the Company of a written request therefor) advance, to the extent not prohibited by law, such Enforcement Expenses to the Indemnitee, which are incurred by the Indemnitee in connection with any action brought by the Indemnitee for indemnification or advance of Enforcement Expenses from the Company under this Agreement or under any directors' and officers' liability insurance policies maintained by the Company, regardless of whether the Indemnitee ultimately is determined to be entitled to such indemnification, advancement of Enforcement Expenses or insurance recovery, as the case may be.

(f) Notwithstanding any provision of this Agreement to the contrary, no determination as to entitlement to indemnification under this Agreement shall be required to be made prior to the final disposition of the Proceeding.

8. Non-Exclusivity and Survival of Rights.

(a) The rights of indemnification as provided by this Agreement shall not be deemed exclusive of any other rights to which the Indemnitee may at any time be entitled under applicable law, the Certificate of Incorporation and Bylaws of the Company, any other agreement with the Company, a vote of the Company's stockholders, a resolution of the Board or otherwise. No amendment, alteration or repeal of this Agreement or of any provision of this Agreement shall limit or restrict any right of the Indemnitee under this Agreement in respect of any action taken or omitted by the Indemnitee in his or her Corporate Status prior to such amendment, alteration or repeal. To the extent that a change in any applicable law, whether by statute or judicial decision, permits greater indemnification than would be afforded currently under the Company's Certificate of Incorporation and Bylaws and this Agreement, it is the intent of the parties to this Agreement that the Indemnitee shall enjoy by this Agreement the greater benefits so afforded by such change. No right or remedy herein conferred is intended to be exclusive of any other right or remedy, and every other right and remedy shall be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law

or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other right or remedy.

(b) To the extent that the Company maintains an insurance policy or policies providing liability insurance for directors, officers, employees, or agents or fiduciaries of the Company, the Indemnitee shall be covered by such policy or policies in accordance with its or their terms to the maximum extent of the coverage available for any director, officer, employee, agent or fiduciary under such policy or policies. If, at the time of the receipt of a notice of a claim pursuant to the terms of this Agreement, the Company has directors' and officers' liability insurance in effect, the Company shall give prompt notice of the commencement of such proceeding to the insurers in accordance with the procedures set forth in the respective policies. The Company shall thereafter take all commercially reasonable action to cause such insurers to pay, on behalf of the Indemnitee, all amounts payable as a result of such proceeding in accordance with the terms of such policies.

(c) In the event of any payment under this Agreement, the Company shall be subrogated to the extent of such payment to all of the rights of recovery of the Indemnitee, who shall execute all papers required and take all action necessary to secure such rights, including execution of such documents as are necessary to enable the Company to bring suit to enforce such rights.

(d) Except as provided in Section 8(c), the Company shall not be liable under this Agreement to make any payment of amounts otherwise indemnifiable hereunder if and to the extent that the Indemnitee has otherwise actually received payment of such amounts under any insurance policy, contract, other agreement or otherwise.

(e) Except as provided in Section 8(c), the Company's obligation to indemnify or advance Expenses hereunder to the Indemnitee who is or was serving at the request of the Company as a director, officer, employee or agent of any enterprise or entity other than the Company shall be reduced by any amount the Indemnitee has actually received as indemnification or advancement of Expenses from such other enterprise or entity.

9. Exception to the Right of Indemnification. Notwithstanding any provision of this Agreement to the contrary, the Company shall not be obligated under this Agreement to provide any indemnification (and, in the case of Section 9(c), the Company shall not be obligated under this Agreement to advance expenses) in connection with any claim made by or against the Indemnitee: (a) for which payment has actually been made to or on behalf of the Indemnitee under any insurance policy or other indemnity provision, except with respect to any excess beyond the amount paid under any insurance policy or other indemnity provision; (b) for an accounting of profits made from the purchase and sale (or sale and purchase) by the Indemnitee of securities of the Company within the meaning of Section 16(b) of the Exchange Act or similar provisions of state statutory law or common law; or (c) in connection with any Proceeding (or any part of any Proceeding), other than a Proceeding under Section 7 of this Agreement to enforce his or her right to indemnification under this Agreement, initiated by the Indemnitee, including any Proceeding (or any part of any Proceeding) initiated by the Indemnitee against the Company or its directors, officers, employees or other indemnitees, unless (A) the Board

authorized the Proceeding (or any part of any Proceeding) prior to its initiation or (B) the Company provides the indemnification, in its sole discretion, pursuant to the powers vested in the Company under applicable law.

10. Duration of Agreement. All agreements and obligations of the Company contained in this Agreement shall continue until the date that is six years after the date upon which the Indemnitee's Corporate Status terminates and shall continue thereafter so long as the Indemnitee shall be subject to any Proceeding (or any proceeding commenced under Section 7) by reason of his Corporate Status, whether or not he or she is acting or serving in any such capacity at the time any liability or expense is incurred for which indemnification can be provided under this Agreement. This Agreement shall be binding upon and inure to the benefit of and be enforceable by the parties to this Agreement and their respective successors (including any direct or indirect successor by purchase, merger, consolidation or otherwise to all or substantially all of the business or assets of the Company), assigns, spouses, heirs, executors and personal and legal representatives.

11. Security. To the extent requested by the Indemnitee and approved by the Board in its sole discretion, the Company may at any time and from time to time provide security to the Indemnitee for the Company's obligations hereunder through an irrevocable bank line of credit, funded trust or other collateral. Any such security, once provided to the Indemnitee, may not be revoked or released without the prior written consent of the Indemnitee.

12. Enforcement. The Company expressly confirms and agrees that it has entered into this Agreement and assumes the obligations imposed on it by this Agreement in order to induce the Indemnitee to serve as an officer and/or director of the Company, and the Company acknowledges that the Indemnitee is relying upon this Agreement in serving as an officer and/or director of the Company. The Company shall not seek from a court, or agree to, a "bar order" that would have the effect of prohibiting or limiting the Indemnitee's rights to receive advancement of Expenses under this Agreement.

13. Severability. The invalidity or unenforceability of any provision of this Agreement shall in no way affect the validity or enforceability of any other provision. In the event any provision of this Agreement conflicts with any applicable law, such provision shall be deemed modified, consistent with the aforementioned intent, to the extent necessary to resolve such conflict.

14. Modification and Waiver. No supplement, modification, termination or amendment of this Agreement shall be binding unless executed in writing by both of the parties to this Agreement. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provisions of this Agreement (whether or not similar) nor shall such waiver constitute a continuing waiver.

15. Notice by the Indemnitee. The Indemnitee agrees to promptly notify the Company in writing upon being served with or otherwise receiving any summons, citation, subpoena, complaint, indictment, information or other document relating to any Proceeding or matter which may be subject to indemnification covered hereunder. The failure to so notify the Company shall

not relieve the Company of any obligation which it may have to the Indemnitee under this Agreement or otherwise unless and only to the extent that such failure or delay materially prejudices the Company.

16. Notices. All notices and other communications given or made pursuant to this Agreement shall be in writing and shall be deemed effectively given: (a) upon personal delivery to the party to be notified; (b) when sent by confirmed electronic mail or facsimile if sent during normal business hours of the recipient, and if not so confirmed, then on the next business day; (c) five business days after having been sent by registered or certified mail, return receipt requested, postage prepaid; or (d) one business day after deposit with a nationally recognized overnight courier, specifying next day delivery, with written verification of receipt. All notices and other communications shall be sent:

(a) To the Indemnitee at the address set forth below the Indemnitee's signature on this Agreement.

(b) To the Company at:

Global Clean Energy Holdings, Inc.
2790 Skypark Drive, Suite 105
Torrance, California 90505

Attention: Board of Directors

or to such other address as may have been furnished to the Indemnitee by the Company or to the Company by the Indemnitee, as the case may be.

17. Headings. The headings of the paragraphs of this Agreement are inserted for convenience only and shall not be deemed to constitute part of this Agreement or to affect the construction thereof.

18. Applicable Law and Consent to Jurisdiction. This Agreement and the legal relations among the parties shall be governed by, and construed and enforced in accordance with, the laws of the State of Delaware, without regard to its conflict of laws rules. The Company and the Indemnitee hereby irrevocably and unconditionally (i) agree that any action or proceeding arising out of or in connection with this Agreement shall be brought only in the Delaware Court of Chancery (the "Delaware Court"), and not in any other state or federal court in the United States of America or any court in any other country, (ii) consent to submit to the exclusive jurisdiction of the Delaware Court for purposes of any action or proceeding arising out of or in connection with this Agreement, (iii) consent to service of process at the address set forth in, or determined by reference in, this Agreement of this Agreement with the same legal force and validity as if served upon such party personally within the State of Delaware, (iv) waive any objection to the laying of venue of any such action or proceeding in the Delaware Court and (v) waive, and agree not to plead or to make, any claim that any such action or proceeding brought in the Delaware Court has been brought in an improper or inconvenient forum.

19. Entire Agreement. This Agreement (together with the Company's Certificate of Incorporation and Bylaws) constitutes the entire agreement between the parties to this Agreement with respect to the subject matter this Agreement and supersedes all prior agreements and understandings, oral, written and implied, between the parties hereto with respect to the subject matter of this Agreement.

20. Counterparts. This Agreement may be executed in two counterparts, each of which shall be deemed an original, but both of which together shall constitute one and the same Agreement. This Agreement may also be executed and delivered by e-mail signature in PDF format or facsimile signature (or other similar electronic means) and in two counterparts, each of which shall be deemed an original, but both of which together shall constitute one and the same instrument.

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IN WITNESS WHEREOF, the Company and the Indemnitee have executed and delivered this Agreement as of the date first written above.

GLOBAL CLEAN ENERGY HOLDINGS, INC.

By: _____

Print Name: _____

Title: _____

_____

Signature of the Indemnitee

Print Name: _____

Address: _____

_____

Exhibit 10.7

EXECUTIVE EMPLOYMENT AGREEMENT

This EMPLOYMENT AGREEMENT (this "Agreement") is entered into as of the 15th day of October, 2018 (the "Effective Date"), by and between Global Clean Energy Holdings, Inc. (" GCEH" or "Company"), and Richard Palmer (hereinafter, "Executive," and collectively with the Company, the "Parties").

W I T N E S S E T H:

WHEREAS, the Company and Executive are currently party to an Employment Agreement between the Parties dated December 31st , 2014. the ("Employment Agreement"); and

WHEREAS, the Parties wish modify the terms and conditions of Executive's employment with the Company and supersede and replace the Employment Agreement in its entirety; and

WHEREAS, the Company desires to continue to employ Executive, and Executive desires to continue such employment with the Company under the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants hereinafter set forth, the parties hereto agree as follows:

ARTICLE I

EMPLOYMENT; TERM; DUTIES

1.1 Employment. Pursuant to the terms and conditions hereinafter set forth, the Company hereby continues to employ Executive as Chief Executive Officer and President of the Company.

1.2 Term. Executive's Term of employment with Company shall be five (5) years from the date of execution of this agreement. Company shall not terminate Executive's employment for any reason other than those stated in paragraph 3.1 herein, which reasons shall constitute cause. Any failure of Company to comply with the express terms of this agreement shall constitute a material breach and shall entitled Executive to all remedies provided in law or equity. The Term provided for herein shall not be amended except by a writing executed both by Company and by Executive.

1.3 Duties and Responsibilities. Executive shall perform such administrative, managerial and executive duties for the Company (and its subsidiaries if and when directed by the Board of Directors of the Company (the "Board")) as are prescribed by applicable job specifications for the CEO and the Bylaws of the Company, such tasks and responsibilities as are customarily vested in and incidental to such positions, and such other duties, consistent with the Company's Bylaws, as may be assigned to him from time to time in writing, by the Board.

1.4 Exclusive Employment. Executive shall devote all of Executive's business time, attention, skill, and best efforts to the performance of Executive's duties under this Agreement and shall not engage in any other business, board membership or occupation without the prior written consent of the Board (which shall not be unreasonably withheld), including, without limitation, any activity that (x) conflicts with the interests of the Company, (y) interferes with the proper and efficient performance of Executive's duties for the Company, or (z) interferes with Executive's exercise of judgment in the Company's best interests. As of the date of this Agreement, Executive has sought and received the consent of the Board to operate his personal investment company JTBH Investments, Inc. and the Center

for Sustainable Energy Farming (CfSEF) so long as such service does not conflict with any of Executive's other obligations to Company as set forth in this Agreement. Notwithstanding the foregoing, nothing in this Agreement shall prevent Executive from engaging in activities for Executive's personal investments, residing on boards of other companies, religious, charitable, community or non-for-profit activities that do not conflict or interfere with his ability to fulfill his duties and responsibilities to the Company

1.5 Board of Directors. The Board shall nominate Executive to be elected to serve on the Board at each meeting of the Company's shareholders held to elect directors, consistent with the provisions of Bylaws and Articles of Incorporation of the Company, as amended and in effect from time to time. Executive understands and agrees that his nomination and continued position as a member of the Company's Board is expressly conditioned on his continued employment or ownership of more than 10% of the outstanding shares of Company Should Executive's employment as CEO of the Company terminate, and, Executive's ownership of outstanding shares of Company fall below 10%, Executive will be deemed to have resigned his position as a member of the Company's Board of Directors and Executive will voluntarily take all steps necessary to effectuate his resignation from the Company's Board.

1.6 Indemnification and Insurance. The Company agrees to indemnify the Executive for his role as President, CEO and Board Member. A separate indemnity agreement will be executed to fulfil this requirement. The Company will also obtain and maintain directors' and officers' liability insurance covering the Executive for services rendered to the Company (and its subsidiaries if and when directed by the Board) while Executive is a director or officer of the Company. The Company will procure a Directors and Officers Insurance Tail Policy in the amount of no less than Two Million Dollars ($2,000,000) insuring past actions of the Company's director and officers to fully cover the period when previous coverage lapsed, to provide continuous coverage.

1.7 Covenants of Executive

1.7.1 Best Efforts. Executive shall report directly to the Board and shall devote his best efforts to the business and affairs of the Company (and its subsidiaries if and when directed by the Board). Executive shall perform his duties, responsibilities and functions to the Company hereunder to the best of his abilities in a diligent, trustworthy, professional and efficient manner and shall comply, in all material respects, with all rules, regulations of the Company (and special instructions of the Board, if any) and all other rules, regulations, guides, handbooks, procedures and policies applicable to the Company and its business in connection with his duties hereunder.

1.7.2 Records. Executive shall use his best efforts and skills to truthfully, accurately, and promptly prepare, maintain, and preserve all records and reports that the Company may, from time to time, request or require, fully account for all money, records, equipment, materials, or other property belonging to the Company of which he may have custody, and promptly pay and deliver the same whenever he may be directed to do so, in writing, by the Board.

1.7.3 Compliance. Executive shall use his best efforts to maintain the Company's compliance with all SEC rules, regulations and reporting requirements for publicly traded companies, including, without limitation, overseeing, and preparing and filing with the SEC all periodic reports the Company is required to file under the Act and the Exchange Act of 1934 (as amended, the "Exchange Act"). Executive shall at all times comply, and cause the Company to comply, with the then-current good corporate governance standards and practices as prescribed by the SEC, or as otherwise recommended by SEC counsel, any exchange on which the Company's capital stock or other securities may be traded and any other applicable governmental entity, agency or organization.

1.7.4 Code of Conduct. For such period as when Executive is employed hereunder, Executive shall at all times conduct himself with the highest ethical standards, and shall at all times adhere to Code of Conduct attached hereto as Exhibit A.

1.7.5 Opportunities. The Executive shall make available to the Company and present to the Board all business opportunities of which he becomes aware, which are relevant to the business of the Company (and its subsidiaries), and to no other person or entity or to himself individually.

ARTICLE II

COMPENSATION AND OTHER BENEFITS

2.1 Base Salary. For the duration of the Term, for all services rendered by Executive hereunder and all covenants and conditions undertaken by the Parties pursuant to this Agreement, the Company shall pay, and Executive shall accept, as compensation, an annual base salary ("Base Salary") of $300,000. The Base Salary shall be payable in regular installments in accordance with the normal payroll practices of the Company, in effect from time to time, but in any event no less frequently than on a monthly basis.

2.2 Past Compensation. The Company and Executive hereby acknowledge and agree that Executive is owed deferred compensation less applicable taxes and withholdings for past services rendered to the Company. Executive represents that except as provided in this Section 2.2, as of the Effective Date, Executive has been paid all compensation and benefits due and owing to Executive by the Company and Executive has no outstanding claims for compensation, benefits or other causes of action against the Company up to the Effective Date of this Agreement.

2.3 Bonus Compensation.

2.3.1 Annual Bonus - Executive will be eligible to earn an annual bonus (the " Bonus") based on Executive's achievement of certain bonus objectives (Objectives") established by the Executive subject to the approval of the Compensation Committee of the Board ("Compensation Committee"). It shall be the joint obligation of the Executive and the Compensation Committee to develop and agree to written achievable Objectives within the first forty five (45) days of the applicable bonus year. Any annual Bonus and any Bonus to be awarded, if any, will be solely based upon achievement of the written Objectives. The sole responsibility of the Compensation Committee with regard to Executive's bonus is to determine whether the written objectives have been met. The target amount of the Bonus for any given employment year, assuming that all of the target milestones are met, shall be an amount equal to fifty percent (50%) of the Base Salary in effect for the applicable year. Notwithstanding anything herein to the contrary, the Parties hereby acknowledge and agree that the Compensation Committee shall, in accordance with NASDAQ rules and regulations for publicly traded companies, comprise independent directors of the Board only. In the event that the Company has not established a Compensation Committee, the independent directors of the Board shall determine whether the Objectives have been satisfied. The amount of the annual bonus, if any, shall be determined by the Compensation Committee, based upon a pre- established formula based upon Executive's achievement of the Objectives. In order to be eligible to receive the full amount of any annual bonus, Executive must be employed by the Company on the last day of the year in which the annual bonus is earned. The annual bonus, if any, shall be paid in the calendar year following the calendar year for which the annual bonus is due, but in any event no later than March 15 of such year, provided that if

the Company's annual financial statements have not been audited and approved by the Board prior to such date, and if an audit later determines that the Objectives were not achieved at the levels on which the bonus was paid to Executive, then within five (5) business days after such determination, Executive shall return any overpaid sums to Company. If the Company is unable to pay any Bonus or other Compensation from the execution date of this Agreement, the outstanding amount will accrue simple interest at the rate of (five) 5% per annum..

2.3.2 Equity Incentive Option. Concurrently with the execution of this Agreement, the Company shall grant Executive an option (the "Equity Incentive Option") to purchase 110 million shares of the Company's common stock at an exercise equal to the fair market price of the Company's common stock on the Effective Date. The Equity Incentive Option shall vest according to the schedule set forth below, and will expire five (5) years after the Effective Date:

a. When the Company's Market Capitalization reaches $7 million, the Equity Incentive Option shall vest with respect to 30 million shares (such shares, the "First Tranche") of the Company's common stock subject thereunder; and

b. When the Company's Market Capitalization reaches $15 million, the Equity Incentive Option shall vest with respect to 40 million shares (such shares, the "Second Tranche") of the Company's common stock subject thereunder; and

c. When the Company's Market Capitalization reaches or exceeds $25 million, the Equity Incentive Option shall vest with respect to the remaining 40 million shares (such shares, the "Third Tranche") shares of the Company's common stock subject thereunder.

For purposes of the Agreement, the term "Market Capitalization" shall mean the product of the number of shares of common stock issued and outstanding at the time Market Capitalization is calculated, multiplied by the average closing price of the common stock for the thirty (30) consecutive trading days prior to the date of calculation of Market Capitalization as reported on the principal securities trading system on which the Company's common stock is then listed for trading, including the Pink Sheets, the NASDAQ Stock Market, the OTC Bulletin Board, or any other applicable stock exchange.

2.4 Business Expenses. The Company shall reimburse Executive for all reasonable, out-of-pocket business expenses incurred in the performance of his duties hereunder consistent with the Company's policies and procedures, in effect from time to time, with respect to travel, entertainment and other business expenses customarily reimbursed to senior executives of the Company in connection with the performance of their duties on behalf of the Company. Such reimbursement shall be made by Company to Executive no later than fifteen (15) days after submission of written expense reports by Executive to Company.

2.5 Other Benefits. During Executive's employment with the Company, Executive shall be entitled to the following benefits:

2.5.1 Executive shall be entitled to participate in the Company's employee stock option plan, life, health, accident, disability insurance plans, pension plans and retirement plans, in effect from time to time, to the extent and on such terms and conditions as the Company customarily makes such plans available to its senior executives; and

2.5.2 Executive shall be entitled to receive coverage for services rendered to the Company (and its subsidiaries if and when directed by the Board) while Executive is a director or officer of the Company under any director and officer liability insurance policy(s) maintained by the Company from time to time; and

2.5.3 Company shall pay for, or on behalf of Executive, or reimburse the Executive, the full cost of Executive's and Executive's family health insurance plan. Nothing contained herein shall be construed to limit the Company's ability to amend, suspend, or terminate any employee benefit plan or policy at any time to the extent permissible by law without providing Executive notice, and the right to do so is expressly reserved.

2.6 Vacation. Executive shall be entitled to four (4) weeks vacation time each calendar year with full pay. Any unused vacation leave as of December 31st of the calendar year will be either be paid in cash compensation at the same rate as the Executives base salary or the unused vacation time can be rolled forward to the following year(s), at the Executives option. If taken as cash compensation, such payment shall be made to Executive by January 15th of the following calendar year.

2.7 Withholding. The Company may deduct from any compensation payable to Executive (including payments made pursuant to this Article II or in connection with the termination of employment pursuant to Article III of this Agreement) amounts sufficient to cover Executive's share of applicable federal, state and/or local income tax withholding, social security payments, state disability and other insurance premiums and payments.

ARTICLE III

TERMINATION OF EMPLOYMENT

3.1 Termination of Employment

Executive's employment pursuant to this Agreement shall terminate on the earliest to occur of the following:

3.1.1 upon the death of Executive; or

3.1.2 upon the delivery to Executive of written notice of termination by the Company if Executive shall suffer a physical or mental disability which renders Executive, in the reasonable judgment of the Board, unable to perform his duties and obligations under this Agreement for either 90 consecutive days or 180 days in any 12-month period; or

3.1.3 upon delivery to Executive of written notice of termination by the Company for Cause; or

3.1.4 upon delivery of written notice from Executive to the Company for Good Reason.

3.2 Certain Definitions. For purposes of this Agreement, the following terms shall have the following meanings:

3.2.1 In connection with Paragraph 3.1 herein, "Cause" shall mean any of the following:

(a) Executive materially breaches any obligation, duty, or covenant under this Agreement, which breach is not cured or corrected within thirty (30) days of receipt by Executive of written notice thereof from the Company (except for breaches of Article IV of this Agreement, which cannot be cured and for which the Company need not give any opportunity to cure); or

(b) Executive commits any act of misappropriation of funds or embezzlement; or

(c) Executive commits any act of fraud; or

(d) Executive is convicted of, or pleads guilty or *nolo contendere* to any charge of theft, fraud, a crime involving moral turpitude,; or

(e) Executive breaches the Company's Code of Conduct attached hereto as Exhibit A or code of ethics as in effect from time to time.

3.2.2 In connection with Paragraph 3.1 herein, "Good Reason" shall mean: (a) without Executive's consent, the Company changes Executive's position or duties to such an extent that his duties are no longer consistent with the positions of President and CEO of the Company, or (b) Company materially breaches any term of this Agreement; provided that, in each case, "Good Reason" shall not exist unless Executive first provides the Company with written notice of the acts or omissions constituting the grounds for "Good Reason" within ninety (90) days of the initial existence of the grounds for "Good Reason" and such acts or omissions are not cured within thirty (30) days following the Company's receipt of such notice.

3.2.3 "Termination Date" shall mean the date on which Executive's employment with the Company hereunder is terminated.

3.3 Effect of Termination

3.3.1 If Executive's employment is terminated for Good Reason , in addition to Company's payment of all outstanding sums due and owing to Executive at the time of separation, the Company shall pay Executive an amount equal to twelve (12) months of Executive's then-current Base Salary in the form of salary continuation (the "Severance Payments"), plus payment of Executive's and Executive's family medical insurance premium. At such time when Executive's employment with the Company is terminated, and as a condition to Executive's right to receive any benefits pursuant to this Section 3.3.1, shall be conditioned upon Executive's execution, delivery to the Company, and non-revocation of the Release of Claims (and the expiration of any revocation period contained in such Release of Claims) within sixty (60) days following the date of Executive's separation from service hereunder. The Release of Claims shall specifically exclude all unpaid wages (and bonus payments) due and owing to Executive as of the date of separation. If Executive fails to execute the Release of Claims in such a timely manner so as to permit any revocation period to expire prior to the end of such sixty (60) day period, or timely revokes Executive's acceptance of such release following its execution, Executive shall not be entitled to any of the Severance Payments. Further, to the extent that any of the Severance Payments constitutes "nonqualified deferred compensation" for purposes of Section 409A of the Code, any payment of any amount or provision of any benefit otherwise scheduled to occur prior to the sixtieth (60^{th}) day following the date of Executive's separation from service hereunder, but for the condition on executing the Release of Claims as set forth herein, shall not be made until the first regularly scheduled payroll date following such sixtieth (60^{th}) day, after which any remaining Severance Payments shall thereafter be provided to Executive according to the applicable schedule set forth herein. In the event Executive executes a Release of Claims pursuant to this paragraph and, thereafter, Company fails to pay

any sum due and owing to Executive under this paragraph 3.3.1, then the Executive shall have the right, but not the obligation to convert outstanding sums due to Executive to GCEH Corporate stock at the then market price of the stock.

3.3.2 Notwithstanding the reason for termination of Executive's employment, Executive shall be entitled to:

(a) all benefits payable under applicable benefit plans in which Executive is entitled to participate pursuant to Section 2.5 hereof through the Termination Date, subject to and in accordance with the terms of such plans; and

(b) any accrued but unused vacation earned by Executive through the Termination Date pursuant to Section 2.6 hereof, paid out in accordance with legal requirements; and

(c) reimbursement for any business expenses incurred by Executive prior to Termination Date in accordance with Section 2.4 of this Agreement.

3.3.3 If Executive's employment is terminated for death or disability Executive or Executive's estate shall be entitled to all severance benefits (including, without limitation, the Severance Payments) under this Agreement as well as retaining any options vested as of the date of termination.

ARTICLE IV

INVENTIONS; CONFIDENTIAL/TRADE SECRET INFORMATION AND RESTRICTIVE COVENANTS

4.1 Inventions. All processes, technologies and inventions relating to the business of the Company (and its subsidiaries) (collectively, "Inventions"), including new contributions, improvements, ideas, discoveries, trademarks and trade names, conceived, developed, invented, made or found by the Executive, alone or with others, during his employment by the Company, whether or not patentable and whether or not conceived, developed, invented, made or found on the Company's time or with the use of the Company's facilities or materials, shall be the property of the Company and shall be promptly and fully disclosed by Executive to the Company. The Executive shall perform all necessary acts (including, without limitation, executing and delivering any confirmatory assignments, documents or instruments requested by the Company) to assign or otherwise to vest title to any such Inventions in the Company and to enable the Company, at its sole expense, to secure and maintain domestic and/or foreign patents or any other rights for such Inventions.

4.2 Confidential/Trade Secret Information/Non-Disclosure.

4.2.1 Confidential/Trade Secret Information Defined. During the course of Executive's employment, Executive will have access to various Confidential/Trade Secret Information of the Company and information developed for the Company. For purposes of this Agreement, the term "Confidential/Trade Secret Information" is information that is not generally known to the public and, as a result, is of economic benefit to the Company in the conduct of its business, and the business of the Company's subsidiaries. Executive and the Company agree that the term "Confidential/Trade Secret Information" includes but is not limited to all information developed or obtained by the Company, including its affiliates, and predecessors, and comprising the following items, whether or not such items have been reduced to tangible form (e.g., physical writing, computer hard drive, disk, tape, etc.): all methods, techniques, processes, ideas, research and development, product designs, engineering designs,

plans, models, production plans, business plans, add-on features, trade names, service marks, slogans, forms, pricing structures, menus, business forms, marketing programs and plans, layouts and designs, financial structures, operational methods and tactics, cost information, the identity of and/or contractual arrangements with suppliers and/or vendors, accounting procedures, and any document, record or other information of the Company relating to the above. Confidential/Trade Secret Information includes not only information directly belonging to the Company which existed before the date of this Agreement, but also information developed by Executive for the Company, including its subsidiaries, affiliates and predecessors, during the term of Executive's employment with the Company. Confidential/Trade Secret Information does not include any information which (a) was in the lawful and unrestricted possession of Executive prior to its disclosure to Executive by the Company, its subsidiaries, affiliates or predecessors, (b) is or becomes generally available to the public by lawful acts other than those of Executive after receiving it, or (c) has been received lawfully and in good faith by Executive from a third party who is not and has never been an executive of the Company, its subsidiaries, affiliates or predecessors, and who did not derive it from the Company, its subsidiaries, affiliates or predecessors.

4.2.2 Restriction on Use of Confidential/Trade Secret Information. Executive agrees that his/her use of Confidential/Trade Secret Information is subject to the following restrictions for an indefinite period of time so long as the Confidential/Trade Secret Information has not become generally known to the public:

(a) Non-Disclosure. Executive agrees that he will not publish or disclose, or allow to be published or disclosed, Confidential/Trade Secret Information to any person without the prior written authorization of the Company unless pursuant to or in connection with Executive's job duties to the Company under this Agreement.

(b) Non-Removal/Surrender. Executive agrees that he will not remove any Confidential/Trade Secret Information from the offices of the Company or the premises of any facility in which the Company is performing services, except pursuant to his duties under this Agreement. Executive further agrees that he shall surrender to the Company all documents and materials in his possession or control which contain Confidential/Trade Secret Information and which are the property of the Company upon the termination of this Agreement, and that he shall not thereafter retain any copies of any such materials.

4.2.3 Prohibition Against Unfair Competition/ Non-Solicitation of Customers. Executive agrees that at no time after his employment with the Company will he engage in competition with the Company while making any use of the Confidential/Trade Secret Information, or otherwise exploit or make use of the Confidential/Trade Secret Information. Executive agrees that during the twelve month period following the Termination Date, he will not directly or indirectly accept or solicit, in any capacity, the business of any customer of the Company with whom Executive worked or otherwise had access to the Confidential/Trade Secret Information pertaining to the Company's business with such customer during the last year of Executive's employment with the Company, or solicit, directly or indirectly, or encourage any of the Company's customers or suppliers to terminate their business relationship with the Company, or otherwise interfere with such business relationships.

4.3 Non-Solicitation of Employees. Executive agrees that during the twelve month period following the Termination Date, he shall not, directly or indirectly, solicit, directly or indirectly, or otherwise encourage any employees of the Company to leave the employ of the Company, or solicit, directly or indirectly, any of the Company's employees for employment.

4.4 Non-Solicitation During Employment. During his employment with the Company, Executive shall not: (a) interfere with the Company's business relationship with its customers or

suppliers, (b) solicit, directly or indirectly, or otherwise encourage any of the Company's customers or suppliers to terminate their business relationship with the Company, or (c) solicit, directly or indirectly, or otherwise encourage any employees of the Company to leave the employ of the Company, or solicit any of the Company's employees for employment.

4.5 Conflict of Interest. During Executive's employment with the Company, Executive must not engage in any work, paid or unpaid, that creates an actual conflict of interest with the Company.

4.6 Breach of Provisions. If Executive breaches any of the provisions of this Article IV, or in the event that any such breach is threatened by Executive, in addition to and without limiting or waiving any other remedies available to the Company at law or in equity, the Company shall be entitled to immediate injunctive relief in any court, domestic or foreign, having the capacity to grant such relief, to restrain any such breach or threatened breach and to enforce the provisions of this Article IV.

4.7 Reasonable Restrictions. The Parties acknowledge that the foregoing restrictions, as well as the duration and the territorial scope thereof as set forth in this Article IV, are under all of the circumstances reasonable and necessary for the protection of the Company and its business.

4.8 Special Definition. For purposes of this Article IV, the term "Company" shall be deemed to include any subsidiary of the Company.

ARTICLE V

MISCELLANEOUS

5.1 Section 409A. Notwithstanding anything herein to the contrary, this Agreement is intended to be interpreted and applied so that the payment of the benefits set forth herein either shall either be exempt from the requirements of Section 409A of the Internal Revenue Code of 1986, as amended (the "Code"), or shall comply with the requirements of such provision. Notwithstanding anything in this Agreement or elsewhere to the contrary, distributions upon termination of Executive's employment may only be made upon a "separation from service" as determined under Section 409A of the Code. Each payment under this Agreement or otherwise shall be treated as a separate payment for purposes of Section 409A of the Code. In no event may Executive, directly or indirectly, designate the calendar year of any payment to be made under this Agreement or otherwise which constitutes a "deferral of compensation" within the meaning of Section 409A of the Code. All reimbursements and in-kind benefits provided under this Agreement shall be made or provided in accordance with the requirements of Section 409A of the Code. To the extent that any reimbursements pursuant to this Agreement or otherwise are taxable to Executive, any reimbursement payment due to Executive shall be paid to Executive on or before the last day of Executive's taxable year following the taxable year in which the related expense was incurred; provided, that, Executive has provided the Company written documentation of such expenses in a timely fashion and such expenses otherwise satisfy the Company' expense reimbursement policies. Reimbursements pursuant to this Agreement or otherwise are not subject to liquidation or exchange for another benefit and the amount of such reimbursements that Executive receives in one taxable year shall not affect the amount of such reimbursements that Executive receives in any other taxable year. Notwithstanding any provision in this Agreement to the contrary, if on the date of his termination from employment with the Company Executive is deemed to be a "specified employee" within the meaning of Code Section 409A and the Final Treasury Regulations using the identification methodology selected by the Company from time to time, or if none, the default methodology under Code Section 409A, any payments or benefits due upon a termination of Executive's employment under any arrangement that constitutes a "deferral of compensation" within the meaning of Code Section 409A shall be delayed and paid or provided (or commence, in the case of installments) on the first payroll date on or

following the earlier of (i) the date which is six (6) months and one (1) day after Executive's termination of employment for any reason other than death, and (ii) the date of Executive's death, and any remaining payments and benefits shall be paid or provided in accordance with the normal payment dates specified for such payment or benefit. Notwithstanding any of the foregoing to the contrary, the Company and its respective officers, directors, employees, or agents make no guarantee that the terms of this Agreement as written comply with, or are exempt from, the provisions of Code Section 409A, and none of the foregoing shall have any liability for the failure of the terms of this Agreement as written to comply with, or be exempt from, the provisions of Code Section 409A.

5.2 Binding Effect; Assignment. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective legal representatives, heirs, distributees, successors and assigns. Executive may not assign any of his rights and obligations under this Agreement. The Company may assign its rights and obligations under this Agreement to any successor entity.

5.3 Notices. Any notice provided for herein shall be in writing and shall be deemed to have been given or made (a) when personally delivered or (b) when sent by telecopier and confirmed within 48 hours by letter mailed or delivered to the party to be notified at its or his/hers address set forth herein; or three (3) days after being sent by registered or certified mail, return receipt requested, (or by equivalent currier with delivery documentation such as FEDEX or UPS) to the address of the other party set forth or to such other address as may be specified by notice given in accordance with this section 5.2:

If to the Company:	Global Clean Energy Holdings, Inc. 2790 Skypark Drive, Suite 105 Torrance, CA 90505 Attention: David R. Walker
With a copy (which shall not constitute notice) to:	Troy & Gould 1801 Century Park East, 26th Floor Los Angeles, CA 90067 Attention: Istvan Benko, Esq. Telecopy No.: (310) 789-1490
If to Executive:	Richard Palmer 3806 Newton Street Torrance, CA 90505 Telephone: (310) 373-2603 Facsimile: (310) 373-2603
With a copy (which shall not constitute notice) to:	Eileen Darroll, Esq. PO Box 1293 Torrance, CA 90505 Tele: (310) 480-3124

5.4 Severability. If any provision of this Agreement, or portion thereof, shall be held invalid or unenforceable by a court of competent jurisdiction, such invalidity or unenforceability shall attach only to such provision or portion thereof, and shall not in any manner affect or render invalid or unenforceable any other provision of this Agreement or portion thereof, and this Agreement shall be carried out as if any such invalid or unenforceable provision or portion thereof were not contained herein. In addition, any

such invalid or unenforceable provision or portion thereof shall be deemed, without further action on the part of the parties hereto, modified, amended or limited to the extent necessary to render the same valid and enforceable.

5.5 Waiver. No waiver by a party hereto of a breach or default hereunder by the other party shall be considered valid, unless expressed in a writing signed by such first party, and no such waiver shall be deemed a waiver of any subsequent breach or default of the same or any other nature.

5.6 Entire Agreement. This Agreement sets forth the entire agreement between the Parties with respect to the subject matter hereof, and supersedes any and all prior agreements between the Company and Executive, whether written or oral, relating to any or all matters covered by and contained or otherwise dealt with in this Agreement. This Agreement does not constitute a commitment of the Company with regard to Executive's employment, express or implied, other than to the extent expressly provided for herein.

5.7 Amendment. No modification, change or amendment of this Agreement or any of its provisions shall be valid, unless in writing and signed by the Parties.

5.8 Authority. The Parties each represent and warrant that it/he has the power, authority and right to enter into this Agreement and to carry out and perform the terms, covenants and conditions hereof.

5.9 Attorneys' Fees. If either party hereto commences an arbitration or other action against the other party to enforce any of the terms hereof or because of the breach by such other party of any of the terms hereof, the prevailing party shall be entitled, in addition to any other relief granted, to all actual out-of-pocket costs and expenses incurred by such prevailing party in connection with such action, including, without limitation, all reasonable attorneys' fees, and a right to such costs and expenses shall be deemed to have accrued upon the commencement of such action and shall be enforceable whether or not such action is prosecuted to judgment.

5.10 Captions. The captions, headings and titles of the sections of this Agreement are inserted merely for convenience and ease of reference and shall not affect or modify the meaning of any of the terms, covenants or conditions of this Agreement.

5.11 Governing Law. This Agreement, and all of the rights and obligations of the Parties in connection with the employment relationship established hereby, shall be governed by and construed in accordance with the substantive laws of the State of California without giving effect to principles relating to conflicts of law.

5.12 Arbitration.

5.12.1 Scope. To the fullest extent permitted by law, Executive and the Company agree to the binding arbitration of any and all controversies, claims or disputes between them arising out of or in any way related to this Agreement, the employment relationship between the Company and Executive and any disputes upon termination of employment, including but not limited to breach of contract, tort, , constitutional claims; and any claims for violation of any local, state or federal law, statute, regulation or ordinance or common law, excluding any claim for wages under the California Labor Code ,or any claim relating to the Company's failure to pay wages. For the purpose of this agreement to arbitrate, references to "Company" include all subsidiaries or related entities and their respective executives, supervisors, officers, directors, agents, pension or benefit plans, pension or benefit plan sponsors, fiduciaries, administrators, affiliates and all successors and assigns of any of them, and this agreement to arbitrate

shall only apply to them to the extent Executive's claims arise out of or relate to their actions on behalf of the Company.

5.12.2 Arbitration Procedure. To commence any such arbitration proceeding, the party commencing the arbitration must provide the other party with written notice of any and all claims forming the basis of such right in sufficient detail to inform the other party of the substance of such claims. In no event shall this notice for arbitration be made after the date when institution of legal or equitable proceedings based on such claims would be barred by the applicable statute of limitations. The arbitration will be conducted in Los Angeles, California, by a single neutral arbitrator and in accordance with the then-current rules for resolution of employment disputes for Judicial Arbitration and Mediation Services ("JAMS"). The Arbitrator is to be selected by the mutual agreement of the Parties. If the Parties cannot agree, the Superior Court will select the arbitrator. The parties are entitled to representation by an attorney or other representative of their choosing. The arbitrator shall have the power to enter any award that could be entered by a judge of the trial court of the State of California, and only such power, and shall follow the law. The award shall be binding, and the Parties agree to abide by and perform any award rendered by the arbitrator. The arbitrator shall issue the award in writing, and therein state the essential findings and conclusions on which the award is based. Judgment on the award may be entered in any court having jurisdiction thereof. In the event either the Company or Executive initiates the arbitration proceeding, Company shall bear the total cost of the arbitration filing, hearing fees, and the entire cost of the arbitrator.

5.13 Survival. The termination of Executive's employment with the Company pursuant to the provisions of this Agreement shall not affect Executive's obligations to the Company hereunder which by the nature thereof are intended to survive any such termination, including, without limitation, Executive's obligations under Article IV of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

GLOBAL CLEAN ENERGY HOLDINGS, INC.,

By: /s/ DAVID R. WALKER
Name: David R. Walker
Title: Chairman of the Board

/s/ RICHARD PALMER
Richard Palmer

EXHIBIT A

CODE OF CONDUCT

Honesty and Integrity

Our business is based on mutual trust, honesty and integrity in all of our affairs, both internally and externally. This philosophy must be respected at all times. Each of us must be truthful in our business dealings with each other, and with our auditors, legal counsel, regulators and loan review and compliance staffs. Illegal, dishonest and fraudulent acts are grounds for termination. Making false materials statements or otherwise material misleading internal or external auditors, attorneys, regulators or loan review and compliance personnel is prohibited. You must never intentionally withhold or fail to communicate material information that is requested in connection with an appropriately authorized investigation or review. Any concealment of material information is a violation of your employment agreement, which may result in termination of your employment with the Company.

Protecting Corporate Assets

You are responsible for safeguarding the assets of the Company. Company assets must not be used for personal benefit. The Company's assets include, but are not limited to, all of its properties, including intellectual properties, business information, cash, and securities. Misappropriation of Company assets is a violation of your employment agreement, which may result in termination of your employment with the Company.

Accuracy of Company Records and Reports

The Company is committed to maintaining records, data and information that are materially accurate and complete so as to permit the Company to make timely and accurate disclosures to its regulators and to its shareholders. You are responsible for the integrity of the information, reports and records under your control. Records must be maintained in sufficient detail so as to reflect accurately the Company's transactions and activities. Company's financial statements must be prepared in accordance with generally accepted accounting principles ("GAAP") and fairly represent, in all material respects, the financial condition and results of the Company. To accomplish full, fair, and accurate reporting, you must use your best efforts to ensure that financial reports issued by the Company are timely, accurate, understandable, and complete.

Compliance With Laws

The Company's activities shall be in full compliance with all applicable laws and regulations. When such laws or regulations are ambiguous or difficult to interpret, you should seek advice from the Company's outside legal counsel.

Conflicts Of Interest

You must conduct your private, business, and personal activities in a manner that avoids conflict with your ability to act solely in the interests of the Company. A conflict of interest may arise if you have interests of any nature that compromise your ability to act objectively and in the best interests of the Company. Conflicts may arise directly or through your family members or through business or other entities in which you or your family members have an interest. In situations where a conflict is present, you must seek Board approval for the perceived conflict or you must disqualify yourself from direct involvement with the transaction or relationship between that person and the Company where the conflict exists, except as set forth in Section 1.6 herein.

Business Ventures with Customers

You may not enter into or participate with the Company's customers in business ventures without the approval of a majority of the Governance & Compliance Committee of the Board.

Acting as a Fiduciary

Officers may not assume the responsibility of executor, administrator, trustee, guardian, custodian, attorney-in-fact under a power of attorney, or any other fiduciary capacity (except with respect to matters involving direct family relationships) without the approval of a majority of the Governance & Compliance Committee of the Board.

Company Opportunities

You must not take for yourself any opportunity that belongs to the Company. Whenever the Company has been seeking a particular business opportunity, or the opportunity has been offered to the Company, or the Company's funds, facilities or personnel have been used in developing the opportunity, that opportunity rightfully belongs to the Company and not to its employees.

Investments in Customers or Suppliers

Because investments are an area in which conflicts of interest can very easily develop, you should obtain prior approval from a majority of the Governance & Compliance Committee of the Board before investing directly or indirectly in the business of a customer or supplier of the Company, other than a Permitted Public Company Interest, as defined above. Under no circumstances should you acquire an equity interest in a company that is a customer or supplier at a price which is more favorable than the price offered to the general public. If you own a direct or indirect interest in a business or other entity that becomes a customer or supplier, you should notify a majority of the Governance & Compliance Committee of the Board of the Board as soon as the underlying facts are known to you.

Business Expenses

You must have all business-related expenses approved by the Chairman of the Board of Directors and the Chief Financial Officer of the Company. You must carefully observe expense account regulations and guidelines. Falsification of an expense account is considered to be a misappropriation of corporate funds and may constitute grounds for disciplinary action, and depending on the severity, dismissal.

Bequests from Customers

You may not accept a bequest or legacy from a customer, unless the customer is your immediate family member. However, there may be an occasional instance when a bequest from a non-relative customer is based upon a relationship other than the normal business relationship, which arises between you and a customer. In such a situation, full consideration by a majority of disinterested members of the Governance & Compliance Committee of the Board, will be given to approving receipt of the bequest.

Gifts from Customers

You shall not solicit or accept for yourself, or for a third party, anything of material value in return for, or in connection with, any business, service, or activity of the Company. You shall not accept a gift in circumstances where his or her business judgment was influenced by such gift. You shall not allow an immediate family member or business associate to accept a gift, services, loans or preferential treatment in exchange for a past, current, or future business relationship with the Company.

Disclosure of Potential Conflicts of Interest

You shall immediately disclose to a majority of disinterested members of the Governance & Compliance Committee of the Board all situations that possess a potential for conflict of interest.

Political Donations

You are prohibited from making any contribution to political candidates on behalf of the Company, without the approval of the Board of Directors. You also may not make any contributions of anything of value in connection with any federal, state or local candidate's election without the approval of the Board

of Directors. The Company makes, and discloses fully, contributions in state and local elections for the purpose of supporting ballot propositions that are in the interests of the Company and its several constituencies. Any proposal for political contributions on behalf of the Company or a group of Company employees should be referred for approval to a majority of disinterested members of the Governance & Compliance Committee of the Board.

Confidential Information
You shall not use confidential and nonpublic information in any manner for personal advantage or to provide advantage to others.

Insider Trading
You must at all times comply with all laws and regulations concerning insider trading. In general, you are prohibited by applicable law from trading in the securities of any company while in possession of material, nonpublic information (also known as "inside information") regarding that company. This prohibition applies to the Company's securities as well as to the securities of other companies, including the Company's customers and suppliers, and to transactions for any account of the Company, client account or personal account. It is also illegal to "tip" or knowingly pass on inside information to any other person if you know or reasonably suspect that the person receiving such information from you will misuse such information by trading in securities or passing such information on further, even if you do not receive any monetary benefit.

Investment Prudence
You must not use your position at the Company to obtain leverage with respect to any investment, including investments in publicly traded securities, and should not accept preferential treatment of any kind based on your position with the Company in connection with your investments.

Cross - Selling Services/Tying Restrictions.
"Tying" arrangements, whereby customers are required to purchase or provide one product or service as a condition for another being made available, are unlawful in certain instances. You should consult the Company's outside legal counsel for advice on tying restrictions. The Company prohibits any such unlawful requirements.

Anti - Competitive Practices.
The Company is subject to complex laws (known as "antitrust laws") designed to preserve competition among enterprises and to protect consumers from unfair business arrangements and practices. You should avoid discussion of competitively sensitive topics, such as prices, pricing policies, costs and marketing strategies (except as reasonably required by your job duties).

Anti – Money Laundering Compliance.
Money laundering is the process of converting illegal proceeds so that funds are made to appear legitimate, and it is not limited to cash transactions. The Company is obligated by law to join with governments, international organizations and members of the financial services industry to help prevent money laundering. You must follow all of anti-money laundering policies and procedures.

Nondiscrimination.
The Company endeavors to make all decisions responsibly, constructively and equitably without bias as to race, color, creed, religion, national origin, sex, marital status, age, veteran's status or membership in any other protected class or receipt of public assistance. Failure to do so is against Company policy.

Misleading Statements.
You shall not make knowingly false or misleading remarks about suppliers, customers, or competitors, or their products and services.

Corporate Gifts to Others.
You must use care in connection with gifts to others. If a gift could be viewed as consideration for business, you should not make the gift.

Entertainment.
Legitimate entertainment of reasonable value is an accepted practice to the extent that it meets all standards of ethical business conduct and involves no element of concealment.

Other Remuneration.
In the conduct of the Company's business, no bribes, kickbacks or similar remuneration or consideration of any kind are to be given or offered to any individual or organization for any reason whatsoever.

Equal Employment Opportunity.
The Company is an equal opportunity employer and you are expected to comply with all laws concerning discriminatory employment practices. Advancement at the Company is based on talent and performance. In addition, retaliation against individuals for raising claims of discrimination is prohibited.

Harassment and Intimidation.
The Company prohibits sexual or any other kind of harassment or intimidation by any Employee, Officer, or Director of the Company. Harassment, whether based on a person's race, gender, religion, national origin, disability, sexual orientation, or socioeconomic status, is completely inconsistent with our tradition of providing a respectful, professional workplace. You must never use company systems to transmit or receive electronic images or text of a sexual nature or containing ethnic slurs, racial epithets or any other material of a harassing, offensive or lewd nature.

AMENDMENT NO. 1 TO EXECUTIVE EMPLOYMENT AGREEMENT

THIS AMENDMENT NO. 1 is entered into as of May 7, 2020 ("Amendment No. 1"), and is intended to be, and shall constitute an amendment to the Executive Employment Agreement dated October 16, 2018 ("Agreement"), by and between Global Clean Energy Holdings, Inc. ("GCEH" or "Company"), and Richard Palmer (hereinafter, "Executive," and collectively with the Company, the "Parties").

WHEREAS, the Company and Executive desire to amend the Agreement as set forth herein to increase the base salary payable to Executive;

NOW, THEREFORE, in consideration of the mutual promises and covenants herein contained, the parties hereto agree as follows:

1. Section 2.1 of the Agreement is hereby amended and restated in its entirety to read as follows:

> "2.1 Base Salary. For the duration of the Term, for all services rendered by Executive hereunder and all covenants and conditions undertaken by the Parties pursuant to this Agreement, the Company shall pay, and Executive shall accept, as compensation, an annual base salary ("Base Salary") of $350,000. The Base Salary shall be payable in regular installments in accordance with the normal payroll practices of the Company, in effect from time to time, but in any event no less frequently than on a monthly basis."

2. All other terms and conditions of the Agreement, except as modified by this Amendment No. 1, shall remain in full force and effect.

IN WITNESS WHEREOF, the Company and Executive have executed this Amendment No. 1 effective as of the date specified above.

GLOBAL CLEAN ENERGY HOLDINGS, INC.

By:/s/ DAVID R. WALKER
Name: David R. Walker
Title: Chairman of the Board

EXECUTIVE

/s/ RICHARD PALMER
Richard Palmer

Exhibit 10.9

CONVERTIBLE PROMISSORY NOTE

THESE SECURITIES HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933 OR REGISTERED OR QUALIFIED UNDER APPLICABLE STATE SECURITIES LAWS AND THEREFORE THESE SECURITIES MAY NOT BE TRANSFERRED WITHOUT REGISTRATION THERE UNDER OR PURSUANT TO AN EXEMPTION FROM REGISTRATION.

$600,000 **Torrance, California**

FOR VALUE RECEIVED, Global Clean Energy Holdings, Inc., a Delaware corporation (the "Company"), hereby promises to pay to the order of Richard Palmer or his assigns (the "Holder"), the principal amount of Six Hundred Thousand Dollars ($600,000), together with interest thereon as provided below.

The following terms shall apply to this Note:

ARTICLE I

PAYMENT AND DEFAULT-RELATED PROVISIONS

1.1 **Payment**. On October 8, 2020 (the "Maturity Date"), unless previously paid, and except to the extent previously converted as provided herein, the entire principal amount of this Note together with all accrued and unpaid interest shall be due and payable in full. All payments to be made under this Note shall be made to Holder at 3806 Newton Street, Torrance, CA 90505 or at such other address or, if by wire transfer, such bank account, as may be designated in writing by Holder from time to time.

1.2 **Interest Rate**. Simple interest shall accrue on the outstanding principal balance of this Note at the annual rate of five percent (5%). Interest under this Note shall be calculated on the basis of a 365-day year for the actual days elapsed.

1.3 **Order of Payments**. All payments made by Company hereunder (including, without limitation, any prepayments) shall be applied, first, to the payment of any costs and expenses of collection incurred by Holder under Section 4.5, second, to the payment of accrued but unpaid interest, and last, to the reduction of the outstanding principal balance thereof.

1.4 **No Setoff or Counterclaim**. All payments under this Note shall be made to the Holder without set-off, recoupment, counterclaim or other deduction whatsoever.

1.5 **Waiver of Presentment and Enforcement**. All parties now or subsequently liable with respect to this Note, whether maker, principal, surety, guarantor, endorser or otherwise, hereby waive presentation for payment, demand, notice of nonpayment or dishonor, protest and notice of protest and any and all lack of diligence or delay in collection or enforcement hereof.

ARTICLE II

CONVERSION RIGHTS

2.1 **Conversion into the Company's Common Stock**.

(a) The Holder shall have the right, but not the obligation, upon delivery to the Company of the Holder's written request for conversion, in the form attached hereto (a "Notice of Conversion"), at any time and from time to time until this Note is fully paid, to convert all or any portion of the outstanding principal balance and accrued and unpaid interest on this Note set forth in each such Notice of Conversion into shares of Company's Common Stock (the "Conversion Shares") at the Conversion Price (as defined in Section 2.1(b)). The Company shall issue to the Holder within fifteen (15) business days from the date of delivery of a Conversion Notice (the "Conversion Date") that number of Conversion Shares determined by dividing that portion of the outstanding balance of this Note to be converted by the Conversion Price.

(b) Subject to adjustment as set forth in this Section 2.1, the conversion price shall be equal to $0.0035 (the "Conversion Price"). It is understood that the Conversion Shares to be issued to Holder shall be unregistered.

(c) If the Company at any time shall consolidate with or merge into or sell or convey all or substantially all its assets to any other person or entity, this Note, as to the unpaid principal portion thereof and accrued interest thereon, shall thereafter be deemed to evidence the right to purchase such number and kind of shares or other securities and property as would have been issuable or distributable on account of such consolidation, merger, sale or conveyance, upon or with respect to the securities subject to the conversion or purchase right immediately prior to such consolidation, merger, sale or conveyance. The foregoing provision shall similarly apply to successive transactions of a similar nature by any such successor or purchaser. Without limiting the generality of the foregoing, the provisions of this Section 2.1 shall apply to such securities of such successor or purchaser after any such consolidation, merger, sale or conveyance.

(d) If the Company at any time shall, by reclassification or otherwise, change the Common Stock into the same or a different number of securities of any class or classes, this Note, as to the unpaid principal portion thereof and accrued interest thereon, shall thereafter be deemed to evidence the right to purchase an adjusted number of such securities and kind of securities as would have been issuable as the result of such change with respect to the Common Stock immediately prior to such reclassification or other change.

(e) If the shares of Common Stock are subdivided or combined into a greater or lesser number of shares of Common Stock, or if a dividend is paid on the Common Stock in shares of Common Stock, the Conversion Price shall be proportionately reduced in case of subdivision of shares or stock dividend, or proportionately increased in the case of combination of shares, in each such case by the ratio which the total number of shares of Common Stock outstanding immediately after such event bears to the total number of shares of Common Stock outstanding immediately prior to such event.

(f) The Company shall reserve at all times out of its authorized and unissued Common Stock a sufficient number of Conversion Shares to provide for the issuance of all Common Stock issuable upon the full conversion of this Note. The Company represents that upon issuance, all such Common Stock will be duly and validly issued, fully paid and non-assessable. The Company agrees that its issuance of this Note shall constitute full authority to its officers, agents, and transfer agents who are charged with the duty of executing and issuing stock certificates to execute and issue the necessary certificates for Conversion Shares upon the conversion of this Note.

2.2 **Method of Conversion**. This Note may be converted by the Holder in whole or in part as described in Section 2.1. Upon any partial conversion of this Note, the remaining balance outstanding of this Note will remain in full force and effect.

ARTICLE III

EVENT OF DEFAULT

3.1 **Events to Default**. occurrence of any of the following events of default ("Event of Default") shall make all sums of principal and interest then remaining unpaid hereon and all other amounts payable hereunder immediately due and payable, all without demand, presentment or notice, or grace period, all of which hereby are expressly waived:

(a) Failure to Pay Principal or Interest. The Company fails to pay when due any portion of the principal, interest or other amount under this Note.

(b) Breach of Covenant. The Company breaches any covenant or other term or provision of this Note in any material respect and such breach, if subject to cure, continues for a period of five (5) calendar days after written notice to the Company from the Holder.

(c) Breach of Representations and Warranties. Any representation or warranty of the Company made herein, or in any agreement, statement or certificate given in writing pursuant hereto or in connection therewith shall be false or misleading.

(d) Receiver or Trustee. The Company shall make an assignment for the benefit of creditors, or apply for or consent to the appointment of a receiver or trustee for it or for a substantial part of its property or business; or such a receiver or trustee shall otherwise be appointed.

(e) Bankruptcy. Bankruptcy, insolvency, reorganization or liquidation proceedings or other proceedings or relief under any bankruptcy law or any law for the relief of debtors shall be instituted by or against the Company.

(f) Failure to Deliver Securities or Replacement Note. The Company's failure to timely deliver to the Holder Conversion Shares or other securities, or any replacement Note, pursuant to and in the form required by this Note.

3.2 **Remedies of Holder are Cumulative**. The remedies of Holder as provided herein, and any one or more of them, whether in law or in equity, shall be cumulative and

concurrent, and may be pursued singularly, successively or together at Holder's sole discretion, and may be exercised as often as Holder may decide in its sole and absolute discretion.

ARTICLE IV

MISCELLANEOUS

4.1 **Failure or Indulgence Not Waiver**. No failure or delay on the part of the Holder hereof in the exercise of any power, right or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such power, right or privilege preclude other or further exercise thereof or of any other right, power or privilege. All rights and remedies existing hereunder are cumulative to, and not exclusive of, any rights or remedies otherwise available.

4.2 **Notices**. Any notice herein required or permitted to be given shall be in writing and shall be deemed effectively given: (a) upon personal delivery to the party notified, (b) when sent by confirmed e-mail or facsimile if sent during normal business hours of the recipient, if not, then on the next business day, (c) three days after having been sent by registered or certified mail, return receipt requested, postage prepaid, or (d) one day after deposit with a nationally recognized overnight courier, specifying next day delivery, with written verification of receipt. All communications shall be sent to the Company and Holder at the addresses on the first page of this Note or at such other address as the Company or the Holder may designate by ten days advance written notice to the other parties hereto.

4.3 **Amendment Provision**. The term "Note" and all reference thereto, as used throughout this instrument, shall mean this instrument as originally executed, or if later amended or supplemented, then as so amended or supplemented.

4.4 **Assignability**. This Note shall be binding upon the Company and its successors and assigns, and shall inure to the benefit of the Holder and his successors and assigns, and may be assigned by the Holder.

4.5 **Cost of Collection**. If default is made in the payment of this Note, the Company shall pay the Holder hereof reasonable costs of collection, including reasonable attorneys' fees.

4.6 **Governing Law**. This Note shall be governed by and construed in accordance with the laws of the State of California, without regard to principles of conflicts of laws. Any action brought by either party against the other concerning the transactions contemplated by this Agreement shall be brought only in the state courts of or in the federal courts located in Los Angeles County, California. Both parties and the individual signing this Note on behalf of the Company agree to submit to the jurisdiction of such courts. The prevailing party shall be entitled to recover from the other party its reasonable attorney's fees and costs.

4.7 **Maximum Payments**. Nothing contained herein shall be deemed to establish or require the payment of a rate of interest or other charges in excess of the maximum permitted by applicable law. In the event that the rate of interest required to be paid or other charges hereunder exceed the maximum permitted by such law, any payments in excess of such

maximum shall be credited against amounts owed by the Company to the Holder and thus refunded to the Company.

4.8 **Prepayment**. This Note may not be paid (in whole or in part) prior to the Maturity Date without the consent of the Holder.

4.9 **Time**. Time is of the essence as to all matters in and related to this Note.

4.10 **Construction**. Each party agrees that the rule of construction that ambiguities are to be resolved against the drafting party shall not be applied in the interpretation of this Note to favor any party against the other.

IN WITNESS WHEREOF, the Company has caused this Note to be signed in its name on this 16th day of October 2018.

GLOBAL CLEAN ENERGY HOLDINGS, INC.

By: **/s/** DAVID WALKER
Name: David Walker
Title: Chairman of the Board

NOTICE OF CONVERSION

(To be executed by the Holder in order to convert the Note)

The undersigned hereby irrevocably elects, as of the Date of Conversion stated below, to convert $_____ of the principal and interest due on the $_____ Convertible Promissory Note issued by **GLOBAL CLEAN ENERGY HOLDINGS, INC.** on October __, 2018, into shares of Common Stock of **GLOBAL CLEAN ENERGY HOLDINGS, INC.** (the "**Company**") according to the conditions set forth in such Note, as of the date written below.

Date of Conversion: _____

Initial Conversion Price: $0._____ per Share (subject to adjustment as provided in the Note)

Number of Shares To Be Delivered: _____

Signature: _____

Print Name: _____

Print Title: _____

Print Name of Current Note Holder: _____

Address: _____

_____

Tax ID: _____

EMPLOYMENT AGREEMENT

This EMPLOYMENT AGREEMENT (this "Agreement") is entered into as of the 15th day of January, 2019 (the "Effective Date"), by and between Global Clean Energy Holdings, Inc. (" GCEH" or "Company"), and Noah Verleun (hereinafter, "Employee," and collectively with the Company, the "Parties").

W I T N E S S E T H:

WHEREAS, the Company and Employee wish to enter into an Employment Agreement between the Parties. the ("Employment Agreement"); and

NOW, THEREFORE, in consideration of the mutual covenants hereinafter set forth, the parties hereto agree as follows:

ARTICLE I

EMPLOYMENT; TERM; DUTIES

1.1 Employment. Pursuant to the terms and conditions hereinafter set forth, the Company wishes to promote and employ Employee to the title of Senior Vice President of the Company.

1.2 Term. Employee's Term of employment with Company shall be three (3) years from the date of execution of this agreement. Company shall not terminate Employee's employment for any reason other than those stated in paragraph 3.1 herein, which reasons shall constitute cause. Any failure of Company to comply with the express terms of this agreement shall constitute a material breach and shall entitled Employee to all remedies provided in law or equity. The Term provided for herein shall not be amended except by a writing executed both by Company and by Employee.

1.3 Duties and Responsibilities. Employee shall perform such administrative, managerial and executive duties for the Company (and its subsidiaries if and when directed by the President and/or Chief Executive Officer (the "Officers")) as are prescribed by applicable job specifications for the SVP and the Officers of the Company, such tasks and responsibilities as are customarily vested in and incidental to such positions, and such other duties, consistent with the Company's needs, as may be assigned to him from time to time in writing, by the Officers.

1.4 Exclusive Employment. Employee shall devote all of Employee's business time, attention, skill, and best efforts to the performance of Employee's duties under this Agreement and shall not engage in any other business, board membership or occupation without the prior written consent of the Board (which shall not be unreasonably withheld), including, without limitation, any activity that (x) conflicts with the interests of the Company, (y) interferes with the proper and efficient performance of Employee's duties for the Company, or (z) interferes with Employee's exercise of judgment in the Company's best interests. Notwithstanding the foregoing, nothing in this Agreement shall prevent Employee from engaging in activities for Employee's personal investments, residing on boards of other companies, religious, charitable, community or non-for-profit activities that do not conflict or interfere with his ability to fulfill his duties and responsibilities to the Company

1.5 Indemnification and Insurance. The Company agrees to indemnify the Employee for his role as Senior Vice President. A separate indemnity agreement will be executed to fulfil this requirement. Covenants of Employee

1.5.1 Best Efforts. Employee shall report directly to the President and/or Chief Executive Officer and shall devote his best efforts to the business and affairs of the Company (and its subsidiaries if and when directed by the Officers). Executive shall perform his duties, responsibilities and functions to the Company hereunder to the best of his abilities in a diligent, trustworthy, professional and efficient manner and shall comply, in all material respects, with all rules, regulations of the Company (and special instructions of the Officers, if any) and all other rules, regulations, guides, handbooks, procedures and policies applicable to the Company and its business in connection with his duties hereunder.

1.5.2 Records. Employee shall use his best efforts and skills to truthfully, accurately, and promptly prepare, maintain, and preserve all records and reports that the Company may, from time to time, request or require, fully account for all money, records, equipment, materials, or other property belonging to the Company of which he may have custody, and promptly pay and deliver the same whenever he may be directed to do so, in writing, by the Officers.

1.5.3 Code of Conduct. For such period as when Employee is employed hereunder, Employee shall at all times conduct himself with the highest ethical standards, and shall at all times adhere to Code of Conduct attached hereto as Exhibit A.

1.5.4 Opportunities. The Employee shall make available to the Company and present to the Board all business opportunities of which he becomes aware, which are relevant to the business of the Company (and its subsidiaries), and to no other person or entity or to himself individually.

ARTICLE II

COMPENSATION AND OTHER BENEFITS

2.1 Base Salary. Beginning at the Financial closing of the Bakersfield Refinery Project and continuing for the duration of the Term, for all services rendered by Employee hereunder and all covenants and conditions undertaken by the Parties pursuant to this Agreement, the Company shall pay, and Employee shall accept, as compensation, an increase to an annual base salary ("Base Salary") of $220,000.00. The Base Salary shall be payable in regular installments in accordance with the normal payroll practices of the Company, in effect from time to time, but in any event no less frequently than on a monthly basis.

2.2 Bonus Compensation.

2.3.1 Annual Bonus - Employee will be eligible to earn an annual bonus (the " Bonus") based on Employee's achievement of certain bonus objectives (Objectives") established by the Employee subject to the approval of the Compensation Committee of the Board ("Compensation Committee"). It shall be the joint obligation of the Employee and the Compensation Committee to develop and agree to written achievable Objectives within the first forty five (45) days of the applicable bonus year. Any annual Bonus and any Bonus to be awarded, if any, will be solely based upon achievement of the written Objectives. The sole responsibility of the Compensation Committee with regard to Employee's bonus is to determine whether the written objectives have been met. The target amount of the Bonus for any given employment year, assuming that all of the target milestones are met, shall be an amount equal to thirty percent (30%) of the Base Salary in effect for the applicable year. Notwithstanding anything herein to the contrary, the Parties hereby acknowledge and agree that the Compensation Committee shall, in accordance with NASDAQ rules and regulations for publicly traded companies, comprise

independent directors of the Board only. In the event that the Company has not established a Compensation Committee, the independent directors of the Board shall determine whether the Objectives have been satisfied. The amount of the annual bonus, if any, shall be determined by the Compensation Committee, based upon a pre-established formula based upon Employee's achievement of the Objectives. In order to be eligible to receive the full amount of any annual bonus, Employee must be employed by the Company on the last day of the year in which the annual bonus is earned. The annual bonus, if any, shall be paid in the calendar year following the calendar year for which the annual bonus is due, but in any event no later than March 15 of such year, provided that if the Company's annual financial statements have not been audited and approved by the Board prior to such date, and if an audit later determines that the Objectives were not achieved at the levels on which the bonus was paid to Employee, then within five (5) business days after such determination, Employee shall return any overpaid sums to Company. If the Company is unable to pay any Bonus or other Compensation from the execution date of this Agreement, the outstanding amount will accrue simple interest at the rate of (five) 5% per annum.

2.3.2 Equity Incentive Option. Concurrently with the execution of this Agreement, the Company shall grant Employee an option (the "Equity Incentive Option") to purchase 50 million shares of the Company's common stock at an exercise price equal to $.02 (2.0 cents) per share. The Incentive Option shall vest according to the schedule set forth below, and will expire five (5) years after the date of grant:

a. When the Company's Market Capitalization reaches $ 7 million, the Incentive Option shall vest with respect to thirteen million nine hundred thousand (13,900,000) shares (such shares, the "First Tranche") of the Company's common stock subject thereunder; and

b. When the Company's Market Capitalization reaches $ 15 million, the Incentive Option shall vest with respect to sixteen million three hundred and thousand (16,300,000) shares (such shares, the "Second Tranche") of the Company's common stock subject thereunder; and

c. When the Company's Market Capitalization reaches or exceeds $ 25 million, the Incentive Option shall vest with respect to the remaining Nineteen million eight hundred thousand (19,800,000) shares (such shares, the "Third Tranche") shares of the Company's common stock subject thereunder.

For purposes of the Agreement, the term "Market Capitalization" shall mean the product of the number of shares of common stock issued and outstanding at the time Market Capitalization is calculated, multiplied by the average closing price of the common stock for the thirty (30) consecutive trading days prior to the date of calculation of Market Capitalization as reported on the principal securities trading system on which the Company's common stock is then listed for trading, including the Pink Sheets, the NASDAQ Stock Market, the OTC Bulletin Board, or any other applicable stock exchange.

2.3 Business Expenses. The Company shall reimburse Employee for all reasonable, out-of-pocket business expenses incurred in the performance of his duties hereunder consistent with the Company's policies and procedures, in effect from time to time, with respect to travel, entertainment and other business expenses customarily reimbursed to senior executives of the Company in connection with the performance of their duties on behalf of the Company. Such reimbursement shall be made by

Company to Employee no later than fifteen (15) days after submission of written expense reports by Employee to Company.

2.4 Other Benefits. During Employee's employment with the Company, Employee shall be entitled to the following benefits:

2.4.1 Employee shall be entitled to participate in the Company's employee stock option plan, life, health, accident, disability insurance plans, pension plans and retirement plans, in effect from time to time, to the extent and on such terms and conditions as the Company customarily makes such plans available to its senior executives; and

2.4.2 Employee shall be entitled to receive coverage for services rendered to the Company (and its subsidiaries if and when directed by the Board) while Employee is a director or officer of the Company under any director and officer liability insurance policy(s) maintained by the Company from time to time; and

2.4.3 Company shall pay for, or on behalf of Employee, or reimburse the Employee, the full cost of Employee's and Employee's family health insurance plan. Nothing contained herein shall be construed to limit the Company's ability to amend, suspend, or terminate any employee benefit plan or policy at any time to the extent permissible by law without providing Employee notice, and the right to do so is expressly reserved.

2.5 Vacation. Employee shall be entitled to four (4) weeks of vacation time each calendar year with full pay. Any unused vacation leave as of December 31st of the calendar year will be either be paid in cash compensation at the same rate as the Employees base salary or the unused vacation time can be rolled forward to the following year(s), at the Employees option. If taken as cash compensation, such payment shall be made to Employee by January 15th of the following calendar year.

2.6 Withholding. The Company may deduct from any compensation payable to Employee (including payments made pursuant to this Article II or in connection with the termination of employment pursuant to Article III of this Agreement) amounts sufficient to cover Employee's share of applicable federal, state and/or local income tax withholding, social security payments, state disability and other insurance premiums and payments.

ARTICLE III

TERMINATION OF EMPLOYMENT

3.1 Termination of Employment

Employee's employment pursuant to this Agreement shall terminate on the earliest to occur of the following:

3.1.1 upon the death of Employee; or

3.1.2 upon the delivery to Employee of written notice of termination by the Company if Employee shall suffer a physical or mental disability which renders Employee, in the reasonable judgment of the Board, unable to perform his duties and obligations under this Agreement for either 90 consecutive days or 180 days in any 12-month period; or

3.1.3 upon delivery to Employee of written notice of termination by the Company for Cause; or

3.1.4 upon delivery of written notice from Employee to the Company for Good Reason.

3.2 Certain Definitions. For purposes of this Agreement, the following terms shall have the following meanings:

3.2.1 In connection with Paragraph 3.1 herein, "Cause" shall mean any of the following:

(a) Employee materially breaches any obligation, duty, or covenant under this Agreement, which breach is not cured or corrected within thirty (30) days of receipt by Employee of written notice thereof from the Company (except for breaches of Article IV of this Agreement, which cannot be cured and for which the Company need not give any opportunity to cure); or

(b) Employee commits any act of misappropriation of funds or embezzlement; or

(c) Employee commits any act of fraud; or

(d) Employee is convicted of, or pleads guilty or *nolo contendere* to any charge of theft, fraud, a crime involving moral turpitude; or

(e) Employee breaches the Company's Code of Conduct attached hereto as Exhibit A or code of ethics as in effect from time to time.

3.2.2 In connection with Paragraph 3.1 herein, "Good Reason" shall mean: (a) without Employee's consent, the Company changes Employee's position or duties to such an extent that his duties are no longer consistent with the positions of President and CEO of the Company, or (b) Company materially breaches any term of this Agreement; provided that, in each case, "Good Reason" shall not exist unless Employee first provides the Company with written notice of the acts or omissions constituting the grounds for "Good Reason" within ninety (90) days of the initial existence of the grounds for "Good Reason" and such acts or omissions are not cured within thirty (30) days following the Company's receipt of such notice.

3.2.3 "Termination Date" shall mean the date on which Employee's employment with the Company hereunder is terminated.

3.3 Effect of Termination

3.3.1 If Employee's employment is terminated for Good Reason , in addition to Company's payment of all outstanding sums due and owing to Employee at the time of separation, the Company shall pay Employee an amount equal to four (4) months of Employee's then-current Base Salary in the form of salary continuation (the "Severance Payments"), plus payment of Employee's and Employee's family medical insurance premium. At such time when Employee's employment with the Company is terminated, and as a condition to Employee's right to receive any benefits pursuant to this Section 3.3.1, shall be conditioned upon Employee's execution, delivery to the Company, and non-revocation of the Release of Claims (and the expiration of any revocation period contained in such Release of Claims) within sixty (60) days following the date of Employee's separation from service

hereunder. The Release of Claims shall specifically exclude all unpaid wages (and bonus payments) due and owing to Employee as of the date of separation. If Employee fails to execute the Release of Claims in such a timely manner so as to permit any revocation period to expire prior to the end of such sixty (60) day period, or timely revokes Employee's acceptance of such release following its execution, Employee shall not be entitled to any of the Severance Payments. Further, to the extent that any of the Severance Payments constitutes "nonqualified deferred compensation" for purposes of Section 409A of the Code, any payment of any amount or provision of any benefit otherwise scheduled to occur prior to the sixtieth (60^{th}) day following the date of Employee's separation from service hereunder, but for the condition on executing the Release of Claims as set forth herein, shall not be made until the first regularly scheduled payroll date following such sixtieth (60^{th}) day, after which any remaining Severance Payments shall thereafter be provided to Employee according to the applicable schedule set forth herein. In the event Employee executes a Release of Claims pursuant to this paragraph and, thereafter, Company fails to pay any sum due and owing to Employee under this paragraph 3.3.1, then the Employee shall have the right, but not the obligation to convert outstanding sums due to Employee to GCEH Corporate stock at the then market price of the stock.

3.3.2 Notwithstanding the reason for termination of Employee's employment, Employee shall be entitled to:

(a) all benefits payable under applicable benefit plans in which Employee is entitled to participate pursuant to Section 2.5 hereof through the Termination Date, subject to and in accordance with the terms of such plans; and

(b) any accrued but unused vacation earned by Employee through the Termination Date pursuant to Section 2.6 hereof, paid out in accordance with legal requirements; and

(c) reimbursement for any business expenses incurred by Employee prior to Termination Date in accordance with Section 2.4 of this Agreement.

3.3.3 If Employee's employment is terminated for death or disability Employee or Employee's estate shall be entitled to all severance benefits (including, without limitation, the Severance Payments) under this Agreement as well as retaining any options vested as of the date of termination.

ARTICLE IV

INVENTIONS; CONFIDENTIAL/TRADE SECRET INFORMATION AND RESTRICTIVE COVENANTS

4.1 Inventions. All processes, technologies and inventions relating to the business of the Company (and its subsidiaries) (collectively, "Inventions"), including new contributions, improvements, ideas, discoveries, trademarks and trade names, conceived, developed, invented, made or found by the Employee, alone or with others, during his employment by the Company, whether or not patentable and whether or not conceived, developed, invented, made or found on the Company's time or with the use of the Company's facilities or materials, shall be the property of the Company and shall be promptly and fully disclosed by Employee to the Company. The Employee shall perform all necessary acts (including, without limitation, executing and delivering any confirmatory assignments, documents or instruments requested by the Company) to assign or otherwise to vest title to any such Inventions in the Company and to enable the Company, at its sole expense, to secure and maintain domestic and/or foreign patents or any other rights for such Inventions.

4.2 Confidential/Trade Secret Information/Non-Disclosure.

4.2.1 Confidential/Trade Secret Information Defined. During the course of Employee's employment, Employee will have access to various Confidential/Trade Secret Information of the Company and information developed for the Company. For purposes of this Agreement, the term "Confidential/Trade Secret Information" is information that is not generally known to the public and, as a result, is of economic benefit to the Company in the conduct of its business, and the business of the Company's subsidiaries. Employee and the Company agree that the term "Confidential/Trade Secret Information" includes but is not limited to all information developed or obtained by the Company, including its affiliates, and predecessors, and comprising the following items, whether or not such items have been reduced to tangible form (e.g., physical writing, computer hard drive, disk, tape, etc.): all methods, techniques, processes, ideas, research and development, product designs, engineering designs, plans, models, production plans, business plans, add-on features, trade names, service marks, slogans, forms, pricing structures, menus, business forms, marketing programs and plans, layouts and designs, financial structures, operational methods and tactics, cost information, the identity of and/or contractual arrangements with suppliers and/or vendors, accounting procedures, and any document, record or other information of the Company relating to the above. Confidential/Trade Secret Information includes not only information directly belonging to the Company which existed before the date of this Agreement, but also information developed by Employee for the Company, including its subsidiaries, affiliates and predecessors, during the term of Employee's employment with the Company. Confidential/Trade Secret Information does not include any information which (a) was in the lawful and unrestricted possession of Employee prior to its disclosure to Employee by the Company, its subsidiaries, affiliates or predecessors, (b) is or becomes generally available to the public by lawful acts other than those of Employee after receiving it, or (c) has been received lawfully and in good faith by Employee from a third party who is not and has never been an executive of the Company, its subsidiaries, affiliates or predecessors, and who did not derive it from the Company, its subsidiaries, affiliates or predecessors.

4.2.2 Restriction on Use of Confidential/Trade Secret Information. Employee agrees that his/her use of Confidential/Trade Secret Information is subject to the following restrictions for an indefinite period of time so long as the Confidential/Trade Secret Information has not become generally known to the public:

(a) Non-Disclosure. Employee agrees that he will not publish or disclose, or allow to be published or disclosed, Confidential/Trade Secret Information to any person without the prior written authorization of the Company unless pursuant to or in connection with Employee's job duties to the Company under this Agreement.

(b) Non-Removal/Surrender. Employee agrees that he will not remove any Confidential/Trade Secret Information from the offices of the Company or the premises of any facility in which the Company is performing services, except pursuant to his duties under this Agreement. Employee further agrees that he shall surrender to the Company all documents and materials in his possession or control which contain Confidential/Trade Secret Information and which are the property of the Company upon the termination of this Agreement, and that he shall not thereafter retain any copies of any such materials.

4.2.3 Prohibition Against Unfair Competition/ Non-Solicitation of Customers. Employee agrees that at no time after his employment with the Company will he engage in competition with the Company while making any use of the Confidential/Trade Secret Information, or otherwise exploit or make use of the Confidential/Trade Secret Information. Employee agrees that during the twelve month period following the Termination Date, he will not directly or indirectly accept or solicit, in any capacity, the business of any customer of the Company with whom Employee worked or otherwise

had access to the Confidential/Trade Secret Information pertaining to the Company's business with such customer during the last year of Employee's employment with the Company, or solicit, directly or indirectly, or encourage any of the Company's customers or suppliers to terminate their business relationship with the Company, or otherwise interfere with such business relationships.

4.3 Non-Solicitation of Employees. Employee agrees that during the twelve month period following the Termination Date, he shall not, directly or indirectly, solicit, directly or indirectly, or otherwise encourage any employees of the Company to leave the employ of the Company, or solicit, directly or indirectly, any of the Company's employees for employment.

4.4 Non-Solicitation During Employment. During his employment with the Company, Employee shall not: (a) interfere with the Company's business relationship with its customers or suppliers, (b) solicit, directly or indirectly, or otherwise encourage any of the Company's customers or suppliers to terminate their business relationship with the Company, or (c) solicit, directly or indirectly, or otherwise encourage any employees of the Company to leave the employ of the Company, or solicit any of the Company's employees for employment.

4.5 Conflict of Interest. During Employee's employment with the Company, Employee must not engage in any work, paid or unpaid, that creates an actual conflict of interest with the Company.

4.6 Breach of Provisions. If Employee breaches any of the provisions of this Article IV, or in the event that any such breach is threatened by Employee, in addition to and without limiting or waiving any other remedies available to the Company at law or in equity, the Company shall be entitled to immediate injunctive relief in any court, domestic or foreign, having the capacity to grant such relief, to restrain any such breach or threatened breach and to enforce the provisions of this Article IV.

4.7 Reasonable Restrictions. The Parties acknowledge that the foregoing restrictions, as well as the duration and the territorial scope thereof as set forth in this Article IV, are under all of the circumstances reasonable and necessary for the protection of the Company and its business.

4.8 Special Definition. For purposes of this Article IV, the term "Company" shall be deemed to include any subsidiary of the Company.

ARTICLE V

MISCELLANEOUS

5.1 Section 409A. Notwithstanding anything herein to the contrary, this Agreement is intended to be interpreted and applied so that the payment of the benefits set forth herein either shall either be exempt from the requirements of Section 409A of the Internal Revenue Code of 1986, as amended (the "Code"), or shall comply with the requirements of such provision. Notwithstanding anything in this Agreement or elsewhere to the contrary, distributions upon termination of Employee's employment may only be made upon a "separation from service" as determined under Section 409A of the Code. Each payment under this Agreement or otherwise shall be treated as a separate payment for purposes of Section 409A of the Code. In no event may Employee, directly or indirectly, designate the calendar year of any payment to be made under this Agreement or otherwise which constitutes a "deferral of compensation" within the meaning of Section 409A of the Code. All reimbursements and in-kind benefits provided under this Agreement shall be made or provided in accordance with the requirements of Section 409A of the Code. To the extent that any reimbursements pursuant to this Agreement or otherwise are taxable to Employee, any reimbursement payment due to Employee shall be paid to Employee on or before the last day of Employee's taxable year following the taxable year in which the

related expense was incurred; provided, that, Employee has provided the Company written documentation of such expenses in a timely fashion and such expenses otherwise satisfy the Company' expense reimbursement policies. Reimbursements pursuant to this Agreement or otherwise are not subject to liquidation or exchange for another benefit and the amount of such reimbursements that Employee receives in one taxable year shall not affect the amount of such reimbursements that Employee receives in any other taxable year. Notwithstanding any provision in this Agreement to the contrary, if on the date of his termination from employment with the Company Employee is deemed to be a "specified employee" within the meaning of Code Section 409A and the Final Treasury Regulations using the identification methodology selected by the Company from time to time, or if none, the default methodology under Code Section 409A, any payments or benefits due upon a termination of Employee's employment under any arrangement that constitutes a "deferral of compensation" within the meaning of Code Section 409A shall be delayed and paid or provided (or commence, in the case of installments) on the first payroll date on or following the earlier of (i) the date which is six (6) months and one (1) day after Employee's termination of employment for any reason other than death, and (ii) the date of Employee's death, and any remaining payments and benefits shall be paid or provided in accordance with the normal payment dates specified for such payment or benefit. Notwithstanding any of the foregoing to the contrary, the Company and its respective officers, directors, employees, or agents make no guarantee that the terms of this Agreement as written comply with, or are exempt from, the provisions of Code Section 409A, and none of the foregoing shall have any liability for the failure of the terms of this Agreement as written to comply with, or be exempt from, the provisions of Code Section 409A.

5.2 Binding Effect; Assignment. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective legal representatives, heirs, distributees, successors and assigns. Employee may not assign any of his rights and obligations under this Agreement. The Company may assign its rights and obligations under this Agreement to any successor entity.

5.3 Notices. Any notice provided for herein shall be in writing and shall be deemed to have been given or made (a) when personally delivered or (b) when sent by telecopier and confirmed within 48 hours by letter mailed or delivered to the party to be notified at its or his/hers address set forth herein; or three (3) days after being sent by registered or certified mail, return receipt requested, (or by equivalent currier with delivery documentation such as FEDEX or UPS) to the address of the other party set forth or to such other address as may be specified by notice given in accordance with this section 5.2:

If to the Company:	Global Clean Energy Holdings, Inc. 2790 Skypark Drive, Suite 105 Torrance, CA 90505 Attention: Richard Palmer
With a copy (which shall not constitute notice) to:	Troy & Gould 1801 Century Park East, 26th Floor Los Angeles, CA 90067 Attention: Istvan Benko, Esq. Telecopy No.: (310) 789-1490
If to Employee:	Noah Verleun 838 5th Street Santa Monica, CA 90403

With a copy (which shall not constitute notice) to: [to be provide by Employee]

5.4 . If any provision of this Agreement, or portion thereof, shall be held invalid or unenforceable by a court of competent jurisdiction, such invalidity or unenforceability shall attach only to such provision or portion thereof, and shall not in any manner affect or render invalid or unenforceable any other provision of this Agreement or portion thereof, and this Agreement shall be carried out as if any such invalid or unenforceable provision or portion thereof were not contained herein. In addition, any such invalid or unenforceable provision or portion thereof shall be deemed, without further action on the part of the parties hereto, modified, amended or limited to the extent necessary to render the same valid and enforceable.

5.5 Waiver. No waiver by a party hereto of a breach or default hereunder by the other party shall be considered valid, unless expressed in a writing signed by such first party, and no such waiver shall be deemed a waiver of any subsequent breach or default of the same or any other nature.

5.6 Entire Agreement. This Agreement sets forth the entire agreement between the Parties with respect to the subject matter hereof, and supersedes any and all prior agreements between the Company and Employee, whether written or oral, relating to any or all matters covered by and contained or otherwise dealt with in this Agreement. This Agreement does not constitute a commitment of the Company with regard to Employee's employment, express or implied, other than to the extent expressly provided for herein.

5.7 Amendment. No modification, change or amendment of this Agreement or any of its provisions shall be valid, unless in writing and signed by the Parties.

5.8 Authority. The Parties each represent and warrant that it/he has the power, authority and right to enter into this Agreement and to carry out and perform the terms, covenants and conditions hereof.

5.9 Attorneys' Fees. If either party hereto commences an arbitration or other action against the other party to enforce any of the terms hereof or because of the breach by such other party of any of the terms hereof, the prevailing party shall be entitled, in addition to any other relief granted, to all actual out-of-pocket costs and expenses incurred by such prevailing party in connection with such action, including, without limitation, all reasonable attorneys' fees, and a right to such costs and expenses shall be deemed to have accrued upon the commencement of such action and shall be enforceable whether or not such action is prosecuted to judgment.

5.10 Captions. The captions, headings and titles of the sections of this Agreement are inserted merely for convenience and ease of reference and shall not affect or modify the meaning of any of the terms, covenants or conditions of this Agreement.

5.11 Governing Law. This Agreement, and all of the rights and obligations of the Parties in connection with the employment relationship established hereby, shall be governed by and construed in accordance with the substantive laws of the State of California without giving effect to principles relating to conflicts of law.

5.12 Arbitration.

5.12.1 Scope. To the fullest extent permitted by law, Employee and the Company agree to the binding arbitration of any and all controversies, claims or disputes between them arising out of or in

any way related to this Agreement, the employment relationship between the Company and Employee and any disputes upon termination of employment, including but not limited to breach of contract, tort, , constitutional claims; and any claims for violation of any local, state or federal law, statute, regulation or ordinance or common law, excluding any claim for wages under the California Labor Code ,or any claim relating to the Company's failure to pay wages. For the purpose of this agreement to arbitrate, references to "Company" include all subsidiaries or related entities and their respective executives, supervisors, officers, directors, agents, pension or benefit plans, pension or benefit plan sponsors, fiduciaries, administrators, affiliates and all successors and assigns of any of them, and this agreement to arbitrate shall only apply to them to the extent Employee's claims arise out of or relate to their actions on behalf of the Company.

5.12.2 Arbitration Procedure. To commence any such arbitration proceeding, the party commencing the arbitration must provide the other party with written notice of any and all claims forming the basis of such right in sufficient detail to inform the other party of the substance of such claims. In no event shall this notice for arbitration be made after the date when institution of legal or equitable proceedings based on such claims would be barred by the applicable statute of limitations. The arbitration will be conducted in Los Angeles, California, by a single neutral arbitrator and in accordance with the then-current rules for resolution of employment disputes for Judicial Arbitration and Mediation Services ("JAMS"). The Arbitrator is to be selected by the mutual agreement of the Parties. If the Parties cannot agree, the Superior Court will select the arbitrator. The parties are entitled to representation by an attorney or other representative of their choosing. The arbitrator shall have the power to enter any award that could be entered by a judge of the trial court of the State of California, and only such power, and shall follow the law. The award shall be binding, and the Parties agree to abide by and perform any award rendered by the arbitrator. The arbitrator shall issue the award in writing, and therein state the essential findings and conclusions on which the award is based. Judgment on the award may be entered in any court having jurisdiction thereof. In the event either the Company or Employee initiates the arbitration proceeding, Company shall bear the total cost of the arbitration filing, hearing fees, and the entire cost of the arbitrator.

5.13 Survival. The termination of Employee's employment with the Company pursuant to the provisions of this Agreement shall not affect Employee's obligations to the Company hereunder which by the nature thereof are intended to survive any such termination, including, without limitation, Employee's obligations under Article IV of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

GLOBAL CLEAN ENERGY HOLDINGS, INC.,

By: /s/ RICHARD PALMER
Name: Richard Palmer
Title: President and Chief Executive Officer

By: /s/ NOAH VERLEUN
Noah Verleun

EXHIBIT A

CODE OF CONDUCT

Honesty and Integrity
Our business is based on mutual trust, honesty and integrity in all of our affairs, both internally and externally. This philosophy must be respected at all times. Each of us must be truthful in our business dealings with each other, and with our auditors, legal counsel, regulators and loan review and compliance staffs. Illegal, dishonest and fraudulent acts are grounds for termination. Making false materials statements or otherwise material misleading internal or external auditors, attorneys, regulators or loan review and compliance personnel is prohibited. You must never intentionally withhold or fail to communicate material information that is requested in connection with an appropriately authorized investigation or review. Any concealment of material information is a violation of your employment agreement, which may result in termination of your employment with the Company.

Protecting Corporate Assets
You are responsible for safeguarding the assets of the Company. Company assets must not be used for personal benefit. The Company's assets include, but are not limited to, all of its properties, including intellectual properties, business information, cash, and securities. Misappropriation of Company assets is a violation of your employment agreement, which may result in termination of your employment with the Company.

Accuracy of Company Records and Reports
The Company is committed to maintaining records, data and information that are materially accurate and complete so as to permit the Company to make timely and accurate disclosures to its regulators and to its shareholders. You are responsible for the integrity of the information, reports and records under your control. Records must be maintained in sufficient detail so as to reflect accurately the Company's transactions and activities. Company's financial statements must be prepared in accordance with generally accepted accounting principles ("GAAP") and fairly represent, in all material respects, the financial condition and results of the Company. To accomplish full, fair, and accurate reporting, you must use your best efforts to ensure that financial reports issued by the Company are timely, accurate, understandable, and complete.

Compliance With Laws
The Company's activities shall be in full compliance with all applicable laws and regulations. When such laws or regulations are ambiguous or difficult to interpret, you should seek advice from the Company's outside legal counsel.

Conflicts Of Interest
You must conduct your private, business, and personal activities in a manner that avoids conflict with your ability to act solely in the interests of the Company. A conflict of interest may arise if you have interests of any nature that compromise your ability to act objectively and in the best interests of the Company. Conflicts may arise directly or through your family members or through business or other entities in which you or your family members have an interest. In situations where a conflict is present, you must seek Board approval for the perceived conflict or you must disqualify yourself from direct involvement with the transaction or relationship between that person and the Company where the conflict exists, except as set forth in Section 1.6 herein.

Business Ventures with Customers
You may not enter into or participate with the Company's customers in business ventures without the approval of a majority of the Governance & Compliance Committee of the Board.

Acting as a Fiduciary
Officers may not assume the responsibility of executor, administrator, trustee, guardian, custodian, attorney-in-fact under a power of attorney, or any other fiduciary capacity (except with respect to matters involving direct family relationships) without the approval of a majority of the Governance & Compliance Committee of the Board.

Company Opportunities
You must not take for yourself any opportunity that belongs to the Company. Whenever the Company has been seeking a particular business opportunity, or the opportunity has been offered to the Company, or the Company's funds, facilities or personnel have been used in developing the opportunity, that opportunity rightfully belongs to the Company and not to its employees.

Investments in Customers or Suppliers
Because investments are an area in which conflicts of interest can very easily develop, you should obtain prior approval from a majority of the Governance & Compliance Committee of the Board before investing directly or indirectly in the business of a customer or supplier of the Company, other than a Permitted Public Company Interest, as defined above. Under no circumstances should you acquire an equity interest in a company that is a customer or supplier at a price which is more favorable than the price offered to the general public. If you own a direct or indirect interest in a business or other entity that becomes a customer or supplier, you should notify a majority of the Governance & Compliance Committee of the Board of the Board as soon as the underlying facts are known to you.

Business Expenses
You must have all business-related expenses approved by the Chairman of the Board of Directors and the Chief Financial Officer of the Company. You must carefully observe expense account regulations and guidelines. Falsification of an expense account is considered to be a misappropriation of corporate funds and may constitute grounds for disciplinary action, and depending on the severity, dismissal.

Bequests from Customers
You may not accept a bequest or legacy from a customer, unless the customer is your immediate family member. However, there may be an occasional instance when a bequest from a non-relative customer is based upon a relationship other than the normal business relationship, which arises between you and a customer. In such a situation, full consideration by a majority of disinterested members of the Governance & Compliance Committee of the Board, will be given to approving receipt of the bequest.

Gifts from Customers
You shall not solicit or accept for yourself, or for a third party, anything of material value in return for, or in connection with, any business, service, or activity of the Company. You shall not accept a gift in circumstances where his or her business judgment was influenced by such gift. You shall not allow an immediate family member or business associate to accept a gift, services, loans or preferential treatment in exchange for a past, current, or future business relationship with the Company.

Disclosure of Potential Conflicts of Interest
You shall immediately disclose to a majority of disinterested members of the Governance & Compliance Committee of the Board all situations that possess a potential for conflict of interest.

Political Donations
You are prohibited from making any contribution to political candidates on behalf of the Company, without the approval of the Board of Directors. You also may not make any contributions of anything of value in connection with any federal, state or local candidate's election without the approval of the Board

of Directors. The Company makes, and discloses fully, contributions in state and local elections for the purpose of supporting ballot propositions that are in the interests of the Company and its several constituencies. Any proposal for political contributions on behalf of the Company or a group of Company employees should be referred for approval to a majority of disinterested members of the Governance & Compliance Committee of the Board.

Confidential Information
You shall not use confidential and nonpublic information in any manner for personal advantage or to provide advantage to others.

Insider Trading
You must at all times comply with all laws and regulations concerning insider trading. In general, you are prohibited by applicable law from trading in the securities of any company while in possession of material, nonpublic information (also known as "inside information") regarding that company. This prohibition applies to the Company's securities as well as to the securities of other companies, including the Company's customers and suppliers, and to transactions for any account of the Company, client account or personal account. It is also illegal to "tip" or knowingly pass on inside information to any other person if you know or reasonably suspect that the person receiving such information from you will misuse such information by trading in securities or passing such information on further, even if you do not receive any monetary benefit.

Investment Prudence
You must not use your position at the Company to obtain leverage with respect to any investment, including investments in publicly traded securities, and should not accept preferential treatment of any kind based on your position with the Company in connection with your investments.

Cross - Selling Services/Tying Restrictions.
"Tying" arrangements, whereby customers are required to purchase or provide one product or service as a condition for another being made available, are unlawful in certain instances. You should consult the Company's outside legal counsel for advice on tying restrictions. The Company prohibits any such unlawful requirements.

Anti - Competitive Practices.
The Company is subject to complex laws (known as "antitrust laws") designed to preserve competition among enterprises and to protect consumers from unfair business arrangements and practices. You should avoid discussion of competitively sensitive topics, such as prices, pricing policies, costs and marketing strategies (except as reasonably required by your job duties).

Anti – Money Laundering Compliance.
Money laundering is the process of converting illegal proceeds so that funds are made to appear legitimate, and it is not limited to cash transactions. The Company is obligated by law to join with governments, international organizations and members of the financial services industry to help prevent money laundering. You must follow all of anti-money laundering policies and procedures.

Nondiscrimination.
The Company endeavors to make all decisions responsibly, constructively and equitably without bias as to race, color, creed, religion, national origin, sex, marital status, age, veteran's status or membership in any other protected class or receipt of public assistance. Failure to do so is against Company policy.

Misleading Statements.
You shall not make knowingly false or misleading remarks about suppliers, customers, or competitors, or their products and services.

Corporate Gifts to Others.
You must use care in connection with gifts to others. If a gift could be viewed as consideration for business, you should not make the gift.

Entertainment.
Legitimate entertainment of reasonable value is an accepted practice to the extent that it meets all standards of ethical business conduct and involves no element of concealment.

Other Remuneration.
In the conduct of the Company's business, no bribes, kickbacks or similar remuneration or consideration of any kind are to be given or offered to any individual or organization for any reason whatsoever.

Equal Employment Opportunity.
The Company is an equal opportunity employer and you are expected to comply with all laws concerning discriminatory employment practices. Advancement at the Company is based on talent and performance. In addition, retaliation against individuals for raising claims of discrimination is prohibited.

Harassment and Intimidation.
The Company prohibits sexual or any other kind of harassment or intimidation by any Employee, Officer, or Director of the Company. Harassment, whether based on a person's race, gender, religion, national origin, disability, sexual orientation, or socioeconomic status, is completely inconsistent with our tradition of providing a respectful, professional workplace. You must never use company systems to transmit or receive electronic images or text of a sexual nature or containing ethnic slurs, racial epithets or any other material of a harassing, offensive or lewd nature.

Exhibit 10.11

AMENDMENT NO. 1 TO EMPLOYMENT AGREEMENT

THIS AMENDMENT NO. 1 is entered into as of May 7, 2020 ("Amendment No. 1"), and is intended to be, and shall constitute an amendment to the Employment Agreement dated January 15, 2019 ("Agreement"), by and between Global Clean Energy Holdings, Inc. ("GCEH" or "Company"), and Noah Verleun (hereinafter, " Employee," and collectively with the Company, the "Parties").

WHEREAS, Employee has been promoted to "Executive Vice President"; and;

WHEREAS, in connection with his promotion, the Company and Employee desire to amend the Agreement as set forth herein to increase the base salary payable to Employee;

NOW, THEREFORE, in consideration of the mutual promises and covenants herein contained, the parties hereto agree as follows:

1. Section 2.1 of the Agreement is hereby amended and restated in its entirety to read as follows:

> "2.1 Base Salary. For the duration of the Term, for all services rendered by Employee hereunder and all covenants and conditions undertaken by the Parties pursuant to this Agreement, the Company shall pay, and Employee shall accept, as compensation, an annual base salary ("Base Salary") of $310,000. The Base Salary shall be payable in regular installments in accordance with the normal payroll practices of the Company, in effect from time to time, but in any event no less frequently than on a monthly basis."

2. All other terms and conditions of the Agreement, except as modified by this Amendment No. 1, shall remain in full force and effect.

IN WITNESS WHEREOF, the Company and Employee have executed this Amendment No. 1 effective as of the date specified above.

GLOBAL CLEAN ENERGY HOLDINGS, INC.

By:/s/ RICHARD PALMER
Name: Richard Palmer
Title: President and Chief Executive Officer

EXECUTIVE

/s/ NOAH VERLEUN
Noah Verleun

Ralph Goehring 10900
Rockridge Way
Bakersfield, CA 93311

Re: Employment Offer

Dear Ralph,

We are pleased to offer you the full-time position of Vice President of Finance, and Interim Chief Financial Officer for Global Clean Energy Holdings, Inc. (GCEH). Upon successful completion of a background check you will officially move to the CFO position. This position reports to me as the President of GCEH and you will support GCEH, Bakersfield Renewable Fuels (BKRF) and its affiliates, as well as other Global Clean Energy Holdings entities ("Global"). We believe your skills and experience are an excellent match for our company and we look forward to you accepting this offer and joining the team as we move the Company towards a successful and sustainable future.

The annual base salary for this position is $225,000 which will be paid on a semi-monthly basis starting within 15 days of your start date. In addition to this starting salary, you will be issued an initial block of 1.0 million options through GCEH's Employee Stock Option Plan ("ESOP") which is authorized to grants options to purchase shares in Global (OTCBB:GCEH), with a 36-month vesting and a five-year term. The strike price on these options will be based upon the market closing price the last business day before you begin work. In addition, you can qualify for a discretionary cash bonus "The Target Cash Discretionary Bonus" which is related to Company Performance. Your target bonus is currently 25% of your Annual Base Salary.

As a GCE employee, you are also eligible for our benefits program . Attached is a summary of the benefits which includes a 401K Savings Plans with employer contributions. Global has a random drug screening program which covers all employees, which may require your compliance.

Nothing in this offer letter can be construed to alter the at-will status of your employment.

We are excited to have you join our team! If you have any questions , please feel free to reach out at any time.

Sincerely,
/s/ RICHARD PALMER
Richard Palmer
President & Chief Executive Officer
Global Clean Energy Holdings, Inc.

Accepted:

Signature: /s/ RALPH GOEHRING
Printed Name: Ralph Goehring
Date: 05/18/2020

Exhibit 10.14

STOCK OPTION GRANT NOTICE

GLOBAL CLEAN ENERGY HOLDINGS, INC.
2020 Equity Incentive Plan

Global Clean Energy Holdings, Inc. (the "**Company**"), pursuant to its 2020 Equity Incentive Plan (the "**Plan**"), hereby grants to the Optionholder an option (the "**Option**") to purchase the number of shares of the Company's Common Stock set forth below. All capitalized terms not defined in this Stock Option Grant Notice shall have the meanings set forth in the Plan. The Option is subject to all of the terms and conditions set forth in this Stock Option Grant Notice and in the attached Stock Option Agreement (the "**Option Agreement**"), the Plan, and the Notice of Exercise of Option, all of which are attached hereto and incorporated herein in their entirety.

Optionholder: _____

Date of Grant: _____

Vesting Commencement Date: _____

Number of Shares Subject to Option: _____

Exercise Price (Per Share): _____

Total Exercise Price: _____

Expiration Date: _____

Type of Grant: ☐ Incentive Stock Option ☐ Nonstatutory Stock Option

Exercise Schedule: ☐ Same as Vesting Schedule

Vesting Schedule: See Vesting Schedule Legend

☐ Vesting Schedule A ☐ Vesting Schedule B ☐ Other

Payment: By one or a combination of the following items (described in the Option Agreement):

☐ By cash or check

☐ By bank draft or money order payable to the Company

☐ Pursuant to a Regulation T Program

☐ By delivery of already-owned shares of Common Stock

☐ If and only to the extent the Option is a Nonstatutory Stock Option, and subject to the Company's consent at the time of exercise, by a "net exercise" arrangement

Additional Terms/Acknowledgements: The Optionholder acknowledges receipt of, and understands and agrees to, this Stock Option Grant Notice, the Option Agreement and the Plan. The Optionholder further acknowledges that, as of the Date of Grant, this Stock Option Grant Notice, the Option Agreement, the Plan and the Optionholder's written employment agreement (if any) with the Company set forth the entire understanding between the Optionholder and the Company regarding the Option and supersede all prior oral and written agreements regarding the Option.

Other Terms, If Applicable:

GLOBAL CLEAN ENERGY HOLDINGS, INC.	**OPTIONHOLDER**
_____	_____
By:	Signature
Title:	
Date: _____	

Attachments: Stock Option Agreement and 2020 Equity Incentive Plan

Vesting Schedule Legend

Vesting Schedule A: The Option has a term of five years. The Option vests and becomes exercisable over four years; 25% of the Option vests one year after the vesting commencement date, with the remainder of the Option to vest in 36 equal monthly installments over the following three years, subject to the Employee continuing to serve as an Employee, Director or Consultant of the Company.

Vesting Schedule B: The Option has a term of five years. The Option vests and becomes exercisable in four equal quarterly installments from the vesting commencement date, subject to the Director continuing to serve as a Director or Consultant of the Company.

Other: _____
_____
_____

ATTACHMENT I

Stock Option Agreement
(Incentive Stock Option or Nonstatutory Stock Option)

Global Clean Energy Holdings, Inc.
2020 Equity Incentive Plan

Pursuant to your Stock Option Grant Notice (the "**Grant Notice**") and this Stock Option Agreement (the "**Option Agreement**"), Global Clean Energy Holdings, Inc. (the "**Company**") has granted you an option (the "**Option**") under its 2020 Equity Incentive Plan (the "**Plan**") to purchase the number of shares of the Company's Common Stock indicated in your Grant Notice at the exercise price indicated in your Grant Notice.

Capitalized terms not expressly defined in this Option Agreement but defined in the Plan have the same definitions as in the Plan.

The details of your Option are as follows:

1. Vesting of the Option; Accelerated Vesting upon a Corporate Transaction. Subject to the limitations contained in this Option Agreement and unless otherwise specified in a written employment agreement between you and the Company, your Option shall vest and become exercisable as provided in your Grant Notice, provided that vesting shall cease upon the termination of your Continuous Service. Notwithstanding the preceding sentence, any unvested portion of your Option shall vest in full and become exercisable immediately prior to the consummation of a Corporate Transaction if, but only if, your Continuous Service has not terminated prior to the consummation of the Corporate Transaction; provided, however, that your Option shall terminate and shall no longer be exercisable if the Option is not exercised by you at or prior to the effective time of the Corporate Transaction. The Company shall provide you with prior notice of the Corporate Transaction in order to permit you to exercise your Option.

2. Number of Shares and Exercise Price. The number of shares of Common Stock subject to your Option and your exercise price per share referenced in your Grant Notice may be adjusted from time to time for Capitalization Adjustments.

3. Method of Payment. Payment of the exercise price is due in full upon exercise of all or any part of your Option. You may elect to make payment of the exercise price in cash or by check or in any other manner permitted by your Grant Notice**,** which may include one or more of the following:

(a) Pursuant to a program developed under Regulation T as promulgated by the Federal Reserve Board that, prior to the issuance of Common Stock, results in either the receipt of cash (or check) by the Company or the receipt of irrevocable instructions to pay the aggregate exercise price to the Company from the sales proceeds.

(b) By delivery to the Company (either by actual delivery or attestation) of already-owned shares of Common Stock that are owned free and clear of any liens, claims, encumbrances or security interests, and that are valued at Fair Market Value on the date of exercise. "Delivery" for these purposes, in the sole discretion of the Company at the time you exercise your Option, shall include delivery to the Company of your attestation of ownership of such shares of Common Stock in a form approved by the Company. Notwithstanding the foregoing, you may not exercise your Option by tender to the Company of Common Stock to the extent such tender would violate the provisions of any law, regulation or agreement restricting the redemption of the Company's stock.

(c) If your Option is a Nonstatutory Stock Option, subject to the consent of the Company at the time of exercise, by a "net exercise" arrangement pursuant to which the Company shall reduce the number of shares of Common Stock issued upon exercise of your Option by the largest whole number of shares with a Fair Market Value that does not exceed the aggregate exercise price; provided, however, that the Company shall accept a cash or other payment from you to the extent of any remaining balance of the aggregate exercise price not satisfied by such reduction in the number of whole shares to be issued; provided further, however, that shares of Common Stock shall no longer be outstanding under your Option and shall not be exercisable thereafter to the extent that (1) shares are used to pay the exercise price pursuant to the "net exercise," (2) shares are delivered to you as a result of such exercise, and (3) shares are withheld to satisfy tax withholding obligations.

4. Whole Shares. You may exercise your Option only for whole shares of Common Stock.

5. Securities Law Compliance. Notwithstanding anything to the contrary contained herein, you may not exercise your Option unless the shares of Common Stock issuable upon such exercise are then registered under the Securities Act or, if such shares of Common Stock are not then so registered, the Company has determined that such exercise and issuance would be exempt from the registration requirements of the Securities Act. The exercise of your Option also must comply with other applicable laws and regulations governing your Option, and you may not exercise your Option if the Company determines that such exercise would not be in material compliance with such laws and regulations.

6. Term. You may not exercise your Option before the commencement or after the expiration of its term. The term of your Option commences on the date of grant described in your Grant Notice and expires, subject to the provisions of Section 5(h) of the Plan, upon the earliest of the following:

(a) Immediately upon the termination of your Continuous Service for Cause;

(b) Three months after the termination of your Continuous Service for any reason other than Cause, your Disability or death (except as otherwise provided in Section 6(d) below), provided that if during any part of such three-month period your Option is not exercisable solely because of the condition set forth in Section 5 above relating to "Securities Law Compliance," your Option shall not expire until the earlier of its expiration date or until it

shall have been exercisable for an aggregate period of three months after the termination of your Continuous Service;

(c) Eighteen months after the termination of your Continuous Service due to your Disability;

(d) Eighteen months after your death if you die either during your Continuous Service or within three months after your Continuous Service terminates for any reason other than Cause;

(e) The expiration date indicated in your Grant Notice; or

(f) The day before the tenth anniversary of the Option's date of grant.

Notwithstanding the foregoing, if you die during the period provided in Section 6(b) or 6(c) above, the term of your Option shall not expire until the earliest of 18 months after your death, the expiration date indicated in your Grant Notice, or the day before the tenth anniversary of the Option's date of grant.

If your Option is an Incentive Stock Option, note that to obtain the federal income tax advantages associated with an Incentive Stock Option, the Code requires that at all times beginning on the Option's date of grant and ending on the day three months before the date of your Option's exercise, you must be an employee of the Company or an Affiliate, except in the event of your death or Disability. The Company has provided for extended exercisability of your Option under certain circumstances for your benefit but cannot guarantee that your Option shall necessarily be treated as an Incentive Stock Option if you continue to provide services to the Company or an Affiliate as a Consultant or Director after your employment terminates or if you otherwise exercise your Option more than three months after the date your employment with the Company or an Affiliate terminates.

7. Exercise.

(a) You may exercise the vested portion of your Option during its term by delivering a Notice of Exercise (in a form designated by the Company) together with the exercise price to the Secretary of the Company, or to such other person as the Company may designate, during regular business hours, together with such additional documents as the Company may then require.

(b) By exercising your Option you agree that, as a condition to any exercise of your Option, the Company may require you to enter into an arrangement providing for the payment by you to the Company of any tax withholding obligation of the Company arising by reason of (1) the exercise of your Option, (2) the lapse of any substantial risk of forfeiture to which the shares of Common Stock are subject at the time of exercise, or (3) the disposition of shares of Common Stock acquired upon such exercise.

(c) If your Option is an Incentive Stock Option, by exercising your Option you agree that you shall notify the Company in writing within 15 days after the date of any disposition of any of the shares of the Common Stock issued upon exercise of your Option that

occurs within two years after the date of your Option grant or within one year after such shares of Common Stock are transferred upon exercise of your Option.

8. Transferability. Except as otherwise provided in this Section 8, your Option is not transferable, except by will or by the laws of descent and distribution, and is exercisable during your life only by you.

(a) Certain Trusts. Upon receiving written permission from the Board or its duly authorized designee, you may transfer your Option to a trust if you are considered to be the sole beneficial owner (determined under Section 671 of the Code and applicable state law) while your Option is held in the trust, provided that you and the trustee enter into transfer and other agreements required by the Company.

(b) Domestic Relations Orders. Upon receiving written permission from the Board or its duly authorized designee, and provided that you and the designated transferee enter into transfer and other agreements required by the Company, you may transfer your Option pursuant to a domestic relations order that contains the information required by the Company to effectuate the transfer. You are encouraged to discuss the proposed terms of any division of your Option with the Company prior to finalizing the domestic relations order to help ensure the required information is contained within the domestic relations order. If your Option is an Incentive Stock Option, the Option may be deemed to be a Nonstatutory Stock Option as a result of such transfer.

(c) Beneficiary Designation. Upon receiving written permission from the Board or its duly authorized designee, you may, by delivering written notice to the Company, in a form provided by or otherwise satisfactory to the Company and any broker designated by the Company to effect option exercises, designate a third party who, in the event of your death, shall thereafter be entitled to exercise your Option and receive the Common Stock or other consideration resulting from such exercise. In the absence of such a designation, your executor or administrator of your estate shall be entitled to exercise your Option and receive, on behalf of your estate, the Common Stock or other consideration resulting from such exercise.

9. Option not a Service Contract. Your Option is not an employment or service contract, and nothing in your Option shall be deemed to create in any way whatsoever any obligation on your part to continue in the employ of the Company or an Affiliate, or of the Company or an Affiliate to continue your employment. In addition, nothing in your Option shall obligate the Company or an Affiliate, their respective stockholders, Boards of Directors, Officers or Employees to continue any relationship that you might have as a Director or Consultant for the Company or an Affiliate.

10. Withholding Obligations.

(a) At the time you exercise your Option, in whole or in part, or at any time thereafter as requested by the Company, you hereby authorize withholding from payroll and any other amounts payable to you, and otherwise agree to make adequate provision for (including by means of a "cashless exercise" pursuant to a program developed under Regulation T as promulgated by the Federal Reserve Board to the extent permitted by the Company), any sums

required to satisfy the federal, state, local and foreign tax withholding obligations of the Company or an Affiliate, if any, which arise in connection with the exercise of your Option.

(b) Upon your request and subject to approval by the Company, in its sole discretion, and in compliance with any applicable legal conditions or restrictions, the Company may withhold from fully vested shares of Common Stock otherwise issuable to you upon the exercise of your Option a number of whole shares of Common Stock having a Fair Market Value, determined by the Company as of the date of exercise, not in excess of the minimum amount of tax required to be withheld by law (or such lower amount as may be necessary to avoid classification of your Option as a liability for financial accounting purposes). If the date of determination of any tax withholding obligation is deferred to a date later than the date of exercise of your Option, share withholding pursuant to the preceding sentence shall not be permitted unless you make a proper and timely election under Section 83(b) of the Code, covering the aggregate number of shares of Common Stock acquired upon such exercise with respect to which such determination is otherwise deferred, to accelerate the determination of such tax withholding obligation to the date of exercise of your Option. Notwithstanding the filing of such election, shares of Common Stock shall be withheld solely from fully vested shares of Common Stock determined as of the date of exercise of your Option that are otherwise issuable to you upon such exercise. Any adverse consequences to you arising in connection with such share withholding procedure shall be your sole responsibility.

(c) You may not exercise your Option unless the tax withholding obligations of the Company and/or any Affiliate are satisfied. Accordingly, you may not be able to exercise your Option when desired even though your Option is vested, and the Company shall have no obligation to issue a certificate for such shares of Common Stock unless such obligations are satisfied.

11. Tax Consequences. You hereby agree that the Company does not have a duty to design or administer the Plan or its other compensation programs in a manner that minimizes your tax liabilities. You shall not make any claim against the Company, or any of its Officers, Directors, Employees or Affiliates related to tax liabilities arising from your Option or your other compensation. In particular, you acknowledge that your Option is exempt from Section 409A of the Code only if the exercise price per share specified in the Grant Notice is at least equal to the "fair market value" per share of the Common Stock on the date of grant and there is no other impermissible deferral of compensation associated with your Option.

12. Notices. Any notices provided for in your Option or the Plan shall be given in writing and shall be deemed effectively given upon receipt or, in the case of notices delivered by mail by the Company to you, five days after deposit in the United States mail, postage prepaid, addressed to you at the last address you provided to the Company. Notwithstanding the foregoing, the Company may, in its sole discretion, decide to deliver any documents related to participation in the Plan and your Option by electronic means or to request your consent to participate in the Plan by electronic means. You hereby consent to receive such documents by electronic delivery and, if requested, to agree to participate in the Plan through an on-line or electronic system established and maintained by the Company or another third party designated by the Company.

13. Applicability of the Plan. Your Option and this Option Agreement are subject to all of the provisions of the Plan, the provisions of which are hereby made a part of your Option and are further subject to all interpretations and amendments of the Plan which may from time to time be promulgated and adopted pursuant to the Plan. In the event of any conflict between the provisions of this Option Agreement and those of the Plan, the provisions of the Plan shall control.

14. Severability. If all or any part of this Option Agreement or the Plan is declared by any court or governmental authority to be unlawful or invalid, such unlawfulness or invalidity shall not invalidate any portion of this Option Agreement or the Plan not declared to be unlawful or invalid. Any Section of this Option Agreement or the Plan (or part of such a Section) so declared to be unlawful or invalid shall, if possible, be construed in a manner which shall give effect to the terms of such Section or part of a Section to the fullest extent possible while remaining lawful and valid.

15. Effect on Other Employee Benefit Plans. The value of your Option subject to this Option Agreement shall not be included as compensation, earnings, salaries, or other similar terms used when calculating your benefits under any employee benefit plan sponsored by the Company or any Affiliate, except as such plan otherwise expressly provides. The Company expressly reserves its rights to amend, modify, or terminate any of the Company's or any Affiliate's employee benefit plans.

16. Employment Agreement. If you have entered into a written employment agreement with the Company, then in the event of any inconsistency between a provision contained in your employment agreement and a provision contained in this Option Agreement, your Grant Notice or the Plan, the provision that is more favorable to you shall prevail.

17. Amendment. This Option Agreement may not be modified or amended except by an instrument in writing, signed by a duly authorized representative of the Company, provided that no such amendment materially adversely affecting your rights hereunder may be made without your written consent. However, the Board reserves the right to change, by written notice to you, the provisions of this Option Agreement in any way it may deem necessary or advisable to carry out the purpose of the grant as a result of any change in applicable laws or regulations or any future law, regulation, ruling, or judicial decision, provided that any such change shall be applicable only to rights relating to that portion of your Option which is then subject to restrictions as provided herein.

18. Miscellaneous.

(a) The Company may assign any of its rights under your Grant Notice, this Option Agreement and the Plan to one or more assignees, and all covenants contained in your Grant Notice, this Option Agreement and the Plan shall inure to the benefit of, and be enforceable by, the Company's successors and assigns. All obligations of the Company under your Grant Notice, this Option Agreement and the Plan shall be binding on any successor to the Company, whether the existence of such successor is the result of a direct or indirect purchase, merger, consolidation or otherwise, of all or substantially all of the business and/or assets of the

Company. Your rights and obligations under your Option may only be assigned with the prior written consent of the Company.

(b) You agree upon request to execute any further documents or instruments necessary or desirable in the sole determination of the Company to carry out the purposes or intent of your Option.

(c) You acknowledge and agree that you have reviewed this Option Agreement, your Grant Notice and the Plan in their entirety, have had an opportunity to obtain the advice of counsel prior to executing and accepting your Option, and fully understand all provisions of your Option.

(d) This Option Agreement shall be subject to all applicable laws, rules and regulations, and to such approvals by any governmental agencies or national securities exchanges as may be required.

EXHIBIT A

NOTICE OF EXERCISE OF OPTION TO PURCHASE COMMON STOCK

Name: _____

Address: _____

SSN: _____

Date: _____

Global Clean Energy Holdings, Inc.

2790 Skypark Drive, Suite 105,
Torrance, California 90505

Attention: Corporate Secretary

Re: Exercise of Stock Option

Ladies and Gentlemen:

I elect to purchase _____ shares of Common Stock of Global Clean Energy Holdings, Inc. (the "**Company**") upon the exercise of my option (the "**Option**") pursuant to the Stock Option Agreement, dated _____ (the "**Option Agreement**"), between the Company and me with respect to the Global Clean Energy Holdings, Inc. 2020 Equity Incentive Plan (the "**Plan**"). The purchase shall take place on the Option exercise date, which shall be (i) as soon as practicable following the date this notice and all other necessary forms and payments are received by the Company, unless I specify a later date (not to exceed 30 days following the date of this notice) or (ii) in the case of a Broker-assisted cashless exercise (as indicated below), the date of this notice.

On or before the Option exercise date, I shall pay the full exercise price in the form specified below (check one):

[ ] Cash: by delivering cash to the Company for $_____.

[ ] Check: by delivering a check made payable to the Company for $_____.

I shall pay the full exercise price in the following form if expressly authorized in writing by the Company:

[ ] Other Company Shares: by delivering for surrender other shares of the Company's Common Stock having a fair market value at the time of receipt by the Company equal to not less than the total Option exercise price.

[ ] Net Exercise Arrangement: pursuant to the Plan and on such terms as have been approved by the Board.

[ ] Cash From Broker: by delivering the purchase price from _____, a broker, dealer or other "creditor" as defined by Regulation T issued by the Board of Governors of the Federal Reserve System (the "**Broker**"). I authorize the Company to issue a stock certificate in accordance with instructions received by the Company from the Broker and to deliver such stock certificate (or evidence of a book-entry issuance of the shares) directly to the Broker (or to any other party specified in the instructions from the Broker) upon receiving the exercise price from the Broker.

On or before the Option exercise date, I shall pay any applicable tax withholding obligations, as provided in the Option Agreement and the Plan, for the full tax withholding amount.

Please deliver the stock certificate or evidence of a book-entry issuance of the shares described above to me (unless I have chosen to pay the purchase price through a broker).

Very truly yours,

_____

[NAME]

AGREED TO AND ACCEPTED:

GLOBAL CLEAN ENERGY HOLDINGS, INC.

By: _____

Title: _____

Number of Option Shares

Exercised: _____

Number of Option Shares

Remaining: _____

Date: _____

Attachment II

2020 Equity Incentive Plan

SHARE PURCHASE AGREEMENT

by and between

ALON PARAMOUNT HOLDINGS, INC.

and

GCE HOLDINGS ACQUISITIONS, LLC

April 29, 2019

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SHARE PURCHASE AGREEMENT

This **SHARE PURCHASE AGREEMENT** (this "***Agreement***") is entered into effective as of April 29, 2019 (the "***Execution Date***"), by and between **ALON PARAMOUNT HOLDINGS, INC.,** a Delaware corporation ("***Seller***"), and **GCE HOLDINGS ACQUISITIONS, LLC**, a Delaware limited liability company ("***Buyer***"). Seller and Buyer may be referred to herein individually as a "***Party***," and collectively as the "***Parties***."

RECITALS

A. Seller is the sole record and beneficial owner of 1,000 shares of common stock, par value $0.01 per share, (the "***Purchased Shares***") of **Alon Bakersfield Property, Inc.**, a Delaware corporation (the "***Company***");

B. The Purchased Shares represent all of the issued and outstanding Equity Interests (defined below) of the Company;

C. Seller desires to sell and convey the Purchased Shares to Buyer and Buyer desires to purchase and acquire the Purchased Shares from Seller; and

D. The Company recently entered into that certain Settlement and Release Agreement dated November 5, 2018 (the "***Settlement Agreement***") by and among Equilon Enterprises LLC, the Company, and certain Affiliates of the Company.

NOW, THEREFORE, in consideration of the foregoing premises and the representations, warranties and covenants contained herein, the Parties agree as follows:

ARTICLE I

DEFINITIONS

Section 1.1 **Definitions**. As used in this Agreement (including in the Recitals), the following terms shall have the following meanings:

"***Accountant***" means PricewaterhouseCoopers LLP or another independent accounting firm mutually acceptable to the Parties.

"***Affiliate***" means, as to any specified Person, any other Person that directly, or indirectly through one or more intermediaries or otherwise, controls, is controlled by or is under common control with the specified Person. For purposes of this definition, control of a Person means the power, direct or indirect, to direct or cause the direction of the management or policies of such Person whether by contract or otherwise, and ownership of 50% or more of the voting securities of another Person shall create a rebuttable presumption that such Person controls such other Person.

"***Agreement***" has the meaning given such term in the preamble of this Agreement and includes all Exhibits and Schedules attached hereto or delivered pursuant hereto.

"***Allocation Schedule***" has the meaning given such term in Section 7.2(k)(i).

"***Allocation Schedule Notice of Disagreement***" has the meaning given such term in Section 7.2(k)(ii).

"***Alon Marks***" means any name incorporating "Alon," "Delek," "Paramount" or any derivations thereof that would reasonably be expected to be confused therewith, or any trademarks, service marks, trade dress, trade names, logos, corporate names and domain names, insignia, imprints, brand identifications, and advertising of Seller or its Affiliates and other similar indicia of origin, and all goodwill associated therewith, and registrations of and applications to register the foregoing, together with all other legal rights that arise in any of the foregoing under Law.

"***Applicable Rate***" means a rate per annum which shall be equal to the sum of LIBOR plus 2.0% and adjusted with each change in LIBOR, but in no event shall the Applicable Rate be less than 6.5% per annum and shall not exceed the maximum rate permitted by applicable Law.

"***Area 1***" has the meaning given such term in Schedule 7.12.

"***Area 2***" has the meaning given such term in Schedule 7.12.

"***Area 3***" has the meaning given such term in Schedule 7.12.

"***Assets***" means the Refinery, the Pipeline Assets, the Pipeline ROW Interests, the Real Property Interests, improvements owned by the Company (except for assets and properties sold, consumed or otherwise disposed of in the ordinary course of business) and located on or attached or affixed to the Real Property Interests, and all fixed assets, equipment and all other assets and rights owned or leased by, or licensed to or used by the Company, in each case, used in the day-to-day operation of the Business as it is currently operated, together with any and all rights of the Company under the contracts and agreements to which the Company is a party, and the rights to be assigned to the Company under the Seller Contracts pursuant to this Agreement; but in all cases excluding the Excluded Assets.

"***Assignment of Contracts***" means an assignment and assumption of contracts with respect to the Seller Contracts in the form of Exhibit A attached hereto.

"***Authorization***" means any franchise, permit, license, authorization, certificate, registration, exemption, concession, approval, variance, waiver, right, settlement, compliance plan or other consent or approval granted or issued by any Governmental Authority (i) under any Law, including any Environmental Law, or (ii) under or pursuant to any Order or Material Contract with any such Governmental Authority; *provided, however*, "Authorizations" shall not include any license or permit issued by a Governmental Authority that grants or authorizes any interest in a right-of-way or easement or similar rights including the Pipeline ROW Interests.

"***Backstop Guaranty***" means the Backstop Guaranty to be executed and delivered at the Closing from Buyer and the Company in favor of Seller and its Affiliates (other than the Company), in the form of Exhibit B attached hereto.

"***Books and Records***" means all files, documents, instruments, papers, plans, drawings, manuals, books and records (including electronically transmitted or stored information, to the extent reasonably practicable) owned and used by or for Seller or the Company and relating exclusively to the ownership of the Assets or the conduct of the Business, excluding in each case any such items (i) included in or relating to the Excluded Assets or Retained Liabilities, (ii) to the extent comprising personal medical and other records relating to employees which are prohibited by Laws or by Seller's or its Affiliates' internal policies from being transferred to Buyer or the Company without consent of the relevant employee, (iii) with respect to all corporate, financial, Tax and legal files, documents, communications, instruments, papers, plans, drawings, manuals, books and records related to the ownership of the Assets or conduct of the Business on or prior to the Closing Date, (iv) to the extent disclosure or transfer is prohibited or subject to payment of

fee or consideration by any license or other agreement with a Person other than Affiliates of Seller (other than the Company), or by Law, and for which no consent to transfer has been received, until such time as consent has been obtained (at which time such item shall be deemed to be part of the Books and Records), (v) work product and attorney-client communications with any of Seller's or its Affiliates' legal counsel (other than the Company's legal counsel after the Closing), (vi) prepared in connection with or relating in any way to the Contemplated Transactions, including bids received from other Persons and analyses relating in any way to the Assets or Business, (vii) whose delivery or transfer would violate any confidentiality agreements or cause a waiver of any attorney-client or work-product privilege available to Seller or its Affiliates (other than the Company), (viii) relating to Seller's or its Affiliates' inter-company or intra-company feedstock and product pricing information, internal transfer prices, and hedging activity records, (ix) to the extent that the disclosure of the particular terms of a contract, in the reasonable judgment of Seller, would violate any antitrust or similar Law, (x) containing financial or other data or information that is co-mingled or otherwise integrated with the data or information of Seller and its Affiliates (other than the Company) and cannot be segregated with Commercially Reasonable Efforts by Seller or its Affiliates (other than the Company), (xi) email communications of Seller and its Affiliates prior to the Closing, and (xii) that (a) are archived at locations controlled or managed by third parties and (b) are not clearly, solely, and exclusively related to the Assets or the Business and cannot be readily identified as such through the exercise of Commercially Reasonable Efforts.

"***Breach Notice***" has the meaning given such term in Section 6.3.

"***Business***" means the business conducted by the Company in accordance with recent past practices, including the ownership, operation and use of the Refinery, the Pipeline Assets, and other Assets.

"***Business Day***" means a day other than Saturday, Sunday or any day on which commercial banks located in the State of New York are authorized or obligated to close.

"***Buyer***" has the meaning given such term in the preamble of this Agreement.

"***Buyer Disclosure Schedule***" means the disclosure schedule letter delivered by Buyer to Seller simultaneously with the execution of this Agreement. The Buyer Disclosure Schedule has been arranged in sections corresponding to the numbered sections of this Agreement.

"***Buyer Indemnitees***" means Buyer, its Affiliates (including the Company post-Closing) and their respective officers, directors, managers, employees, agents, representatives (including any officers, directors, managers, employees, agents or representatives of the Company appointed or retained by Buyer or the Company after the Closing or otherwise acting at the direction of Buyer, the Company or Buyer's Affiliates after the Closing) and their permitted successors or assigns.

"***Buyer Tax Returns***" has the meaning given such term in Section 7.2(a)(ii).

"***Buyer Third Person Consent***" means any Third Person Consent required under (i) any Governing Document of Buyer, or (ii) any contract to which Buyer is a party or by which it or its assets is bound.

"***CAO***" has the meaning set forth in Section 7.13(a).

"***Carve-Out Financials***" has the meaning set forth in Section 6.9(b).

"***Change in Control***" means, and shall be deemed to have occurred upon any transaction, or series of related transactions, that results or would reasonably be likely to result in the transfer to a non-Affiliate, whether directly or indirectly including by operation of law, of fifty percent (50%) or more of the Equity

Interests of Buyer or the Company, including the transfer of fifty percent (50%) or more of the Equity Interests in any business entity that owns or controls, directly or indirectly, fifty percent (50%) or more of the Equity Interests of Buyer.

"***Childhood Lead Fees***" has the meaning given such term in Section 7.14.

"***Claim***" means any demand, claim, complaint, notice of violation or any other assertion of an Obligation, whether written or oral, for any Loss, specific performance, injunctive relief, remediation or other equitable relief whether or not ultimately determined to be valid.

"***Cleaning Plan***" has the meaning given such term in Schedule 7.12.

"***Cleaning Work***" has the meaning given such term in Schedule 7.12.

"***Closing***" has the meaning given such term in Section 2.4(a).

"***Closing Date***" has the meaning given such term in Section 2.4(a).

"***Closing Date Payment***" has the meaning given such term in Section 2.5(a)(i).

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

"***Commercial Tax Agreement***" means a commercial and customary contract that is entered into in the ordinary course of business the principal purpose of which does not relate to Taxes but contains agreements or arrangements relating to the apportionment, sharing, assignment, or allocation of Taxes (such as financing agreements with Tax gross-up obligations or leases with Tax escalation provisions).

"***Commercially Reasonable Efforts***" means efforts which are commercially reasonable to enable a Person, directly or indirectly, to satisfy a condition to or otherwise assist in the consummation of a desired result and which do not (a) require, unless expressly provided otherwise, the performing Person to sell any assets, pursue any litigation or pay, incur, convey, endure or deliver any material monetary payments or other form of consideration, whether tangible or intangible, including any property, detriment, debt, right, license, obligation, waiver or release, or (b) cause a material adverse effect on the ongoing business of Seller or its Affiliates.

"***Company***" has the meaning given such term in the Recitals of this Agreement.

"***Company Assumed Liabilities***" has the meaning given such term in Section 2.6(a).

"***Company Environmental Liabilities***" means any and all Orders, Claims, Losses or Obligations whatsoever, including required capital expenditures, arising from or related to Environmental Laws to the extent related to the Company, the Assets or the Business, whether known or unknown and whether arising, occurred or accrued before or after the Closing, including those related to Third Party Claims or Proceedings, actual or threatened Releases of Hazardous Materials, off-site treatment, storage, recycling, or disposal and off-site migrations of Hazardous Materials, the de-commissioning, demolition, removal, abandonment (including abandonment in place) or closing of any Assets or portions thereof after the Closing regardless of the extent to which such Assets or portions thereof were idled, abandoned or closed prior to the Closing Date, or any fine, penalty or other cost assessed in connection with any alleged or actual violation(s) of Environmental Laws.

"***Confidentiality Agreement***" means that certain Confidentiality Agreement, dated January 4, 2018, by and between Delek US Holdings, Inc. and Buyer.

"***Consolidated Group***" means any affiliated, combined, consolidated, unitary, or similar group with respect to any Tax, including any affiliated group within the meaning of Section 1504 of the Code electing to file consolidated U.S. federal income Tax Returns and any similar group under foreign, state, or local Law.

"***Contemplated Transactions***" means the transactions contemplated by this Agreement, including: (i) the sale of the Purchased Shares to Buyer; (ii) the execution and delivery of the Related Agreements; and (iii) the performance by the Parties of their respective covenants and obligations under this Agreement.

"***Contractors***" has the meaning given such term in Schedule 7.12.

"***Credit Support Arrangements***" has the meaning given such term in Section 6.2(g).

"***Current Representation***" has the meaning given such term in Section 11.15.

"***Data Room***" means the electronic data room maintained by SharePoint on behalf of Seller for the posting of documents for review by Buyer in connection with the Contemplated Transactions.

"***Debt Commitment Letter***" has the meaning set forth in Section 5.9(a).

"***Debt Financing***" has the meaning set forth in Section 5.9(a).

"***Debt Lender***" has the meaning set forth in Section 5.9(a).

"***De Minimis Amount***" has the meaning given such term in Section 10.2(c).

"***Deposit***" has the meaning given such term in Section 2.2.

"***Deposit Return Event***" means the termination of this Agreement by Buyer pursuant to Section 9.1(d) so long as the failure to Close in such circumstance is solely due to a failure to satisfy the Closing conditions set forth in Section 8.3(a) or Section 8.3(b) (other than the execution and delivery of the Closing certificate from an executive officer of Seller).

"***Designated Person***" has the meaning given such term in Section 11.15.

"***Designated Tanks***" has the meaning given such term in Schedule 7.12.

"***Diligence Representative***" has the meaning given such term in Section 6.4(a).

"***Direct Claim***" has the meaning given such term in Section 10.4(g).

"***Disputed Tax Issue***" has the meaning given such term in Section 7.2(a)(i).

"***Dollars***" and the symbol "$" mean the lawful currency of the United States of America.

"***Environmental Condition***" means any condition at, on, under, within or migrating from any tangible Assets, in each case arising out of the presence or Release of any Hazardous Materials on, at or underlying the Real Property Interests or the Pipeline ROW Interests.

"***Environmental Law***" means any Law or Authorization pertaining to public or employee exposure to Hazardous Materials, pollution, the environment or the protection of fish, wildlife or natural resources. For the avoidance of doubt, due to the inclusion of the word "applicable" in the definition of "Law" incorporated into this definition, any references in this Agreement to "any Environmental Law" or "any applicable Environmental Law" shall have the same meaning.

"***Environmental Permit***" means any permit, license, franchise, approval, authorization, letter, clearance, consent, waiver, closure, exemption, decision or other action required under or issued, granted, given, authorized by or made pursuant to Environmental Law.

"***Equity Commitment Letter***" has the meaning set forth in Section 5.9(a).

"***Equity Financing***" has the meaning set forth in Section 5.9(a).

"***Equity Interests***" means capital stock, partnership or membership interests or units (whether general or limited), other equity interests, and any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distribution of assets of, the issuing entity.

"***Equity Source***" has the meaning set forth in Section 5.9(a).

"***Equity Securities***" means (i) Equity Interests, (ii) subscriptions, calls, warrants, options or commitments of any kind or character relating to, or entitling any Person to acquire, any Equity Interests and (iii) securities convertible into or exercisable or exchangeable for shares of Equity Interests.

"***ERISA***" means the Employee Retirement Income Security Act of 1974, as amended.

"***ERISA Affiliate***" means any person or entity that would be treated as a "single employer" together with the Company under Section 414(b), (c), (m) or (o) of the Code.

"***Excluded Assets***" has the meaning given such term in Section 2.7.

"***Excluded Asset Transfer***" has the meaning given such term in Section 2.7.

"***Excluded Contracts***" has the meaning given such term in Section 4.6(d).

"***Excluded Intellectual Property***" means the intellectual property and intellectual technology systems set forth in Section 1.1(a) of the Seller Disclosure Schedule.

"***Execution Date***" has the meaning given such term in the preamble of this Agreement.

"***Extension Payment***" has the meaning given such term in Section 9.2.

"***Financings***" has the meaning set forth in Section 5.9(a).

"***Financing Commitments***" has the meaning set forth in Section 5.9(b).

"***Financing Sources***" means the Persons that have committed to provide or otherwise entered into agreements in connection with the Financings or other financings in connection with the Contemplated Transactions, including the parties to the Financing Commitments and any joinder agreements or credit agreements relating thereto.

"***Fundamental Representations***" has the meaning given such term in Section 10.1.

"***GAAP***" means generally accepted accounting principles in the United States.

"***Governmental Authority***" means any national, federal, regional, state, local or other governmental agency, authority, administrative agency, regulatory body, commission, board, bureau, instrumentality, court or arbitral tribunal having governmental or quasi-governmental powers.

"***Governing Documents***" means the articles of incorporation, certificate of incorporation, charter, bylaws, articles or certificate of formation, regulations, limited liability company agreement, operating agreement, certificate of limited partnership, partnership agreement, and all other similar documents, instruments or certificates executed, adopted, or filed in connection with the formation, organization or governance of a Person, including any amendments thereto.

"***Hazardous Materials***" means (i) any chemicals, materials or substances in any form or state (including whether solid, liquid, gaseous, semisolid, or any combination thereof, whether waste materials, raw materials, chemicals, finished products, by-products, degradation products or any other materials or articles, which are listed, defined or otherwise designated as hazardous, toxic or dangerous) and as such are regulated under any Environmental Law, including asbestos, and lead-containing paints or coatings, (ii) any petroleum (including crude oil), petroleum derivatives, petroleum products or by-products of petroleum refining or any oxygenate (including degradation products) in any fuel, and (iii) any other chemical, substance or waste that is regulated by any Environmental Law.

"***Indemnification Cap***" has the meaning given such term in Section 10.2(e).

"***Indemnification Deductible***" has the meaning given such term in Section 10.2(d).

"***Indemnified Party***" has the meaning given such term in Section 10.4(a).

"***Indemnifying Party***" has the meaning given such term in Section 10.4(a).

"***Intellectual Property***" means all material trademarks, tradenames, copyrights, technology, know-how and processes necessary for the conduct of the Business as current conducted by the Company, whether such intellectual property is owned or licensed to the Company.

"***Interim Period***" means the period of time from the Execution Date until the earlier of the Closing or the termination of this Agreement pursuant to Article IX.

"***IRS***" means the U.S. Internal Revenue Service.

"***Knowledge***" and "***Known***" mean, in the case of Seller, the actual knowledge of the individuals listed in Part I of Exhibit C, obtained in the normal course of their respective duties as officers, employees or consultants of Seller or any of its Affiliates, without independent investigation or inquiry and, in the case of Buyer, the actual knowledge of the individuals listed on Part II of Exhibit C, obtained in the normal course of their respective duties as officers, employees or consultants of Buyer or any of its Affiliates, without independent investigation or inquiry.

"***Law***" means any applicable law (including common law), statute or ordinance of any nation or state, including the United States of America, and any political subdivision thereof, including any state of the United States of America, any regulation, policy, protocol, proclamation or executive order promulgated by any Governmental Authority, any rule or regulation of any self-regulatory organization such as a securities exchange, or any applicable Order of any court or other Governmental Authority having the effect

of law in any such jurisdiction. For the avoidance of doubt, any references herein to "any Law" shall, as indicated by this definition, be deemed to refer only to such Law as is applicable in the circumstances.

"***Leased Real Property***" has the meaning given such term in Section 4.5(d).

"***LIBOR***" means for each applicable day, the rate stated in the "Money Rates" section of *The Wall Street Journal* published on such day as the one (1) month London Interbank Offered Rate applicable to Dollar deposits in the London interbank market; and if *The Wall Street Journal* is not published on such day, then the aforesaid rate in the most recent edition of *The Wall Street Journal* preceding such day shall be utilized for such day (or on any successor to or substitute for such service in the event such service ceases, providing rate quotations comparable to those currently provided of such service, for purposes of providing quotations of interest rates applicable to Dollar deposits in the London interbank market).

"***Licensed Technology Rights***" has the meaning given such term in Section 7.9(a).

"***Lien***" means any mortgage, pledge, security interest, deed of trust, right of first refusal or first offer, floating charge or other charge of any kind (including any agreement to give any of the foregoing), any conditional sale or other title retention agreement, or the filing of or agreement to give any security interest, charge or financing statement under the Laws of any jurisdiction.

"***Long Stop Date***" means August 27, 2019 unless Buyer extends such date to September 27, 2019 as permitted and pursuant to Section 9.2.

"***Loss***" means, subject to Section 10.5 and Section 10.7, any and all damages, penalties, fines, assessments, Taxes, charges, costs, Obligations, losses, expenses and fees, including costs of investigation, court costs, costs of defense and reasonable fees of attorneys, accountants and other professional advisors and expert witnesses in connection therewith.

"***Material Adverse Effect***" means an effect, event, fact, circumstance or development ("***Effects***") that, individually or in the aggregate, has had, or would reasonably be expected to have a material adverse effect on the business, properties, financial condition or results of operations of the Company as currently conducted, taken as a whole; *provided, however*, that in no event shall any Effect that results from any of the following be deemed to constitute a Material Adverse Effect: (a) this Agreement or any actions required to be taken in compliance with this Agreement, the Contemplated Transactions, or the pendency or announcement thereof, (b) changes or conditions generally affecting the petroleum refining, marketing and transportation industry or the renewable diesel industry (including feedstock pricing, refining, marketing, transportation, terminalling and trading, generally or regionally), (c) changes in general economic, capital market, regulatory or political conditions in the United States or elsewhere (including interest rate and currency fluctuations), (d) changes or proposed changes in Law occurring after the Execution Date, (e) changes or proposed changes in accounting principles or GAAP occurring after the Execution Date, (f) acts of war, insurrection, sabotage or terrorism occurring after the Execution Date, other than such acts that are specifically directed towards the Company or the Assets, or (g) the Company's failure, in and of itself, to meet operational or financial expectations or projections other than as a result of a breach of this Agreement by the Company or Seller.

"***Material Company Contract***" has the meaning given such term in Section 4.6(b).

"***Material Contract***" has the meaning given such term in Section 4.6(a).

"***Measurement Time***" means 11:59 p.m. Pacific Time on the Closing Date.

"***Multi-Site Contract***" has the meaning given such term in Section 7.4.

"***Multi-Site License***" has the meaning given such term in Section 7.9(a).

"***New Seller Information***" has the meaning given such term in Section 6.7(a).

"***NORM***" has the meaning given such term in Section 7.13(b).

"***Obligations***" means, with respect to any Person, any duties, liabilities, covenants and obligations of such Person, whether vested or unvested, absolute or contingent, conditional or unconditional, primary or secondary, direct or indirect, known or unknown, asserted or unasserted, disputed or undisputed, matured or unmatured, accrued or unaccrued, liquidated or unliquidated, secured or unsecured, joint or several, due or to become due, and whether contractual, statutory or otherwise.

"***Order***" means any order, writ, ruling, decision, verdict, decree, assessment, award (including arbitration awards), judgment, stipulation, injunction, or other determination, decision or finding by, before, or under the supervision of any Governmental Authority.

"***Other Tax Contest***" has the meaning given such term in Section 7.2(d)(iii).

"***Owned Real Property***" has the meaning given such term in Section 4.5(c).

"***Party***" and "***Parties***" have the respective meanings given such terms in the preamble of this Agreement.

"***PCBs***" has the meaning given such term in Section 7.13(b).

"***Permitted Lien***" means:

(i) inchoate Liens and charges imposed by Law (other than for Taxes) and incidental to the construction, maintenance, development or operation of the Company's properties or the operation of the Business, if payment of the obligation secured thereby is not yet due or if the validity or amount of which is being contested in good faith by the Company by appropriate action, as applicable;

(ii) statutory Liens for Taxes, assessments, Obligations under workers' compensation or other social welfare legislation or other requirements, charges or levies of any Governmental Authority in each case not yet delinquent or which are being contested in good faith by the Company by appropriate proceedings;

(iii) easements, servitudes, rights-of-way and other rights, exceptions, reservations, conditions, limitations, covenants and other restrictions on the Real Property Interests (A) of record or contained in any lease of such Real Property Interest or portion thereof, or (B) that do not materially interfere with, materially impair or materially impede the operation, value or use of the Assets affected thereby;

(iv) pledges and deposits to secure the performance of bids, tenders, trade or government contracts (other than for repayment of borrowed money), leases, licenses, statutory Obligations (other than for Taxes), surety bonds, performance bonds, completion bonds and other Obligations (other than for Taxes) of a like kind as set forth in Section 1.1(b) of the Seller Disclosure Schedule or as otherwise incurred in the ordinary course of business that do not materially interfere with, impair or impede the Business as currently conducted by the Company;

(v) any Liens (other than for Taxes) consisting of (A) rights reserved to or vested in any Governmental Authority to control or regulate any property of the Company, or to limit the use of such property in any manner which does not materially impair the use of such property for the purposes for which it is held by the Company, (B) Obligations to any Governmental Authority with respect to any Authorization and the rights reserved or vested in any Governmental Authority to terminate any such Authorization or to condemn or expropriate any property, or (C) zoning or other land use or environmental laws and ordinances of any Governmental Authority, in each case that do not materially detract from the value or marketability of the property affected or interfere with, impede or impair the Business as currently conducted by the Company;

(vi) mechanics' and materialmen's Liens and similar charges not filed of record and not delinquent;

(vii) mechanics' and materialmen's Liens and similar charges filed of record but (A) are being contested in good faith by appropriate action, (B) for which the Company is the beneficiary of a contractual indemnity from another Person, or (C) for which the applicable statutory foreclosure period or other enforcement rights have lapsed;

(viii) mechanics' and materialmen's Liens and similar charges filed of record and not included in clause (vii) above for which Seller has bonded around on or before the Closing;

(ix) Liens in respect of Orders with respect to which an appeal or other proceeding for review is being prosecuted and with respect to which a stay of execution pending such appeal or such proceeding for review has been obtained;

(x) any Lien or title imperfection with respect to the Assets created by or resulting from any act or omission by, at the direction of or on behalf of Buyer; and

(xi) Liens that will be paid in full or released on or prior to the Closing Date.

"***Person***" means an individual, partnership, limited liability company, corporation, joint stock company, trust, estate, joint venture, association or unincorporated organization, or any other form of business or professional entity.

"***Pipeline Assets***" means, collectively, the DOT pipelines set forth in Section 1.1(c) of the Seller Disclosure Schedule and oil, natural gas and gas gathering lines and all current appurtenances, facilities, fixtures, pumps, valves, meters and other equipment all directly related to such pipelines.

"***Pipeline ROW Interests***" means the parcels of land and waterways which the Company has the right to use, traverse or occupy under easements, rights-of-way, franchises, permits, licenses and other rights to or interests in relating to the installation, construction, ownership, maintenance and repair of the Pipeline Assets.

"***Post-Closing Representation***" has the meaning given such term in Section 11.15.

"***Pre-Closing Cleaning Contracts***" has the meaning given such term in Schedule 7.12.

"***Pre-Closing Tax Contest***" has the meaning given such term in Section 7.2(d)(ii).

"***Pre-Closing Tax Period***" means all taxable periods ending on or prior to the Closing Date and the portion of any Straddle Period through the end of the Closing Date.

"***Pre-Transaction Claims***" has the meaning given such term in Section 7.11(a).

"***Pre-Transaction Matters***" has the meaning given such term in Section 7.11(a).

"***Privileged Communications***" has the meaning given such term in Section 11.15.

"***Proceeding***" means any action, case, lawsuit, arbitration, mediation, investigation, hearing, audit, examination or other proceeding (including regulatory or administrative proceedings) at law or in equity, commenced, brought, conducted or heard by or before, any Governmental Authority, or any mediator, arbitrator or board of arbitration. For the avoidance of doubt, the term "Proceeding" does not include Orders.

"***Property Tax***" has the meaning given such term in Section 7.2(b)(i).

"***Purchase Price***" has the meaning given such term in Section 2.3.

"***Purchased Shares***" has the meaning given such term in the Recitals of this Agreement.

"***Real Property Interests***" means the real property interests owned by or leased to the Company, together with all fixtures, buildings and other structures, facilities or improvements currently or hereafter located thereon prior to the Closing and all easements, licenses, rights, appurtenances, right-of-way agreements, option agreements, use agreements and similar land-related agreements or interests relating to the foregoing but excluding the Pipeline ROW Interests.

"***Reclaimed Oil***" has the meaning given such term in Schedule 7.12.

"***Reimbursement Amount***" has the meaning given such term in Schedule 7.12.

"***Refinery***" means the Company's crude oil refinery located in Kern County, California approximately three miles west of downtown Bakersfield, California, with a throughput capacity of 70,000 barrels per day, and the supporting operations network situated on approximately 587 acres.

"***Refund Conditions***" has the meaning given such term in Section 2.2.

"***Related Agreements***" means the agreements, documents and instruments listed in Section 2.5 and any other agreements, documents and instruments executed and delivered pursuant to this Agreement including the Backstop Guaranty.

"***Release***" means any actual or threatened release, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, abandonment, disposing or allowing to escape or migrate into or through the environment (including, without limitation, ambient air (indoor or outdoor), surface water, groundwater, land surface or subsurface strata or within any building, structure, facility or fixture).

"***Retained Liabilities***" has the meaning given such term in Section 2.6(b).

"***Section 336(e) Agreement***" has the meaning given such term in Section 7.2(j)(i).

"***Section 336(e) Elections***" has the meaning given such term in Section 7.2(j)(i).

"***Securities Act***" has the meaning given such term in Section 3.5.

"***Seller***" has the meaning given such term in the preamble of this Agreement.

"***Seller Consolidated Group***" means any Consolidated Group of which each of (a) the Company and (b) Seller or an Affiliate of Seller (other than the Company), is or was a member on or prior to the Closing Date.

"***Seller Contracts***" has the meaning given such term in Section 4.6(c).

"***Seller Counsel***" has the meaning given such term in Section 11.15.

"***Seller Disclosure Schedule***" means the disclosure schedule letter delivered by Seller to Buyer simultaneously with the execution of this Agreement. The Seller Disclosure Schedule has been arranged in sections corresponding to the numbered sections of this Agreement.

"***Seller Indemnitees***" means Seller, its Affiliates (excluding the Company post-Closing) and their respective officers, directors, employees, agents, representatives (including any officers, directors, managers, employees, agents or representatives of the Company to the extent acting at the direction of Seller or its Affiliates prior to the Closing), and their permitted successors or assigns.

"***Seller Officers and Directors***" means those individuals identified as "Seller Officers and Directors" in Section 1.1(d) of the Seller Disclosure Schedule, being all individuals holding positions with the Company.

"***Seller Policies***" has the meaning given such term in Section 7.1(a).

"***Seller Tax Returns***" has the meaning given such term in Section 7.2(a)(i).

"***Seller Taxes***" means any and all Taxes, without duplication, (A) imposed on the Company for any Pre-Closing Tax Period (as determined in accordance with Section 7.2(b) for Straddle Periods); (B) of another Person (including the Seller and its Affiliates) imposed on the Company pursuant to Treasury Regulation Section 1.1502-6 or any analogous state, local or foreign Law or by reason of the Company having been a member of any consolidated, combined or unitary group (including the Seller Consolidated Group) on or before the Closing Date; (C) of another Person imposed on the Company pursuant to any contractual agreement entered into prior to Closing; (D) of another Person imposed on the Company as a transferee or successor, by Law or otherwise, which Taxes relate to an event or transaction occurring prior to Closing; and (E) attributable to a breach of a representation or warranty in Section 4.12 or a Seller covenant in Section 7.2; *provided, however*, that (i) Seller shall have no obligation to indemnify the Buyer Indemnitees from and against any Claims and Losses arising out of or related to Taxes described in subclause (A) if such Taxes are attributable to transactions occurring on the Closing Date after the Closing that are outside the ordinary course of business (other than any such transactions specifically contemplated by this Agreement) and (ii) Seller Taxes shall not include any Tax liabilities of the Company that actually reduced the Closing Date Payment pursuant to Section 2.5(a)(i)(2).

"***Seller Third Person Consent***" means any Third Person Consent required under (i) any Governing Document of Seller or the Company, or (ii) any Material Contract to which Seller or the Company is a party or by which Seller or any of its assets is bound.

"***Seller Transaction Expenses***" means the aggregate amount of all out-of-pocket fees and expenses, incurred by, or to be paid by, the Company relating to the negotiation, preparation or execution of this Agreement or any documents or agreements contemplated hereby or the performance or consummation of the pre-Closing transactions contemplated hereby and thereby, which shall include (a) any fees and

expenses associated with obtaining necessary or appropriate waivers, consents or approvals of any Governmental Authority or third parties on behalf of Seller or the Company, (b) any fees or expenses associated with obtaining the release and termination of any Liens (other than Permitted Liens), (c) all brokers' or finders' fees, and (d) fees and expenses of counsel, advisors, consultants, investment bankers, accountants, auditors and experts, in all cases, whether payable prior to or on the Closing Date or thereafter. For avoidance of doubt, Seller Transaction Expenses shall not include any expenses incurred by the Company on or after the Closing at the direction or request of Buyer or its Affiliates (including the Company beginning after the Closing Date).

"***Settlement Agreement***" has the meaning given such term in the Recitals of this Agreement.

"***Straddle Period***" means any taxable period that begins on or before and ends after the Closing Date.

"***Tax***" means all United States federal, state, provincial, local or foreign income, profits, accumulated earnings, personal holding company, estimated, gross receipts, windfall profits, sales, use, transfer, value added, severance, franchise, capital gains, capital stock, withholding, ad valorem, employment, unemployment, workers' compensation, occupation, occupancy, production, social security, disability, wage, payroll, stamp, registration, premium, goods and services, real property, personal property, intangible property, excise, general excise, alternative or add-on minimum, customs, or environmental taxes, and any other taxes, charges, fees, levies or other similar assessments or liabilities in the nature of a tax imposed by a Governmental Authority whether computed on a separate, consolidated, unitary or combined basis or in any other manner, whether or not shown on a Tax Return, together with any interest, fines, penalties, or additions to tax attributable to or imposed with respect thereto, whether or not disputed.

"***Tax Contest***" has the meaning given such term in Section 7.2(d)(i).

"***Tax Refund***" has the meaning given such term in Section 7.2(e).

"***Tax Return***" means any return, estimated return, declaration, report, claim for refund, or information return or statement or similar statement or document relating to Taxes, including any schedule or attachment thereto and any amendment thereof.

"***Tax Sharing Agreement***" means an agreement (other than a Commercial Tax Agreement) the principal purpose of which is the sharing or allocation of or indemnification for Taxes.

"***Taxing Authority***" means, with respect to any Tax, the Governmental Authority that imposes such Tax and the Governmental Authority charged with the collection of such Tax, including any Governmental Authority that imposes, or is charged with collecting, social security or similar charges or premiums.

"***Third-Party Claim***" has the meaning given such term in Section 10.4(b).

"***Third Person Consent***" means any approval, consent, amendment or waiver of a Person that is required in order to effect the Contemplated Transactions or any part thereof, including waivers and consents by lenders and waivers of transfer or change of control restrictions; *provided* that Third Person Consents shall not include Authorizations.

"***Title Commitment***" means that certain Preliminary Report, effective March 6, 2019, obtained by Seller issued by the Title Company for Delek US Holdings, Inc.

"***Title Company***" means Chicago Title Company Insurance.

"***Title Policies***" has the meaning given such term in Section 6.10.

"***Transfer Taxes***" has the meaning given such term in Section 7.2(g).

"***Treasury Regulation***" means the regulations promulgated under the Code by the United States Department of Treasury.

"***Unaudited Financial Statements***" has the meaning given such term in Section 4.13(a).

Section 1.2 Construction. Whenever the context requires, the gender of all words used in this Agreement includes the masculine, feminine and neuter and terms defined in the singular have the corresponding meanings in the plural, and vice versa. All references to Articles and Sections refer to articles and sections of this Agreement, all references to Exhibits refer to exhibits to this Agreement and all references to Schedules refer to Schedules to this Agreement (including the Seller Disclosure Schedule and the Buyer Disclosure Schedule), whether such Exhibits and Schedules are attached hereto or delivered pursuant hereto, and are made a part of this Agreement for all purposes. Except as this Agreement otherwise specifies, all references herein to any Law defined or referred to herein are references to that Law (and any rules and regulations promulgated thereunder), as the same may have been (or may hereafter be) amended from time to time; *provided*, *however*, that any references to any Law in Article III, Article IV or Article V (or, as used in any Section in any such Article, any references to any Law included in any defined term used in Article III, Article IV or Article V) are references to that Law (and any rules and regulations promulgated thereunder), as the same may have been amended, interpreted and applied through the Closing Date. In the event of any conflict between the main body of this Agreement and the Exhibits and Schedules hereto, the provisions of the main body of this Agreement shall prevail, but only with respect to the application of the provisions hereof or the interpretation of any of the provisions hereof. The word "includes" or "including" means "including, but not limited to," unless the context otherwise requires. The words "shall" and "will" are used interchangeably and have the same meaning. The words "this Agreement," "hereof," "hereby," "herein," "hereunder" and similar terms in this Agreement shall refer to this Agreement as a whole and not to any particular Section or Article in which such words appear. If a word or phrase is defined, its other grammatical forms have a corresponding meaning. Whenever this Agreement refers to a number of days, such number shall refer to calendar days unless Business Days are specified. The language used in this Agreement will be deemed to be the language the Parties have chosen to express their mutual intent, and no rule of strict construction will be applied against any Party. A defined term has its defined meaning throughout this Agreement and each Exhibit and Schedule to this Agreement, regardless of whether it appears before or after the place where it is defined. The term "cost" includes expense, and the term "expense" includes cost. All references to a specific time of day in this Agreement shall be based upon Pacific Standard Time or Pacific Daylight Time, as applicable, on the date in question unless otherwise specified. The word "or" will have the inclusive meaning represented by the phrase "and/or" unless the context requires otherwise. Time periods within or following which any payment is to be made or an act is to be done shall be calculated by excluding the day on which the time period commences and including the day on which the time period ends and by extending the period to the next Business Day following if the last day of the time period is not a Business Day. For purposes of Article III or Article IV, the words "delivered to," "provided to," "made available to" or words of similar import mean posted to the Data Room, made available at the Refinery, or physically delivered to Buyer, in each case, as of the Execution Date.

ARTICLE II

PURCHASE AND SALE

Section 2.1 **Transfer of Purchased Shares**. Subject to and in accordance with the terms of this Agreement, Seller agrees to sell, assign, transfer, convey and deliver the Purchased Shares to Buyer, and Buyer agrees to purchase and accept the Purchased Shares from Seller, for and in consideration of the Purchase Price and the other covenants and agreements of the Parties herein.

Section 2.2 **Deposit**. Simultaneously with the execution of this Agreement, Buyer shall pay Seller, by wire transfer or delivery of other immediately available funds to an account, or accounts, designated by Seller, a deposit against the Purchase Price in an amount equal to $500,000 (the "***Deposit***"), as consideration for Seller's entry into this Agreement. This Agreement will not become a legally binding and enforceable obligation of Seller unless and until the Deposit is received by Seller. The Deposit shall be non-refundable in that it shall not be returned to Buyer unless, and only in the event, all of the following events (the "***Refund Conditions***") occur: (a) this Agreement is terminated by Buyer or by Seller as permitted herein, and (b) a Deposit Return Event shall have occurred. Within ten (10) days following the occurrence of the Refund Conditions, Seller shall transfer to Buyer, by wire transfer or delivery of other immediately available funds to an account designated by Buyer, a cash amount equal to the Deposit. If the Closing occurs, an amount equal to the Deposit will be applied to the Purchase Price as provided in Section 2.5(a)(i). Seller shall retain all interest or earnings received on the Deposit unless the Parties otherwise expressly agree.

Section 2.3 **Purchase Price**. As consideration for the sale and transfer of the Purchased Shares, Buyer shall pay to Seller an amount equal to Twenty Million Dollars ($20,000,000) (the "***Purchase Price***"). The Purchase Price shall be payable at the Closing pursuant to Section 2.5(a)(i).

Section 2.4 **Closing; Closing Date**.

(a) The closing of the Contemplated Transactions (the "***Closing***") shall take place at such place as Buyer and Seller may mutually agree, including by electronic exchange of documents and funds, at 10:00 a.m. at the site of the Closing on the second (2^{nd}) Business Day after the satisfaction or waiver of the conditions contained in Article VIII (other than those conditions that by their nature are to be fulfilled at Closing, but subject to the satisfaction or due waiver of those conditions on the Closing Date), or on such other date as Seller and Buyer may mutually agree; *provided*, *however*, that, if such second (2^{nd}) Business Day is not the first day of the calendar month, then the Closing Date shall be the first day of the calendar month next following the month in which such second (2^{nd}) Business Day occurs; *provided*, that, all of the conditions to the obligations of the Parties to consummate the Contemplated Transactions (other than conditions with respect to actions each Party will take at the Closing) as of such date shall continue to be satisfied or waived. The date of the Closing is referred to in this Agreement as the "***Closing Date***."

(b) Upon release of the documents and receipt of payments as contemplated by and in accordance with Section 2.5, the Closing shall be deemed to have occurred and legal title to and beneficial ownership and risk of loss of the Purchased Shares shall be deemed to have passed to Buyer and all right, title and interest in and to the Closing Date Payment shall be deemed to have passed to Seller.

(c) Buyer shall assume operational control of the Company, the Assets, and the Business on the Closing Date upon actual consummation of the Closing on that day including Seller's receipt of the Closing Date Payment by wire transfer of immediately available funds as provided below. Prior to and until the consummation of the Closing on the Closing Date, Seller shall conduct the operations in accordance with Section 6.1 and all covenants, obligations and standards set forth in this Agreement with

respect to operations during the Interim Period until Buyer assumes operational control of the Company as provided in the preceding sentence. After the consummation of the Closing, Buyer shall cause the Company to operate the Assets for the remainder of the Closing Date pursuant to Section 7.5.

Section 2.5 **Deliveries at the Closing**. At the Closing, the following events shall occur:

(a) Buyer shall execute and deliver, or cause to be delivered, to Seller:

(i) An amount (the "***Closing Date Payment***") equal to the Purchase Price,

(1) *less,* the Deposit,

(2) *less*, *the* Extension Payment if received by Seller prior to Closing,

(3) *less,* an amount equal to Seller's estimate of *ad valorem* Property Taxes of the Company for the Pre-Closing Tax Period (based upon the most recent property tax bills available), and

(4) *plus* or *minus*, as applicable, such other matters as the Parties agree to be added to or deducted from the calculation of the Closing Date Payment,

such Closing Date Payment to be paid by wire transfer of immediately available funds to the account of Seller set forth in Section 2.5(a)(i) of the Seller Disclosure Schedule;

(ii) the Backstop Guaranty;

(iii) resolutions of Buyer authorizing the execution of this Agreement and the Related Agreements to which Buyer is a party and the consummation of the Contemplated Transactions to which Buyer is a party (to the extent required by Buyer's Governing Documents), in each case certified by the Secretary or other executive officer of Buyer as being complete and correct and then in full force and effect;

(iv) a certificate of incumbency of the signatory officers of Buyer;

(v) short-form certificate as to the good standing of Buyer issued by the Secretary of State of Delaware;

(vi) the certificates referred to in Section 8.2(a) and Section 8.2(b); and

(vii) copies of all Buyer Third Person Consents and Authorizations obtained pursuant to Section 6.2.

In addition, Buyer shall accept the Purchased Shares from Seller.

(b) Seller shall execute and deliver, or cause to be delivered, to Buyer:

(i) original stock certificates representing the Purchased Shares, duly endorsed for transfer or with duly executed stock powers attached;

(ii) the minute books and any corporate records and company seals of the Company;

(iii) executed resignation letters of (or resolutions removing) the Seller Officers and Directors from their respective positions with the Company;

(iv) resolutions of Seller and the Company authorizing the execution of this Agreement and the Related Agreements to which Seller or the Company, as applicable, is a party and the consummation of the Contemplated Transactions to which Seller or the Company, as applicable, is a party (to the extent required by Seller's or the Company's Governing Documents), in each case certified by the Secretary or other executive officer of Seller or the Company, as applicable, as being complete and correct and then in full force and effect;

(v) Governing Documents of the Company, in each case certified by the Secretary or Assistant Secretary of the Company as being complete and correct and then in full force and effect;

(vi) certificates of incumbency of the signatory officers of Seller and the Company, as applicable;

(vii) short form certificates as to the good standing of Seller and the Company issued by the Secretary of State or other applicable Governmental Authority of the state of formation of Seller and the Company;

(viii) the certificates referred to in Section 8.3(a) and Section 8.3(b);

(ix) a certificate from Seller conforming to the requirements of Treasury Regulations Section 1.1445-2(b)(2) in form and substance satisfactory to Buyer stating that Seller is not a "foreign person" within the meaning of Section 1445 of the Code dated as of the Closing Date;

(x) copies of all Seller Third Person Consents and Authorizations obtained pursuant to Section 6.2;

(xi) Assignment of Contracts for those Seller Contracts for which Third Person Consents have either been obtained as of or prior to Closing or for which no Third Person Consent is required, duly executed by the Company and the applicable Affiliate of Seller; and

(xii) an executed copy of the Section 336(e) Agreement in form and substance reasonably satisfactory to Buyer.

Section 2.6 Company Assumed Liabilities; Seller Retained Liabilities.

(a) Buyer acknowledges and agrees that, except for the Retained Liabilities, (i) after the Closing, the Company will continue to retain all of its Obligations (including Company Environmental Liabilities), and (ii) to the extent not already assumed by the Company, Buyer shall cause the Company to unconditionally assume all Obligations of Seller and its Affiliates in any way arising out of or related to the ownership, operation or use of the Assets or the Business (and shall indemnify, defend, save and hold the Seller Indemnitees harmless from such Obligations) (all such Obligations in clauses (i) and (ii), whether past, present or future, known or unknown, absolute or contingent, and whether in the nature of Orders, Claims, Losses or otherwise, being herein referred to as "***Company Assumed Liabilities***").

(b) As of the Closing, Seller hereby unconditionally assumes and agrees to be liable for (and shall indemnify, defend, save and hold Buyer Indemnitees harmless from) the following (collectively, the "***Retained Liabilities***"):

(i) any Obligation to the extent arising out of or relating to the Excluded Assets or the transfer of the Excluded Assets pursuant to the Excluded Asset Transfer;

(ii) any (a) trade payables of the Company (including Seller Transaction Expenses) incurred prior to the Measurement Time except trade payables related to the Pre-Closing Cleaning Contracts which shall be Company Assumed Liabilities, (b) indebtedness of the Company incurred prior to the Closing for borrowed money or issued for or in exchange of indebtedness for borrowed money, or (c) indebtedness of the Company incurred prior to the Closing Date that is evidenced by a bond, debenture or similar instrument, except trade payables or other indebtedness to Affiliates of the Company, all of which will be released, extinguished, or cancelled by Seller prior to the Closing (for the avoidance of doubt the provisions of this clause (ii) shall not apply to any operating lease Obligations of the Company which shall remain as Company Assumed Liabilities);

(iii) any Obligations to any officer, director, employee or other agent of the Company in respect of acting in such capacities (including with respect to any breach of fiduciary obligations by same), to the extent such liabilities or obligations accrue prior to the Closing Date, even if such Persons do not bring a Claim for indemnity, reimbursement or advancement for such Obligations until after the Closing Date;

(iv) all Obligations relating to any Proceeding pending against the Company as of the Closing Date (as evidenced by written notice thereof or commencement of Proceedings) to the extent related to or arising from the ownership, operation or use of the Assets by the Company prior to the Closing, including any pending Proceedings set forth in Section 4.9 of the Seller Disclosure Schedule; and

(v) all Obligations of Seller with respect to Childhood Lead Fees to the extent retained by Seller as set forth in Section 7.14.

Notwithstanding the foregoing, Company Environmental Liabilities are included in the Company Assumed Liabilities and are excluded from the Retained Liabilities.

Section 2.7 **Excluded Assets**. Each of Seller and Buyer acknowledges and agrees that (i) all rights and Obligations under the Excluded Contracts, (ii) all Excluded Intellectual Property and all of Seller's and its Affiliates' (other than the Company's) proprietary trade names, trademarks and trade dress including the Alon Marks, (iii) all rights of the Company related to or arising from trademark registrations for "Alon," "Delek," "Paramount" or any derivations thereof, (iv) all assets and rights owned by third parties including assets listed on Section 2.7 of the Seller Disclosure Schedule, (v) all documents and communications of Seller and its Affiliates (other than the Company) that are subject to the attorney-client privilege or that comprise attorney work product or the attorney-client relationship, (vi) all rights on the part of Seller, its Affiliates (other than the Company) and their respective counsel to assert or rely upon the attorney-client privilege, (vii) any cash or cash equivalents held by the Company prior to the Closing, (viii) any accounts receivable owed to the Company which arise prior to or relate to operations prior to the Measurement Time, (ix) any notes receivable or other amounts that are receivable by the Company from Seller or any of its Affiliates, (x) amounts received or receivable pursuant to the Settlement Agreement, (xi) Tax Refunds payable pursuant to Section 7.2(e) in respect of amounts received or receivable pursuant to any Tax Contest for reimbursement of Property Taxes paid by or on behalf of the Company prior to the Closing, as further described in Section 2.7 of the Seller Disclosure Schedule, (xii) any documents (including emails) that do not constitute Books and Records, and (xiii) all crude oil inventory (including Reclaimed Oil) contained in the Designated Tanks as of the Closing (subsection (i) through (xii) being collectively referred to as the "***Excluded Assets***") will be retained by Seller (or one or more of Seller and its Affiliates, as applicable) after the Closing. Immediately prior to Closing, the Company shall distribute and transfer to Seller or its Affiliates (other than the Company) or release and discharge all rights to all

Excluded Assets (other than those owned by third parties) not already in possession of Seller or its Affiliates (with such distribution and transfer referred to as the "***Excluded Asset Transfer***"). The Excluded Asset Transfer shall be made pursuant to bills of sale, assignment and assumption agreements and such other general conveyance or release instruments as appropriate to transfer and assign title to or release and discharge rights to such Excluded Assets. For the avoidance of doubt, Tax Refunds received after the Closing shall be payable in accordance with Section 7.2(e).

Section 2.8 **Withholding**. Buyer and the Company shall be entitled to deduct and withhold from amounts otherwise payable pursuant to this Agreement such amounts as any such Person is required to deduct and withhold under the Code or any provision of state, local or foreign Tax Law; *provided* that Buyer and the Company shall consult first with Seller to determine the availability of any legally permissible reductions or exclusions from such withholdings, for which Buyer and the Company, as applicable, shall reasonably cooperate with Seller to pursue (such as obtaining such information and Tax forms from payees available to reduce or eliminate withholdings), prior to making any such deduction or withholding. To the extent that amounts are so deducted or withheld, such deducted or withheld amounts shall be treated for all purposes of this Agreement as having been paid to the Person in respect of which such deduction and withholding was made.

ARTICLE III

REPRESENTATIONS AND WARRANTIES REGARDING SELLER

Except as set forth in the Seller Disclosure Schedule, Seller hereby represents and warrants to Buyer that the statements contained in this Article III are complete and correct as of the Execution Date, and will be complete and correct as of the Closing Date (unless any such representation or warranty speaks to an earlier date and *provided* that any such representation or warranty that speaks to a "current" or "currently" dated time period shall be deemed to refer to such representation or warranty as of the Execution Date):

Section 3.1 **Organization and Qualification**. Seller is a Delaware corporation, duly organized and validly existing and in good standing under the Laws of the State of Delaware. Seller has the requisite corporate power and authority to carry on its business as it is now being conducted. Seller is duly qualified as a foreign corporation and in good standing in each jurisdiction where the character of its properties owned or held under lease or the nature of its activities makes such qualification necessary, except where the failure to be so qualified would not, individually or in the aggregate, reasonably be expected to have a material adverse effect on Seller's ability to execute, deliver and perform its Obligations under this Agreement and the Related Agreements to which it will be a party.

Section 3.2 **Authority; Enforceability**. Seller has full corporate power and authority to execute, deliver and perform its Obligations under this Agreement and the Related Agreements to which it will be a party, and to carry out the Contemplated Transactions. This Agreement has been and the Related Agreements to which Seller will be a party will be duly and validly executed and delivered by Seller and, assuming the due authorization, execution and delivery by Buyer, this Agreement and the Related Agreements to which Seller will be a party constitute the legal, valid and binding Obligations of Seller enforceable in accordance with their respective terms, except as enforcement may be limited by bankruptcy, insolvency or other similar Laws affecting the enforcement of creditors' rights generally and except that the availability of equitable remedies, including specific performance, is subject to the discretion of the court before which any Proceeding therefor may be brought.

Section 3.3 **Conflicts and Approvals**. Assuming the accuracy of Buyer's representations and warranties and except for (a) the receipt of the Seller Third Person Consents set forth in Section 3.3(a) of the Seller Disclosure Schedule and (b) the effectuation of all filings and registrations with and the receipt

of the Authorizations from Governmental Authorities set forth in Section 3.3(b) of the Seller Disclosure Schedule, neither the execution and delivery by Seller of this Agreement or the Related Agreements to which Seller will be a party, nor the performance by Seller of its Obligations hereunder or thereunder will (A) conflict with, result in a breach or violation of the terms of, cause or constitute a default under, give rise to any right of termination, cancellation or acceleration under, or require to be obtained or made any consent, waiver, order, approval, order or authorization of, or declaration, of, or notice to, or filing or registration with, any third party or any Governmental Authority, under, (i) any Law applicable to Seller or to which the Purchased Shares is subject, (ii) the Governing Documents of Seller, (iii) any Authorizations or Orders binding on Seller or to which the Purchased Shares is subject or (iv) any contract or other instrument or obligation to which Seller is a party or by which the Purchased Shares is subject, (B) result in the imposition or creation of any Lien, other than Permitted Liens, on the Purchased Shares, other than any Liens that may be created by or on behalf of Buyer, or (C) with the passage of time, the giving of notice or the taking of any action, have any of the effects set forth in clauses (A) or (B) of this Section 3.3, except for any matters described in clauses (A)(i), (iii) or (iv) that would not constitute a Material Adverse Effect or materially and adversely affect the ability of Seller to execute, deliver and perform its Obligations under this Agreement and the Related Agreements to which it will be a party.

Section 3.4 **Proceedings**. There are no Proceedings or Orders pending (for which Seller has received service of process or otherwise written notice) or, to Seller's Knowledge, threatened in writing against Seller or its assets that would reasonably be expected to materially and adversely affect the ability of Seller to execute, deliver and perform its Obligations under this Agreement or any Related Agreement to which Seller will be a party.

Section 3.5 **Ownership of the Purchased Shares**. Seller is the sole record and beneficial owner of the Purchased Shares and Seller owns the Purchased Shares free and clear of any Liens, other than Liens (a) arising under this Agreement, (b) arising under the Governing Documents of the Company or as disclosed in Section 3.5 of the Seller Disclosure Schedule, and (c) imposed pursuant to the Securities Act of 1933, as amended (the "***Securities Act***"), and applicable state securities or "blue sky" laws. At the Closing, the delivery of the Purchased Shares to Buyer in accordance with the terms of this Agreement will transfer good and valid title to the Purchased Shares free and clear of any Liens, other than the Liens described in clauses (a) and (c) above.

Section 3.6 **Brokers**. No broker, finder or investment banker is entitled to any brokerage, finder's or other fee or commission in connection with the Contemplated Transactions based upon arrangements made by or on behalf of Seller or any of its Affiliates, except any fees and commissions that will be discharged by Seller.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES REGARDING THE COMPANY

Except as set forth in the Seller Disclosure Schedule, Seller and the Company hereby represent and warrant, jointly and severally, to Buyer that the statements contained in this Article IV are complete and correct as of the Execution Date, and will be complete and correct as of the Closing Date (unless any such representation or warranty speaks to an earlier date and *provided* that any such representation or warranty that speaks to a "current" or "currently" dated time period shall be deemed to refer to such representation or warranty as of the Execution Date):

Section 4.1 Organization and Qualification.

(a) The Company is a Delaware corporation duly organized and validly existing and in good standing under the Laws of the State of Delaware.

(b) The Company has the requisite corporate power and authority to carry on the Business as it is now being conducted. The Company is qualified and in good standing in each jurisdiction where the character of its properties owned or held under lease or the nature of its activities makes such qualification necessary, except where the failure to be so qualified would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. Seller has heretofore made available to Buyer complete and correct copies of the Governing Documents of the Company, each as amended to the Execution Date and each of which is in full force and effect. The Company is not in violation of its Governing Documents.

(c) There are no corporations, partnerships, limited partnerships, limited liability companies, joint ventures or other legal entities in which the Company owns, of record or beneficially, any direct or indirect Equity Securities or any right (contingent or otherwise) to acquire the same.

Section 4.2 Authority; Enforceability. The Company has full power and authority to execute, deliver and perform its Obligations under this Agreement and the Related Agreements to which it will be a party, and to carry out the Contemplated Transactions. This Agreement has been and the Related Agreements to which the Company will be a party will be duly and validly executed and delivered by the Company, as applicable, and, assuming the due authorization, execution and delivery by Buyer, this Agreement and the Related Agreements to which the Company will be a party constitute the legal, valid and binding Obligations of the Company, enforceable in accordance with their respective terms, except as enforcement may be limited by bankruptcy, insolvency or other similar Laws affecting the enforcement of creditors' rights generally and except that the availability of equitable remedies, including specific performance, is subject to the discretion of the court before which any Proceeding therefor may be brought.

Section 4.3 Conflicts and Approvals. Assuming the accuracy of Buyer's representations and warranties and except for (a) the receipt of the Seller Third Person Consents set forth in Section 3.3(a) of the Seller Disclosure Schedule, (b) the effectuation of all filings and registrations with and the receipt of the Authorizations from Governmental Authorities set forth in Section 3.3(b) of the Seller Disclosure Schedule and (c) for any consents, approvals or notices that may be required related to the Pipeline ROW Interests, neither the execution and delivery by the Company of this Agreement or the Related Agreements to which the Company will be a party, nor the performance by the Company of its Obligations, hereunder or thereunder will (A) conflict with, result in a breach or violation of the terms of, cause or constitute a default under, give rise to any right of termination, cancellation or acceleration under, or require to be obtained or made any consent, waiver, order, approval, order or authorization of, or declaration, of, or notice to, or filing or registration with, any third party or any Governmental Authority, under, (i) any Law applicable to the Company or to which any of its assets are subject, (ii) the Governing Documents of the Company, (iii) any Authorizations or Orders binding on the Company or to which any of its assets are subject or (iv) any contract or other instrument or obligation of the Company or to which any of its assets are subject, (B) result in the imposition or creation of any Lien, other than Permitted Liens, on any asset of the Company, other than any Liens that may be created by or on behalf of Buyer, or (C) with the passage of time, the giving of notice or the taking of any action by a third Person, have any of the effects set forth in clause (A) or (B) of this Section 4.3, except for any matters described in clauses (A)(i), (iii) or (iv) that would not constitute a Material Adverse Effect or materially and adversely affect the ability of the Company to execute, deliver and perform its Obligations, as applicable, under this Agreement and the Related Agreements to which it will be a party.

Section 4.4 **Capitalization of the Company**. The authorized capital stock of the Company consists solely of 1,000 shares of common stock, par value $0.01 per share, the total issued and outstanding number of which is 1,000. The Purchased Shares constitute all of the issued and outstanding Equity Securities of the Company. The Purchased Shares are certificated. The Purchased Shares are validly issued, fully paid and nonassessable and were issued and remain free of preemptive rights. There are no bonds, debentures, notes or other evidences of indebtedness issued or outstanding having the right to vote on any matters on which the holder of the Purchased Shares may vote. Other than Buyer's rights as contemplated by this Agreement, there are no options, warrants, calls or other rights or agreements outstanding obligating Seller or the Company to issue, deliver or sell capital stock of the Company or debt securities, or obligating Seller or the Company to grant, extend or enter into any such option, warrant, call or other such right or agreement.

Section 4.5 **Assets**.

(a) Subject to the receipt of any Third Person Consent or Authorization for the transfer and assignment from Seller to the Company, the Company owns, leases or has the legal right to use its material Assets (or in the case of the Company's contract rights, receive the benefits of its Assets) free and clear of all Liens except Permitted Liens.

(b) The Company has good and marketable title to, or valid leasehold interests in, or license to, all of its material tangible personal property, free and clear of all Liens, other than Permitted Liens, except for such nonmaterial properties as are no longer used or useful in the conduct of the Business.

(c) Section 4.5(c) of the Seller Disclosure Schedule sets forth a complete and correct list of all material Real Property Interests owned in fee simple by the Company (the "***Owned Real Property***"). There are no outstanding options or rights of first refusal to purchase or lease the Owned Real Property or any portion thereof or interest therein. There are no pending or, to the Knowledge of Seller, threatened condemnation proceedings (for which Seller or the Company has received service of process or otherwise written notice) before any Governmental Authority with respect to any Owned Real Property.

(d) Section 4.5(d) of the Seller Disclosure Schedule sets forth a list of all material Real Property Interests leased to the Company (the "***Leased Real Property***"), including the name and address of each landlord for each such lease. Seller has delivered to Buyer complete and correct copies of each such lease. The Company is not a sublessor or grantor under any sublease or other instrument granting to another Person any right to the possession, lease, occupancy or enjoyment of the Leased Real Property except as set forth in Section 4.5(d) of the Seller Disclosure Schedule.

(e) To the Knowledge of Seller, there are no pending special assessments or reassessments (for which Seller or the Company has received service of process or otherwise written notice) of any parcel included in the Real Property Interests that would reasonably be expected to result in a material increase in the real property taxes or other similar charges payable by the Company with respect to any parcel of Owned Real Property or a material increase in the rent, additional rent or other sums and charges payable by the Company under the leases for the Leased Real Property.

Section 4.6 **Material Contracts**.

(a) For purposes of this Agreement, a "***Material Contract***" means, with respect to a Person, any of the following, except for this Agreement and any Excluded Contract:

(i) any contract relating to any indebtedness of such Person for borrowed money in an amount in excess of $50,000, or the granting of any Lien by such Person securing any such borrowing;

(ii) any contract whereby such Person guarantees an Obligation in excess of $50,000 of any other Person;

(iii) any contract with an employee or consultant of such Person providing for annual payment by such Person in excess of $50,000 or a change in control severance benefit in excess of $50,000;

(iv) any contract with any officer, director or manager of such Person;

(v) any contract for the supply of goods or services by or to such Person not covered in any other paragraph of this Section 4.6(a) that provides for future payments by or to such Person of more than $25,000;

(vi) any contract for the sale of any asset by or to such Person not covered in any other paragraph of this Section 4.6(a) that provides for the future payment by or to such Person of more than $25,000;

(vii) any lease covering the Leased Real Property or any other lease under which such Person is the lessor or lessee of real or personal property that provides for an annual base rental to or from such Person of more than $25,000;

(viii) any contract prohibiting such Person from competing with another Person in any business or area or soliciting or hiring any Person with respect to employment;

(ix) any contract or agreement providing for the direct or indirect merger, consolidation, or other reorganization of the Company;

(x) any other contract or agreement (other than a contract or agreement of a type described in clause (v). above) of such Person not covered in any other paragraph of this Section 4.6(a) that provides for the future payment by or to such Person of more than $25,000;

(xi) any joint venture, partnership, limited liability company or other similar contract;

(xii) any contract that grants "most favored nations" pricing to a customer or counterparty; and

(xiii) any contract or agreement to enter into any agreement with respect to any of the matters described in any other paragraph of this Section 4.6(a).

(b) Section 4.6(b) of the Seller Disclosure Schedule sets forth a list of each Material Contract to which the Company is a party or to which any of the Assets is bound (the "***Material Company Contracts***").

(c) Section 4.6(c) of the Seller Disclosure Schedule sets forth a list of each Material Contract to which Seller or any Affiliate of Seller (excluding the Company) is a party, other than the Excluded Contracts, which relate primarily to the Business as currently conducted by the Company (the "***Seller Contracts***").

(d) Section 4.6(d) of the Seller Disclosure Schedule sets forth a list of each material contract or agreement to which the Company, Seller, or any Affiliate of Seller is a party and which are used in the operation of the Business, as currently conducted by the Company, that are to be retained by Seller

or its Affiliates (or if the Company is a party, which are to be assigned to Seller or its Affiliates prior to the Closing or terminated as to the Company prior to the Closing) (the "***Excluded Contracts***").

(e) Except as set forth in Section 4.6(e) of the Seller Disclosure Schedule and as would not have a Material Adverse Effect, (i) none of the Company, Seller or any Affiliate of Seller has breached and is continuing the terms of any Material Company Contract or Seller Contract, or received from any third party to any such Material Company Contract or Seller Contract written notification that such contract is not in full force and effect, that the Company, Seller or any Affiliate of Seller, as applicable, has failed to perform, and such failure is continuing, its Obligations thereunder to date, or that any third party thereto has not performed its Obligations thereunder to date, (ii) to Seller's Knowledge, no event has occurred and no circumstance or condition exists, that (with or without notice or lapse of time) would reasonably be expected to result in a breach or violation of, or a default under, any such Material Company Contact or Seller Contract and (iii) each Material Company Contract or Seller Contract is a legal, valid, binding and enforceable agreement of the Company, Seller or any Affiliate of Seller, as applicable, and, to Seller's Knowledge, the other parties thereto and is in full force and effect, except as enforcement may be limited by bankruptcy, insolvency or other similar Laws affecting the enforcement of creditors' rights generally and except that the availability of equitable remedies, including specific performance, is subject to the discretion of the court before which any Proceeding therefor may be brought.

(f) Seller has provided to Buyer complete and correct copies (to the extent in Seller's possession) of each Material Company Contract and Seller Contract relating to the Business as currently conducted by the Company (including all waivers thereunder).

Section 4.7 Authorizations.

(a) The Company possesses, as of the Execution Date, all Authorizations (or has timely applied for the renewal, the granting of which is pending) that are materially necessary to carry on the Business, as currently conducted, all of which, to the extent material to the operation of the Business as currently conducted, are set forth in Section 4.7(a) of the Seller Disclosure Schedule, and, to Seller's Knowledge, all such Authorizations are in full force and effect. A complete and correct copy of each material Authorization set forth in Section 4.7(a) of the Seller Disclosure Schedule has previously been delivered to or made available for inspection by Buyer or Buyer has been given access thereto;

(b) (i) To Seller's Knowledge, no event has occurred and no circumstance or condition exists, that (with or without notice or lapse of time) would reasonably be expected to constitute or result in a violation by the Company of, or a failure on the part of the Company to comply with the terms of, any Authorization set forth in Section 4.7(a) of the Seller Disclosure Schedule, (ii) the Company has not received from any Governmental Authority written notification that any Authorization set forth in Section 4.7(a) of the Seller Disclosure Schedule (A) is not in full force and effect, (B) has been violated in any respect, or (C) is subject to any suspension, revocation, modification or cancellation, and (iii) there is no Proceeding pending (for which the Company has received service of process or otherwise written notice) or, to Seller's Knowledge, threatened in writing regarding suspension, revocation, modification or cancellation of any such Authorization.

(c) Notwithstanding the foregoing, no representation or warranty is made in this Section 4.7 with respect to (i) Authorizations under Environmental Laws, which are addressed exclusively in Section 4.10 or (ii) Authorizations under Tax Laws, which are addressed exclusively in Section 4.12.

Section 4.8 Compliance With Law. Except as set forth in Section 4.8 of the Seller Disclosure Schedule: (i) the Company is in compliance in all material respects with all material Laws, (ii) the Company has not received any written notification from any applicable Governmental Authority that it is

not in compliance in all material respects with any material Laws, and (iii) to Seller's Knowledge, no event has occurred and no circumstance or condition exists, that (with or without notice or lapse of time) would reasonably be expected to constitute or result in a failure of the Company to comply in all material respects with the terms of any material Law. Notwithstanding the foregoing, no representation or warranty is made in this Section 4.8 with respect to (A) compliance with Environmental Laws, which are addressed exclusively in Section 4.10 or (B) compliance with Tax Laws, which are addressed exclusively in Section 4.12.

Section 4.9 Proceedings and Orders. Except (i) as set forth in Section 4.9 of the Seller Disclosure Schedule or (ii) as would not reasonably be expected to have a material effect, there are no Proceedings or Orders pending against the Company (for which the Company has received service of process or otherwise written notice) or, to Seller's Knowledge, threatened in writing against the Company or to which the Assets or the Business are subject, in any court or before or by any other Governmental Authority. Notwithstanding the foregoing, no representation or warranty is made in this Section 4.9 with respect to (i) Proceedings or Orders under or involving Environmental Laws, which are addressed exclusively in Section 4.10 or (ii) Proceedings or Orders under or involving Tax Laws, which are addressed exclusively in Section 4.12.

Section 4.10 Environmental.

(a) Except as set forth in Section 4.10(a) of the Seller Disclosure Schedule, or as would not have a Material Adverse Effect, to Seller's Knowledge, the Company is in compliance with all Environmental Laws and has not, and Seller has not, received from any Person any written notice, claim or request for information pursuant to Environmental Law, which, in each case, either remains pending or unresolved, or is the source of ongoing obligations or requirements as of the Closing Date.

(b) To Seller's Knowledge, the Company has obtained and is in material compliance with all Environmental Permits (each of which is set forth in Section 4.10(b) of the Seller Disclosure Schedule) necessary for the ownership, lease, operation, or use, of the Assets as the Assets are currently used by the Company.

(c) Except as set forth in Section 4.10(c) of the Seller Disclosure Schedule, to Seller's Knowledge, (i) there has been no material Release of Hazardous Materials in contravention of Environmental Laws since January 1, 2016 with respect to the Business, the Assets or the Real Property Interests currently owned, operated or leased by the Company, (ii) neither the Company nor Seller has received a written notice pursuant to Environmental Laws that any Real Property Interest currently owned, operated or leased in connection with the Business (including soils, groundwater, surface water, buildings and other structure located on any such real property) has been contaminated with any Hazardous Material which would reasonably be expected to result in an Environmental Claim against, or a violation of Environmental Laws or term of any Environmental Permit by, Seller or the Company, (iii) there are no Proceedings under or involving Environmental Laws pending against the Company (for which the Company has received service of process or otherwise written notice) or, to Seller's Knowledge, threatened in writing against the Company or to which the Assets or the Business are subject, in any court or before or by any other Governmental Authority, and (iv) there are no Orders outstanding against the Company under or involving Environmental Laws.

(d) Seller has previously made available to Buyer in the Data Room or otherwise all material environmental reports, studies, audits, records, sampling data, site assessments and other similar documents in each case prepared by a third party with respect to the Business or assets of the Company or any currently owned, operated or leased Real Property Interests in each case which are in the possession or control of Seller or the Company.

(e) The representations and warranties set forth in this Section 4.10 are Seller's sole and exclusive representations and warranties regarding Environmental Law matters.

Section 4.11 Employee Matters. The Company does not currently have, and for the past three (3) years has not had, any employees or employee benefit plans, and the Company has no Obligation as result of being deemed a "co-employer" of any person. The Company currently has no outstanding Obligation under (i) any state or local Laws regarding the termination or layoff of employees, (ii) any collective bargaining contract, or (iii) workers' compensation statutes, unemployment Laws, social security Laws, and other Laws pertaining to the payment of employment Taxes, except in each case where the failure to do so would not have a Material Adverse Effect. Neither the Company nor any ERISA Affiliate of the Company sponsors, maintains, or contributes to (nor is the Company or any such ERISA Affiliate obligated to contribute to) and or has any current or potential obligation or liability under or with respect to (A) any "multiemployer plan" (as defined in Section 3(37) of ERISA), (B) any "defined benefit plan" (as defined in Section 3(35) of ERISA), whether or not terminated, excluding the plans set forth in Section 4.11 of the Seller Disclosure Schedule, (C) any "multiple employer plan" (as defined in Section 210 of ERISA or Section 413(c) of the Code), or (D) any "multiple employer welfare arrangement" (as defined in Section 3(40) of ERISA). The Company does not sponsor, maintain or contribute to any plan or arrangement providing for health or other welfare benefits after termination of employment (other than as required by "COBRA" or similar state continuation coverage laws for which the employee pays the full premium cost).

Section 4.12 Taxes.

(a) All Tax Returns which are required to be filed by the Company have been duly and timely filed (taking into account any valid extensions) and each such Tax Return is complete and correct in all material respects; all material Taxes that are required to be paid by the Company (whether or not shown as due on any such Tax Return) have been timely (taking into account any valid extensions) paid in full.

(b) The Company has withheld and timely paid all material Taxes required to have been withheld and paid in connection with any amounts paid or owing to Seller or any employee, independent contractor, creditor, member, or other third party. The Company is in compliance with, and its records contain all information and documents necessary to comply with, all applicable information reporting and withholding requirements under applicable Laws relating to Tax.

(c) There is no Lien for unpaid Taxes against the property of the Company other than Permitted Liens. Neither Seller nor the Company has received from any Taxing Authority any written (i) notice indicating an intent to open any audit, other examination, or matter in controversy with respect to Taxes of the Company; or (ii) notice of deficiency or proposed adjustment for any amount of Tax proposed, asserted or assessed by any Taxing Authority against the Company that has not been satisfied in full. There is no Proceeding relating to the Company's Taxes or Tax Returns pending or in progress.

(d) There are no waivers of any statute of limitations in respect of Taxes or any extension of time with respect to a Tax assessment or deficiency affecting the Company. The Company has not entered into or applied for any extension of time for filing any Tax Return which has not been filed.

(e) The Company has never been a member of an affiliated group or filed or been included in a combined, consolidated or unitary income Tax Return (other than the Seller Consolidated Group).

(f) The Company will not be required to include any item of income in, or exclude any item of deduction from, taxable income for any taxable period (or portion thereof) ending after the

Closing Date as a result of any (i) change in method of accounting, including under Section 481(a) of the Code (or any predecessor provision or any similar provision of state, local, federal or foreign Tax Law), or use of an improper method of accounting for a Pre-Closing Tax Period, (ii) "closing agreement," as described in Section 7121 of the Code (or any corresponding provision of state, local or foreign income Tax Law) executed on or before the Closing Date, (iii) prepaid or deposit amount received on or prior to the Closing Date or item of deferred revenue, (iv) installment sale or open transaction disposition made on or prior to the Closing Date, (v) election under Section 108(i) of the Code made on or before the Closing Date, (vi) inclusion under Code Section 965(a) or any election under Section 965(h) or Section 965(i) of the Code made on or before the Closing Date, or (viii) use of the cash method of accounting on or before the Closing Date.

(g) The Company has made available to Buyer complete and correct copies of all income Tax Returns and other material Tax Returns of the Company, and statements of deficiencies assessed against, or agreed to by, the Company for all Tax periods ending on or after January 1, 2013, and all material written correspondence to the Company from, or from the Company to, a Taxing Authority relating thereto. Section 4.12 of the Seller Disclosure Schedule sets forth each jurisdiction in which the Company files, is required to file or since January 1, 2013 have been required to file a Tax Return, or has been liable for any Taxes, including on a "nexus" basis in connection with the ownership, operation or management of the Business or the Company's assets.

(h) All related party transactions involving the Company are at arm's length in compliance with Section 482 of the Code and the Treasury Regulations promulgated thereunder and any similar provision of foreign, state or local Law.

(i) The Company has not participated, within the meaning of Treasury Regulations Section 1.6011-4(c), in any (i) "reportable transaction" within the meaning of Section 6011 of the Code and the Treasury Regulations thereunder, (ii) "tax shelter" or "confidential corporate tax shelter" within the meaning of Section 6111 of the Code and the Treasury Regulations thereunder or (iii) "potentially abusive tax shelter" within the meaning of Section 6112 of the Code and the Treasury Regulations thereunder.

(j) The Company is not a party to and does not have any obligations under any Tax Sharing Agreement.

(k) The Company has not distributed shares of another Person nor had its shares distributed by another Person in a transaction that was intended or purported to be governed in whole or in part by Section 355 or Section 361 of the Code.

(l) Except for Taxes of the Seller Consolidated Group, no power of attorney granted by the Company with respect to any Taxes is currently in force.

Notwithstanding any other provision in this Agreement to the contrary, the representations and warranties contained in Section 4.5(e), Section 4.11 and this Section 4.12 are the only representations and warranties made with respect to Tax matters.

Section 4.13 Unaudited Financial Statements.

(a) Section 4.13(a) of the Seller Disclosure Schedule sets forth correct and complete copies of the following financial statements (collectively, the "***Unaudited Financial Statements***"):

(i) the unaudited balance sheet of the Company as of December 31, 2017, together with corresponding unaudited statements of income and of cash flows for the six-month period ended December 31, 2017; and

(ii) the unaudited balance sheet of the Company as of December 31, 2018, together with corresponding unaudited statements of income and of cash flows for the twelve-month period ended December 31, 2018.

(b) The Unaudited Financial Statements have been prepared from the records of the Company in accordance with GAAP applied on a consistent basis during the respective period covered thereby (subject to the absence of footnote disclosures and normal and recurring year-end adjustments). The above referenced unaudited balance sheet of the Company dated as of December 31, 2018 contains, to Seller's Knowledge, all material liabilities of the Company which are known by Seller as of the Execution Date which are required by GAAP to be included in such balance sheet.

(c) Historically, financial statements have not been prepared for the Company as it has not operated as a separate, stand-alone enterprise. The Unaudited Financial Statements have been prepared from the historical accounting records of the Company in anticipation of a potential transaction to separate the Company from the other business activities of Seller and its other Affiliates as though the Company and the Assets had been managed as a separate, stand-alone enterprise for all periods presented. As the Company and the Assets have been historically managed and financed as part of a larger group, its accounts reflect certain charges for functions provided by Seller and its Affiliates that have been identified as related party transactions. It is possible that the terms of the related party transactions are not the same as the terms that might otherwise result from transactions between unrelated parties. To Seller's Knowledge, all adjustments have been reflected that are necessary for a fair presentation of the financial statements for the Company for their respective dates. The allocations have been made on a reasonable basis and have been consistently applied for each period presented. The Unaudited Financial Statements may not necessarily reflect the financial position, results of operations or cash flows that the Company might have had in the past, or might have in the future, if it had existed as a separate, stand-alone enterprise.

ARTICLE V

REPRESENTATIONS AND WARRANTIES REGARDING BUYER

Except as set forth in the Buyer Disclosure Schedule, Buyer hereby represents and warrants to Seller that the statements contained in this Article V are complete and correct as of the Execution Date, and will be complete and correct as of the Closing Date (unless any such representation or warranty speaks to an earlier date and *provided* that any such representation or warranty that speaks to a "current" or "currently" dated time period shall be deemed to refer to such representation or warranty as of the Execution Date):

Section 5.1 **Organization and Qualification**. Buyer is a limited liability company duly organized and validly existing and in good standing under the Laws of the State of Delaware. Buyer has the requisite limited liability company power and authority to carry on its business as it is now being conducted. Buyer is duly qualified as a foreign limited liability company and in good standing in each jurisdiction where the character of its properties owned or held under lease or the nature of its activities makes such qualification necessary, except where the failure to be so qualified would not, individually or in the aggregate, reasonably be expected to have a material adverse effect on Buyer's ability to execute, deliver and perform its Obligations under this Agreement and the Related Agreements to which it will be a party.

Section 5.2 **Authority; Enforceability**. Buyer has full limited liability company power and authority to execute, deliver and perform its Obligations under this Agreement and the Related Agreements to which it will be a party, and to carry out the Contemplated Transactions. This Agreement has been and the Related Agreements to which Buyer will be a party will be duly and validly executed and delivered by Buyer and, assuming the due authorization, execution, and delivery by Seller, this Agreement and the Related Agreements to which Buyer will be a party constitute the legal, valid and binding Obligations of Buyer enforceable in accordance with their respective terms, except as enforcement may be limited by bankruptcy, insolvency or other similar Laws affecting the enforcement of creditors' rights generally and except that the availability of equitable remedies, including specific performance, is subject to the discretion of the court before which any Proceeding therefor may be brought.

Section 5.3 **Conflicts and Approvals**. Assuming the accuracy of Seller's representations and warranties and except for (a) the receipt of the Buyer Third Person Consents set forth in Section 5.3(a) of the Buyer Disclosure Schedule and (b) the effectuation of all filings and registrations with and the receipt of the Authorizations from Governmental Authorities set forth in Section 5.3(b) of the Buyer Disclosure Schedule, neither the execution and delivery by Buyer of this Agreement or the Related Agreements to which Buyer will be a party, nor the performance by Buyer of its Obligations hereunder or thereunder will (A) violate or breach the terms of or cause a default under (i) any Law applicable to Buyer, (ii) the Governing Documents of Buyer, (iii) any Authorizations or Orders binding on Buyer or to which any of its assets are subject or (iv) any Material Contract of Buyer or (B) with the passage of time, the giving of notice or the taking of any action by a third Person, have any of the effects set forth in clause (A) of this Section 5.3, except for any matters described in this Section 5.3 that would not reasonably be expected to materially and adversely affect the ability of Buyer to execute, deliver and perform its Obligations under this Agreement and the Related Agreements to which it will be a party.

Section 5.4 **Proceedings**. There are no Proceedings or Orders pending (for which Buyer has received service of process or otherwise notice) or, to Buyer's Knowledge, threatened, against Buyer or its assets that would reasonably be expected to materially and adversely affect the ability of Buyer to execute, deliver and perform its Obligations under this Agreement or any Related Agreement to which Buyer will be a party.

Section 5.5 **Brokers**. No broker, finder or investment banker is entitled to any brokerage, finder's or other fee or commission in connection with the Contemplated Transactions based upon arrangements made by or on behalf of Buyer, except any fees and commissions that will be discharged by Buyer.

Section 5.6 **Purchase the Purchased Shares for Investment**.

(a) The Purchased Shares, when acquired by Buyer at the Closing, will be acquired from Seller for Buyer's own account, for investment purposes and Buyer is not acquiring the Purchased Shares from Seller with a view to, or to make offers of sales for Seller in connection with, any distribution thereof, or to participate or have a direct or indirect participation in any such undertaking, or to participate or have a participation in the direct or indirect underwriting of any such undertaking, in each case within the meaning of the Securities Act, or applicable state securities Laws.

(b) Buyer understands that (i) the Purchased Shares have not been registered under the Securities Act by reason of their issuance in a transaction exempt from the registration and prospectus delivery requirements of the Securities Act and has not been qualified under any state securities Laws on the grounds that the offering and sale of securities contemplated by this Agreement are exempt from registration thereunder, and (ii) Seller's reliance on such exemptions is predicated on Buyer's representations set forth herein. Buyer understands that the resale of the Purchased Shares may be restricted

indefinitely, unless a subsequent disposition thereof is registered under the Securities Act and registered under any state securities Law or is exempt from such registration.

(c) Buyer is an "accredited investor" as that term is defined in Rule 501 of Regulation D promulgated under the Securities Act. Buyer is able to bear the economic risk of the acquisition of the Purchased Shares pursuant to the terms of this Agreement, including a complete loss of Buyer's investment in the Purchased Shares.

(d) Buyer can bear the economic risk of its investment in the Purchased Shares (including possible complete loss of such investment) for an indefinite period of time and has such knowledge and experience in financial or business matters that it is capable of evaluating the merits and risks of its acquisition of the Purchased Shares.

(e) Buyer, together with its representatives and advisors, is familiar with investments of the nature of the Purchased Shares, understands that the purchase of the Purchased Shares involves certain risks, and believes that it has adequately investigated the Company, and has substantial knowledge and experience in financial and business matters such that it is capable of evaluating, and has evaluated, the merits and risks inherent in purchasing the Purchased Shares. Buyer and its representatives and advisors have been afforded access, to the extent not prohibited by Law, to such information concerning the Company and have been afforded an opportunity to ask such questions of Seller and the Company as Buyer has deemed necessary or desirable to evaluate the merits and risks of the prospective investments in the Purchased Shares contemplated herein.

(f) For purposes of state "blue sky" Laws, Buyer represents and warrants that Buyer is located in the State of California and that the decision by Buyer to acquire the Purchased Shares shall be deemed to occur solely in the State of California.

Section 5.7 **Solvency**. Buyer is not entering into the transactions contemplated by this Agreement with the actual intent to hinder, delay, or defraud either present or future creditors. Assuming (i) satisfaction of the conditions to the obligations of Buyer to consummate the Contemplated Transactions and (ii) the accuracy of the representations and warranties in Article III and Article IV, at and immediately after the Closing, and after giving effect to the Closing and the other Contemplated Transactions, Buyer will not (A) be insolvent (in that both the fair value of its assets will not be less than the sum of its debts and the present fair saleable value of its assets will not be less than the amount required to pay its probable liability on its debts as they become absolute and matured) and (B) have incurred debts beyond its ability to pay as they become absolute and matured.

Section 5.8 **OFAC/CFIUS**.

(a) Neither Buyer nor any of its partners, members, shareholders or other direct or indirect owners of Equity Interests nor any Person who controls (directly or indirectly through intermediaries) Buyer is identified on (a) the U.S. Department of Treasury's Office of Foreign Assets Controls' (" ***OFAC***") List of Specially Designated Nationals and Blocked Persons, (b) the Bureau of Industry and Security of the United States Department of Commerce's "Denied Persons List," "Entity List" or "Unverified List," (c) the Office of Defense Trade Controls of the United States Department of State's "List of Debarred Parties" or (d) any other similar list maintained by OFAC pursuant to any authorizing statute, executive order or regulation.

(b) Buyer is not and is not controlled by a "foreign person" as that term is defined under §800.216 of 31 C.F.R. Part 800 on "Regulations Pertaining to Mergers, Acquisitions, and Takeovers by Foreign Persons."

Section 5.9 Financing Commitments.

(a) Buyer has delivered to Seller on or prior to the Execution Date complete and correct copies of executed (i) equity commitment letter (the "***Equity Commitment Letter***") from Labor Impact Fund, L.P. (the " ***Equity Source***") to provide equity financing to Buyer for a portion of the Purchase Price and the amount of any fees and expenses of Buyer to be incurred in connection with the Contemplated Transactions (the "***Equity Financing***") and (ii) debt commitment letter (a " ***Debt Commitment Letter***") from Orion Energy Partners, L.P. (the "***Debt Lender***") pursuant to which the Debt Lender has committed (on the terms and conditions set forth therein) to provide debt financing to Buyer in the amounts set forth therein for a portion of the Purchase Price and the amount of any fees and expenses of Buyer to be incurred in connection with the Contemplated Transactions (the "***Debt Financing***" and, together with the Equity Financing, the "***Financings***").

(b) As of the Execution Date, the Equity Commitment Letter and the Debt Commitment Letter (the " ***Financing Commitments***") have not been amended or modified, no such amendment or modification is contemplated (other than amendment(s) or joinder(s) to add lenders, lead arrangers, bookrunners, syndication agents or similar entities that have not executed the Debt Commitment Letter as of the Execution Date) and the respective commitments contained in the Financing Commitments have not been withdrawn, rescinded or terminated by Buyer or the Financing Sources party thereto. The Financing Commitments constitute the legal, valid, and binding obligation of Buyer, and, to Buyer's Knowledge, the other parties thereto (except to the extent that enforceability may be limited by the applicable bankruptcy, insolvency, moratorium, reorganization or similar applicable Laws affecting the enforcement of creditors' rights generally or by general principles of equity). There are no conditions precedent related to the funding of the full amount of the Financings other than as set forth in or contemplated by the Financing Commitments. There are no side letters or other contracts or arrangements (oral or written) between Buyer and the Financing Sources or, to Buyer's Knowledge, any other Person related to the Financings other than the Financing Commitments and except for customary fee letter(s) relating to the Debt Financing, a complete copy of each of which has been provided to Seller (with only the fee amounts and certain other terms contained in any "market flex" provisions being redacted, but none of which would reasonably be anticipated to adversely affect the conditions precedent, amount or availability of the Debt Financing). To Buyer's Knowledge, no event has occurred that (with or without notice or lapse of time, or both) would constitute a breach or default under the Financing Commitments. Buyer is not aware of any fact or occurrence that makes any of the representations or warranties of Buyer relating to Buyer, in any of the Financing Commitments, inaccurate in any material respect. Buyer believes that it will be able to satisfy on a timely basis all of the terms and conditions to be satisfied by it and contained in the Financing Commitments. Buyer has fully paid all commitment fees or other fees required by the terms of the Financing Commitments to be paid on or before the Execution Date and will pay, after the Execution Date, all such fees as they become due. Subject to the terms and conditions of the Financing Commitments and subject to the satisfaction of the conditions contained in Article VIII, and assuming that the Financings are funded in accordance with the terms and conditions of the Financing Commitments, the aggregate proceeds contemplated by the Financing Commitments, together with other financial resources of Buyer including unrestricted cash, cash equivalents and marketable securities (net of any applicable Tax liabilities) of Buyer on the Closing Date, will be sufficient for Buyer to consummate the Contemplated Transactions, to pay all related fees and expenses of Buyer payable at the Closing, and to fund the Cleaning Work which is necessary for the commencement of commercial operations.

ARTICLE VI

PRE-CLOSING COVENANTS

Section 6.1 **Operation of the Business**. Except (i) as set forth in Schedule 6.1, (ii) as otherwise contemplated by this Agreement (including the pre-Closing transfer of any Excluded Assets to Seller or any Affiliate of Seller (other than to the Company)) or (iii) as otherwise consented to by Buyer, such consent not to be unreasonably withheld, conditioned or delayed, during the Interim Period Seller shall (and shall cause the Company to):

(a) afford to Buyer and its agents, advisors and representatives reasonable access during normal business hours to the Company's properties, personnel and the books and records and shall furnish such information about the Company as Buyer shall reasonably request, all upon reasonable notice to Seller and in a manner that does not interfere in any material respect with the normal operations of the Business and the Company;

(b) operate the Business and provide routine maintenance of the Assets in the usual and ordinary course consistent with past practice or as otherwise provided in Schedule 6.1;

(c) use Commercially Reasonable Efforts to preserve substantially intact its business organization, and to preserve relationships with agents, lessors, and suppliers;

(d) not offer, sell, issue or grant, or authorize the offering, sale, issuance or grant of, any Equity Securities of the Company;

(e) not acquire or sell by or through the Company, whether by merger or consolidation, by purchasing Equity Securities or otherwise, any business or any corporation, partnership, association or other business organization or division thereof or any material assets or properties of the Company, in each case, except for the purchase or sale of inventory in the ordinary course of business;

(f) not adopt any amendments to the Governing Documents of the Company;

(g) not incur any Obligations of the Company for borrowed money or purchase money indebtedness, whether or not evidenced by a note, bond, debenture or similar instrument, nor enter into any guarantees by the Company, except (i) trade debt in the ordinary course of business and (ii) indebtedness to Affiliates of the Company that will be settled prior to Closing;

(h) not destroy any books or records of the Company other than in the ordinary course of business consistent with past practice;

(i) promptly notify Buyer of any material emergency or other material change in the Business or the Assets (for purposes of this subsection (i) only, "material" shall mean events or circumstances which result or would reasonably be likely to result in aggregate Losses equal to or greater than $1,000,000 in relation to the Assets);

(j) not settle any Proceeding related to the Company or the Business, other than in the ordinary course of business, in each case in an amount in excess of $1,000,000 or that imposes non-monetary relief that materially and adversely affects the ability of the Company to operate the Business as currently conducted;

(k) not create any Lien (other than a Permitted Lien the release of which the Company is pursuing by Commercially Reasonable Efforts) against any of the Assets;

(l) except as may be required by GAAP, not change any accounting method or accounting practice of the Company;

(m) not enter into, terminate or materially amend or materially modify any Material Company Contract or Seller Contract (excluding Multi-Site Contracts), or otherwise waive, release or assign any material rights, claims or benefits of the Company under any such Material Contract or enter into any derivative, option, hedge or futures contracts in all cases other than in the ordinary course of business; *provided*, that this provision shall not require the Company to seek or obtain Buyer's consent in order to set or change the prices at which the Company provides goods or services to customers in the ordinary course of business; *provided*, *further*, that this provision shall not prevent the Company from entering into the Pre-Closing Cleaning Contracts pursuant to Section 7.12;

(n) perform and comply in all material respects with the Material Company Contracts;

(o) comply in all material respects with applicable Laws;

(p) maintain (or continue to have the benefit of) insurance with respect to the Business, comparable in amount, scope and coverage to that in effect on the Execution Date;

(q) not enter into or amend any employment, severance, consulting or other compensation agreement or arrangement with any existing or new director, officer, independent contractor or employee or agent of the Company except for offer letters, employment agreements and individual consulting agreements for new hires (other than the hiring of officer-level employees) entered into in the ordinary course of business that are terminable at will and without further liability to either of the Company or Buyer;

(r) timely pay all Taxes of the Company that become due and payable (taking into account applicable extensions);

(s) (i) not file any material Tax Return of the Company or settle any material Proceeding in respect of Company Taxes, or (ii) except as otherwise required by Law, not make, change or rescind any Tax election of the Company, adopt or change (or made a request to any Taxing Authority to change) any annual accounting period of the Company, adopt or change (or made a request to any Taxing Authority to change) any method, policy or practice of accounting of the Company, or prepare any material Company Tax Return inconsistent with past practices; or

(t) not agree, resolve or commit to do any of the actions prohibited in clauses (d) through (h), (j) through (n), (r) or (s) that would, or the effects of which would, survive the Closing.

Section 6.2 **Appropriate Action; Consents; Filings**. During the Interim Period:

(a) Subject to Seller's and Buyer's additional Obligations in clauses (b), (c) and (d) of this Section 6.2 and the other terms and conditions of this Agreement (including the provisions of Section 6.4), Seller and Buyer shall each use Commercially Reasonable Efforts to (i) take, or cause to be taken, all actions, and do, or cause to be done, all things that, in either case, are necessary, proper or advisable under Law or otherwise to consummate and make effective the Contemplated Transactions; *provided, however*, that the foregoing shall not require or cause any Party to waive any right it may have under other provisions of this Agreement and (ii) obtain from the relevant Governmental Authorities all Authorizations required

to be obtained at or prior to the Closing by Buyer, Seller or the Company in connection with the authorization, execution, delivery and performance of this Agreement and the Related Agreements and the consummation of the Contemplated Transactions.

(b) As promptly as practicable, Seller and Buyer shall make all necessary filings and registrations referred to in the Seller Disclosure Schedule or the Buyer Disclosure Schedule, as applicable, and thereafter make any other required submissions, with respect to this Agreement and the Contemplated Transactions required under any Law at or prior to the Closing. Buyer and Seller shall bear the costs and expenses of their respective filings; *provided*, that Buyer shall pay the filing fee in connection with any such filings. Seller and Buyer shall reasonably cooperate in connection with the making of all such filings and subsequent submissions to any Governmental Authority. Seller and Buyer shall each use Commercially Reasonable Efforts to furnish to the other Party such necessary information and reasonable assistance as the other Party may reasonably request in connection with the foregoing and will keep the other Party reasonably informed with respect to any consent, authorization, order or approval sought from, or exemption, review, investigation or inquiry conducted by, any Governmental Authority in connection with this Agreement and the Contemplated Transactions. Each Party shall (i) have the right to review in advance, and to the extent practicable consult on, any written materials submitted to any Governmental Authority in connection with the Contemplated Transactions, and (ii) consult with and consider in good faith the views of the other Party, prior to making any submission, providing any material correspondence or entering into any agreement with any Governmental Authority with respect to the Contemplated Transactions. Notwithstanding the foregoing, Buyer shall not make any filings or registrations during the Interim Period with any Governmental Authorities without Seller's prior written consent.

(c) Buyer and Seller shall each give prompt notice to the other of the receipt of and if in writing, furnish the others with copies of (or, in the case of oral communications, advise the others of the contents of) any notice or other communication from (i) any Person alleging that the consent of such Person is or may be required in connection with the Contemplated Transactions, (ii) any Governmental Authority in connection with the Contemplated Transactions, (iii) any Governmental Authority or other Person regarding the initiation or threat of initiation of any Claims or Proceedings against, relating to, or involving or otherwise affecting the Company, Buyer or Seller that relate to the consummation of the Contemplated Transactions, and (iv) any Person regarding the occurrence or nonoccurrence of any event the occurrence or nonoccurrence of which would be reasonably likely to (A) cause any condition to the Obligations of the other Party to consummate the Contemplated Transactions not to be satisfied, (B) cause a breach of the representations, warranties or covenants of such Party under this Agreement, or (C) delay or impede the ability of either Buyer or Seller, respectively, to consummate the Contemplated Transactions or to fulfill their respective Obligations set forth herein.

(d) Buyer and Seller each agree to cooperate and to use Commercially Reasonable Efforts to contest and to resist any action, including legislative, administrative or judicial action, and to have vacated, lifted, reversed or overturned any Order (whether temporary, preliminary or permanent) of any court or other Governmental Authority that is in effect and that restricts, prevents or prohibits the consummation of the Contemplated Transactions or the Related Agreements, including the pursuit of all available avenues of administrative and judicial appeal and all available legislative action. Notwithstanding the foregoing, nothing in this Section 6.2 shall require, or be construed to require any Party or its Affiliates to agree to (i) sell, hold, divest, discontinue or limit, before or after the Closing Date, any assets, businesses or interests of the Parties or any of their respective Affiliates; (ii) any conditions relating to, or changes or restrictions in, the operations of any such assets, businesses or interests which, in either case, could reasonably be expected to result in a Material Adverse Effect or materially and adversely impact the economic or business benefits to the Parties of the Contemplated Transactions; or (iii) any material modification or waiver of the terms and conditions of this Agreement. Neither Buyer nor Seller nor any of their respective Affiliates shall purchase or otherwise acquire or agree to purchase or otherwise acquire,

whether directly or indirectly, any assets or interest in any assets or Persons that would reasonable be expected to materially and adversely affect the filings made pursuant to Section 6.2(b).

(e) Seller and Buyer shall each timely give or cause to be given all notices to third Persons and use Commercially Reasonable Efforts to obtain all Third Person Consents (i) set forth in Section 3.3(a) of the Seller Disclosure Schedule and Section 5.3(a) of the Buyer Disclosure Schedule, (ii) required under any Material Company Contract or Seller Contract in connection with the consummation of the Contemplated Transactions or (iii) otherwise required to prevent a Material Adverse Effect from occurring prior to or after the Closing.

(f) Buyer shall use Commercially Reasonable Efforts to secure the release of Seller and its Affiliates (excluding the Company) from liability for any post-Closing Obligations of the Company under any Authorizations or Material Contracts assigned or transferred from Seller or its Affiliates to the Company, and to secure the release of Seller and its Affiliates (excluding the Company) from any guarantees of the Company's post-Closing Obligations under any Authorizations or Material Contracts to which the Company remains a party after Closing. Buyer acknowledges that Seller and its Affiliates shall have the right to cancel or revoke all guarantees, bonds, letters of credit and similar undertakings provided by them or on their behalf to secure any post-Closing Obligations of the Company. The provisions of this paragraph shall survive the Closing.

(g) Notwithstanding Section 6.2(f), prior to the Closing Buyer shall deliver to the applicable beneficiary or counterparty replacement or substitute guaranties, letters of credit, bonds, security deposits, and other surety obligations and evidence of financial capacity, in each case acceptable to the relevant beneficiary or counterparty, in substitution and replacement of those credit support arrangements set forth in Schedule 6.2(g) (the "***Credit Support Arrangements***"), in form and substance acceptable to Seller, and shall cause the release as of the Closing of Seller and its Affiliates (excluding the Company) from all Obligations relating to the Credit Support Arrangements.

(h) At Buyer's request and expense, Seller shall use Commercially Reasonable Efforts (solely as an accommodation to Buyer) to assist Buyer in connection with Buyer's efforts to apply for Authorizations pursuant to Environmental Laws and application of Buyer's precise development plan for the Refinery all of which would be effective from and after the Closing Date with respect to equipment which would be materially required to operate the Refinery as a renewable diesel plant after the Closing Date, including Authorizations for two (2) de-oxidation hydro-processing units and an isomerization unit. Seller's assistance will be on terms and conditions mutually agreeable to Seller and Buyer, including that (i) Seller and its Affiliates shall not be required to pay any fee or incur any Obligation in connection with such Authorizations, (ii) such assistance does not unreasonably interfere with the operations of the Assets or the Business, and (iii) Seller shall not be required to prepare or provide information or materials which Seller or its Affiliates do not maintain in the ordinary course of business. Applying for or obtaining such Authorizations by Buyer shall not constitute a condition to Closing or form the basis for delaying Closing.

Section 6.3 **Breach Notice**. If, prior to the Closing Date, Buyer obtains Knowledge of a breach of any of Seller's representations, warranties or covenants contained in this Agreement, Buyer shall notify Seller in writing of such information (the "***Breach Notice***") as promptly as reasonably possible but in all events no later than two (2) Business Days prior to the Closing Date. The Breach Notice shall contain reasonable details regarding the alleged breach and Buyer's good faith estimate of the potential Losses associated with such breach.

Section 6.4 Right of Entry.

(a) Buyer hereby acknowledges that any access to the Refinery and any other Assets of the Company utilized by Buyer or any representative, consultant or other Person acting by or on behalf of Buyer ("***Diligence Representative***") shall be at the sole risk, cost and expense of Buyer. Buyer shall comply and shall ensure that each Diligence Representative complies with all safety and similar requirements customarily imposed by the Company on its properties. Before and after the Closing, Buyer shall assume and indemnify, defend and hold harmless the Seller Indemnitees from and against any and all Claims and Losses for personal injury, death, disease, illness or property damage or other Losses arising out of Buyer's or any Diligence Representative's entry upon or access to the Refinery and any other assets or other Losses of the Company and all Losses incurred by the Seller Indemnitees with respect to each such Claim. Additionally, any inspection or investigation conducted by or on behalf of Buyer or its Diligence Representatives shall be conducted in accordance with all Laws, including all Environmental Laws, applicable Refinery rules and regulations (including those related to health, safety, security and the environment) and in such manner as not to unreasonably interfere with the Refinery or any other Assets or operations of the Company. Additionally, Buyer shall repair any and all damage arising out of or resulting from such entry and any acts or omissions by Buyer or its Diligence Representatives and shall immediately, at Buyer's sole cost and expense, restore the Assets to the condition that existed immediately prior to such entry by Buyer or its Diligence Representatives. Buyer shall prevent and indemnify and hold Seller and the Company harmless for any liens, including mechanic's liens, asserted or filed against Seller or the Assets to the extent related to or arising from activities conducted by or on behalf of Buyer.

(b) During the Interim Period, Buyer shall not be entitled to conduct any invasive testing or invasive environmental assessments (including Phase II assessments) or any other sampling (including air sampling) or testing of soil or ground or surface water at, on or under, any real property associated with the Refinery or any other Assets of the Company (collectively, "***Intrusive Tests***") without the prior written consent of Seller, which Seller may withhold or condition in its sole discretion; *provided, however*, notwithstanding that the same may include or otherwise constitute Intrusive Tests, (i) a geotechnical investigation, subject to the scope to be approved by Seller, shall be permitted and (ii) a commercially reasonable, Seller-approved survey and assessment of asbestos containing materials, lead-based paint, and similar materials (an "***ACM/LBP Survey***") within any Assets shall be permitted. Buyer agrees to provide Seller with a copy of any reports covering each of the Intrusive Tests and the ACM/LBP Survey (collectively, the "***Major Investigations***") prepared on Buyer's behalf (provided such reports shall be delivered AS-IS, without any representations and warranties).

(c) Prior to Closing, Buyer shall keep all documents and information received from Seller or its agents and the results of all of Major Investigations, inspections, studies, investigations, analysis, reports and the like confidential and shall be subject to the Confidentiality Agreement except (i) as permitted pursuant to Seller's prior written consent, (ii) as required by applicable Law, and (iii) for disclosures made to Buyer's agents, attorneys, insurers, investors, lenders, consultants and employees all of whom shall be bound to such confidentiality.

(d) Prior to Closing, Buyer shall not disclose any inspections, studies, investigations (including Major Investigations), analysis, or reports to any Governmental Authority, including the California Regional Water Quality Control Board – Central Valley Region, Department of Toxic Substances, Certified Unified Program Agencies, the City of Bakersfield planning department or the Kern County Department of Public Health, without Seller's prior written consent, which Seller may withhold or condition in its sole discretion. In the event Seller provides such consent and prior to Buyer sharing any information, reports or materials to any Governmental Authority, Seller and Buyer shall meet in person or by telephone (such meeting to occur within five (5) Business Days after Buyer's request to Seller for such meeting) and the Parties shall mutually agree on the contents and the presentation of such information,

reports, and materials to be made by Buyer to such Governmental Authority. Any subsequent proposed sharing of any information, reports or materials to such Governmental Authority shall be subject to a similar process of Seller and Buyer mutually agreeing in advance on the contents and presentation of such information, reports or materials.

(e) Before Buyer or any Diligence Representative is permitted to engage in any activities within the Refinery or at any other locations of Assets, Buyer shall (or shall cause the applicable Diligence Representative to) provide proof or otherwise attest that the following types and minimum amounts of insurance coverage are in effect and cover the activities of Buyer or such Diligence Representative:

A. 1.	Worker's Compensation (Not required for individual Diligence Representatives who have no employees.)	As required by applicable law.
A. 2.	Employer's Liability	$100,000 each accident
B.	Commercial General Liability:	$1,000,000 Combined Single Limit endorsed to cover (i) contractual liability Bodily Injury and Property Damage assumed under this Agreement, (ii) products liability, and (iii) completed operations
C.	Automobile Liability Coverage: endorsed to cover all owned, non-owned and hired vehicles	$1,000,000 Combined Single Limit Bodily Injury and Property Damage Combined
D.	Umbrella Liability in excess of A.2., B. & C. Endorsed to provide a drop-down endorsement in the event underlying limits are exhausted by claims.	$5,000,000

Buyer shall furnish (or cause to be furnished) to Seller a certificate of insurance evidencing that the above minimum coverages are in effect. All policies shall contain a waiver of subrogation clause in favor of the Seller Indemnitees. All policies except A.1. above shall be endorsed to name the Seller Indemnitees as additional insureds. The certificate of insurance shall further specify that all coverages are primary over (and not contributory with or secondary to) any insurance carried by the Seller Indemnitees for their own account. Such insurance shall be endorsed with a standard cross liability clause in favor of the Seller Indemnitees. Such insurance shall cover the actions of Buyer and all Diligence Representatives. The certificate of insurance shall state that Seller shall be provided with not less than thirty (30) days prior written notice of any cancellation or material adverse change with respect to any of the policies.

(f) Notwithstanding anything to the contrary contained in this Agreement, the provisions of this Section 6.4 shall survive the Closing and any cancellation or termination of this Agreement. The insurance required under this paragraph shall operate independent and apart from Buyer's indemnification Obligations under this Agreement.

Section 6.5 **Condition of the Assets**. In consummating the purchase and the sale of the Purchased Shares contemplated hereunder, Buyer acknowledges that it will become the sole stockholder of the Company and thereby an indirect owner of the Assets, and that, except for (and without limiting) the representations and warranties expressly made in Article III and Article IV or in any other document delivered pursuant hereto, **Buyer accepts the Assets in their as-is, where-is, condition, with all faults, without any express or implied covenant, warranty as to title, condition (including any Environmental Condition), merchantability, performance, fitness (both generally and for any particular purpose) or otherwise (which warranties Seller hereby expressly disclaims), or recourse, other than as expressly set forth in this**

Agreement. Buyer acknowledges that much of the Assets, including the Refinery, have not been operating for an extended period of time and may require additional improvements, repairs, or Authorizations in order to become operational again.

Section 6.6 Independent Investigation/Disclaimer. EXCEPT FOR (AND WITHOUT LIMITING) THE REPRESENTATIONS AND WARRANTIES EXPRESSLY MADE BY SELLER IN ARTICLE III AND ARTICLE IV, BUYER ACKNOWLEDGES AND AGREES THAT: (A) THERE ARE NO REPRESENTATIONS, WARRANTIES, STATEMENTS, ASSURANCES OR GUARANTEES MADE BY SELLER OR ANY OF ITS AFFILIATES, EXPRESS OR IMPLIED, AS TO (I) THE ASSETS, OR (II) THE LIABILITIES, THE BUSINESS, RESULTS OF OPERATIONS, CONDITION (FINANCIAL, ENVIRONMENTAL OR OTHERWISE) OR PROSPECTS RELATING TO THE BUSINESS, AND THAT IN MAKING ITS DECISION TO ENTER INTO THIS AGREEMENT AND TO CONSUMMATE THE PURCHASE OF THE PURCHASED SHARES, BUYER HAS RELIED AND WILL RELY SOLELY UPON ITS OWN INDEPENDENT INVESTIGATION, VERIFICATION, ANALYSIS AND EVALUATION; (B) SELLER DISCLAIMS ALL LIABILITY AND RESPONSIBILITY FOR ANY OTHER REPRESENTATION, WARRANTY, STATEMENT OR INFORMATION ORALLY OR IN WRITING MADE OR COMMUNICATED TO BUYER INCLUDING ANY OPINION, INFORMATION OR ADVICE WHICH MAY HAVE BEEN PROVIDED TO BUYER BY OR ON BEHALF OF SELLER, THE COMPANY OR ANY AFFILIATES OF SELLER, INCLUDING (I) ANY MODELS PROVIDED BY SELLER OR ITS AFFILIATES, WHICH HAVE BEEN PROVIDED FOR ILLUSTRATION PURPOSES ONLY, (II) ANY OTHER INFORMATION PROVIDED IN ANY CONFIDENTIAL INFORMATION MEMORANDUM OR SIMILAR DISCLOSURE DOCUMENT PROVIDED BY OR ON BEHALF OF SELLER, (III) ANY CORRESPONDENCE FROM SELLER OR ANY OF ITS REPRESENTATIVES OR AFFILIATES, (IV) ANY PRESENTATION BY THE MANAGEMENT OF SELLER, THE COMPANY OR THEIR AFFILIATES, AND (V) ANY INFORMATION MADE AVAILABLE TO BUYER, OR STATEMENTS MADE TO BUYER DURING SITE OR OFFICE VISITS OR OTHER COMMUNICATIONS, IN THE DATA ROOM OR MANAGEMENT PRESENTATION; (C) NEITHER SELLER, THE COMPANY, NOR ANY AFFILIATE, AGENT, OR REPRESENTATIVE OF SELLER HAS MADE, AND SELLER HEREBY EXPRESSLY DISCLAIMS AND NEGATES, ANY IMPLIED OR EXPRESS WARRANTY OF MERCHANTABILITY, FITNESS (BOTH GENERALLY AND FOR A PARTICULAR PURPOSE), OR CONFORMITY TO MODELS OR SAMPLES AND ANY OTHER REPRESENTATION OR WARRANTY, EXPRESS, STATUTORY OR IMPLIED, RELATING TO THE COMPANY OR THE ASSETS INCLUDING AS TO THEIR (I) TITLE, (II) ABSENCE OF PATENT OR LATENT DEFECTS (INCLUDING DESIGN DEFECTS), (III) SAFETY, (IV) STATE OF REPAIR, (V) QUALITY, OR (VI) COMPLIANCE WITH APPLICABLE LAWS; AND (D) SELLER MAKES NO REPRESENTATIONS OR WARRANTIES WITH RESPECT TO THE USE OR CONDITION (INCLUDING ENVIRONMENTAL USE OR CONDITION), THE PRESENCE OR ABSENCE OF HAZARDOUS MATERIALS AT, ON, UNDER OR FROM ANY PORTION OF THE REFINERY OR THE OTHER ASSETS, COMPLIANCE WITH APPLICABLE STATUTES, LAWS, CODES, ORDINANCES, REGULATIONS OR REQUIREMENTS RELATING TO LEASING, ZONING, SUBDIVISION, PLANNING, LAND USE, BUILDING, FIRE, SAFETY, HEALTH OR ENVIRONMENTAL MATTERS, COMPLIANCE WITH COVENANTS, CONDITIONS AND RESTRICTIONS (WHETHER OR NOT OF RECORD), OTHER INTERNATIONAL, NATIONAL, REGIONAL, FEDERAL, STATE, PROVINCIAL OR LOCAL REQUIREMENTS OR OTHER STATUTES, LAWS, CODES, ORDINANCES, REGULATIONS OR REQUIREMENTS, INCLUDING ENVIRONMENTAL HEALTH AND SAFETY LAWS AND PERMITS.

WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, SELLER MAKES NO REPRESENTATION OR WARRANTY REGARDING ANY THIRD PARTY BENEFICIARY RIGHTS OR OTHER RIGHTS WHICH BUYER MIGHT CLAIM UNDER ANY STUDIES, REPORTS, TESTS OR ANALYSES PREPARED BY ANY THIRD PARTIES FOR SELLER OR ANY OF ITS AFFILIATES OTHER THAN THE COMPANY (SHOULD THE CLOSING OCCUR), EVEN IF THE SAME WERE MADE AVAILABLE FOR REVIEW BY BUYER OR ITS AGENTS, REPRESENTATIVES OR CONSULTANTS.

BUYER EXPRESSLY ACKNOWLEDGES AND AGREES THAT BUYER SHALL INDEMNIFY, DEFEND AND HOLD THE SELLER INDEMNITEES HARMLESS AGAINST ALL CLAIMS AND LOSSES CAUSED BY

BUYER'S CLAIMING OR ATTEMPTING TO EXERCISE ANY RIGHTS (WHETHER AS A THIRD PARTY BENEFICIARY OR OTHERWISE) UNDER ANY STUDIES, REPORTS, TESTS OR ANALYSES PREPARED BY ANY THIRD PARTIES FOR SELLER OR ANY OF ITS AFFILIATES.

WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, BUYER EXPRESSLY ACKNOWLEDGES AND AGREES THAT NONE OF THE DOCUMENTS, INFORMATION OR OTHER MATERIALS PROVIDED TO BUYER AT ANY TIME OR IN ANY FORMAT BY SELLER OR ANY OF ITS AFFILIATES CONSTITUTE LEGAL ADVICE, AND BUYER (I) WAIVES ALL RIGHTS TO ASSERT THAT IT RECEIVED ANY LEGAL ADVICE FROM SELLER, ANY OF SELLER'S AFFILIATES, OR ANY OF THEIR RESPECTIVE EMPLOYEES, AGENTS REPRESENTATIVES OR COUNSEL, OR THAT IT HAD ANY SORT OF ATTORNEY-CLIENT RELATIONSHIP WITH ANY OF SUCH PERSONS, AND (II) AGREES TO INDEMNIFY, DEFEND AND HOLD THE SELLER INDEMNITEES HARMLESS AGAINST ANY SUCH ASSERTION MADE BY OR ON BEHALF OF ANY OF BUYER'S AFFILIATES.

Section 6.7 Supplement to Seller Disclosure Schedule.

(a) Seller shall from time to time prior to the Closing, by written notice to Buyer, supplement or amend the Seller Disclosure Schedule (including adding new Sections to the Seller Disclosure Schedule related to provisions of this Agreement that currently do not contemplate qualification by the Seller Disclosure Schedule) with new or updated information with respect to matters that occur or arise after the Execution Date to correct any matter that would constitute a breach of any representation or warranty of Seller in Article III or Article IV as of the Closing Date (such new or additional information being "***New Seller Information***").

(b) For purposes of determining whether Buyer's conditions set forth in Section 8.3 have been fulfilled, the Seller Disclosure Schedule shall be deemed to include only that information contained therein on the Execution Date and shall be deemed to exclude the New Seller Information. If Buyer has a right to terminate this Agreement pursuant to Section 9.1(d) as a result of the conditions set forth in Section 8.3 not being satisfied but Buyer elects to proceed with the Closing and the Closing does occur, then the New Seller Information shall be deemed to be accepted by Buyer, and Buyer shall be deemed to have waived and not be entitled to make a Claim thereon under this Agreement (including pursuant to Article X) or otherwise. If, however, Buyer does not have such a right to terminate this Agreement pursuant to Section 9.1(d) as a result of the conditions set forth in Section 8.3 being satisfied and the Closing does occur, then the New Seller Information shall not be deemed to be accepted or waived by Buyer, and Buyer shall be entitled to make a Claim thereon under this Agreement (including pursuant to Article X) or otherwise.

Section 6.8 Financings.

(a) Obligations of Buyer

(i) Buyer shall use its reasonable best efforts to arrange the Financings on the terms and conditions described in the Financing Commitments (including any "market flex" provisions applicable thereto), including using reasonable best efforts to (A) negotiate definitive documentation for the Financings contemplated by the Financing Commitments at or prior to the Closing and, subject to the closing conditions contained in Article VIII, consummate or cause the consummation of the Financings at Closing, (B) satisfy all conditions applicable to Buyer and its Affiliates to obtaining the Financings and (C) enforce its rights under the Financing Commitments in the event of a breach by any of the Financing Sources (including by bringing, and pursuing in good faith, appropriate Proceedings against the applicable Financing Sources party to the Financing Commitments; *provided*, that, Buyer shall not be required to bring and pursue such Proceedings if Buyer has obtained alternative Financings). In the event any portion of the

Financings becomes unavailable on substantially the same terms and conditions (including the "market flex" provisions) contemplated in the Financing Commitments, Buyer shall use its reasonable best efforts to arrange to obtain alternative Financings, including from alternative sources, on terms not materially less favorable, in the aggregate, to Buyer, in an amount sufficient to consummate the Contemplated Transactions; *provided*, that any such alternative Financings shall not (1) reduce the aggregate amount of the Financings available on the Closing Date from that contemplated in the Financing Commitments, (2) materially expand upon the conditions precedent to the Financings as set forth in the Financing Commitments or (3) be reasonably expected to prevent, or materially impede or delay the consummation of the Contemplated Transactions. Buyer shall refrain from taking, directly or indirectly, any action that would reasonably be expected to result in a failure of any of the conditions contained in the Financing Commitments or in any definitive agreement related to the Financings. Buyer shall have the right from time to time to amend, supplement or otherwise modify, or waive any of its rights under, the Financing Commitments; *provided*, that any such amendment, supplement or other modification to or waiver of any provision of the Financing Commitments that amends the Financings shall not, without the prior written consent of Seller, (x) reduce the aggregate amount of the Financings available on the Closing Date, or the length of the commitment therefor, from that contemplated in the Financing Commitments, (y) expand upon the conditions precedent to the Financings as set forth in the Financing Commitments in any respect or (z) be reasonably expected to prevent, or materially impede or delay the consummation of the Contemplated Transactions.

(ii) Buyer shall keep Seller informed on a reasonably current basis and in reasonable detail with respect to all material activity and developments concerning the status of its efforts to arrange and consummate the Financings. Without limiting the generality of the foregoing, Buyer shall notify Seller promptly, and in any event within two (2) Business Days after it becomes aware thereof, (A) of any termination or threatened, in writing, termination of any Financing Commitment or any definitive agreement related to the Financings, (B) of any breach or default by any party to any Financing Commitments or definitive agreements related to the Financings, (C) of the receipt by Buyer of any written notice or other communication (other than negotiations of the definitive agreements with respect to the Financings) from any Financing Source with respect to any breach, default, termination or repudiation by any party to any Financing Commitment or any definitive agreement related to the Financings or (D) if for any reason, including, for the avoidance of doubt, because Buyer believes that one or more conditions to the closing of the Financings will not be satisfied at or prior to Closing, Buyer no longer believes in good faith that it will be able to obtain all or any portion of the Financings contemplated by the Financing Commitments and the related fee letters on the terms described therein.

(iii) For purposes of this Agreement, references to "Financings" shall include any alternative financing required to be obtained in the circumstances provided in this Section 6.8(a), and references to "Financing Commitments" shall include such documents as related to such alternative Financings.

(iv) In connection with any Financing, (A) neither Seller nor any of its Affiliates shall be required to become subject to any obligations or liabilities with respect to such agreements or documents and (B) nothing shall obligate Seller or any of its Affiliates to provide a solvency certificate or any similar certificate, to declare or make any determinations with respect to any dividends or to provide any information that would violate any applicable obligations of confidentiality or result in a violation of applicable Law or loss of any legal privilege. Buyer acknowledges and agrees that neither Seller or any of its Affiliates or Representatives shall have any responsibility for or incur any Obligation to any Person under or in connection with, the arrangement of any Financing that Buyer may raise in connection with the Contemplated Transactions. Buyer shall indemnify, defend, save and hold harmless the Seller Indemnified Parties from and against any and all Claims and Losses to the extent caused by, arising from or incurred in connection with or related to any Financings or Financing Commitments.

(b) No Closing Condition. Buyer acknowledges and agrees that its obligation to consummate the Contemplated Transactions is not conditioned upon any Financings being made available to Buyer or consummated as of the Closing Date.

Section 6.9 Cooperation with Respect to Financings.

(a) During the Interim Period, Seller shall use (and shall cause the Company to use) Commercially Reasonable Efforts to provide, at Buyer's expense and solely as an accommodation to Buyer, reasonable cooperation as may be requested by Buyer in connection with Buyer's efforts to consummate the Debt Financings; *provided* that (i) Seller and its Affiliates shall not be required to pay any commitment or any other fee or incur any obligation in connection with the Financings, (ii) such cooperation does not unreasonably interfere with the operations of the Assets or the Business, and (iii) Seller and its Affiliates shall not be required to prepare or provide information or materials which Seller or its Affiliates do not maintain in the ordinary course of business. For the avoidance of doubt, but without limiting the reasonable cooperation obligation described above, neither Seller not its Affiliates will be requested or required to prepare or assist in the preparation of projections, pro forma statements, information memoranda, offering memoranda, definitive financing documents or similar documents that may be required of Buyer in connection with the Financings.

(b) In furtherance of the covenant set forth in Section 6.9(a) Seller agrees to:

(i) provide to Buyer at least ten (10) Business Days prior to the Closing Date the following financial statements (collectively, the "***Carve-Out Financials***"):

(1) the audited balance sheet of the Company as of December 31, 2017, together with corresponding audited statements of income and of cash flows for the six-month period ended December 31, 2017;

(2) the audited balance sheet of the Company as of December 31, 2018 together with corresponding audited statements of income and of cash flows for the twelve-month period ended December 31, 2018; and

(3) the unaudited interim balance sheet of the Company as of March 31, 2019 together with corresponding unaudited interim statements of income and of cash flows for the three-month period ended March 31, 2019.

(ii) allow Buyer (or its Diligence Representatives) to perform, at Buyer's expense, non-invasive environmental diligence reviews of the Real Property Interests which will be subject to and performed in accordance with Section 6.4.

(c) The Carve-Out Financials shall be prepared from and shall be consistent with the books and records of the Company related to the Assets applied on a consistent basis. The accounting principles applied in preparing the Carve-Out Financials shall be consistent, in all material respects, with GAAP (subject, in the case of the unaudited balance sheet of the Company dated as of March 31, 2019, to the absence of footnote disclosures and to normal and recurring year-end adjustments). Buyer understands and acknowledges that historically financial statements have not been prepared for the Company or the Assets as the Company has not been operated as a separate, stand-alone enterprise. The Carve-Out Financials are to be prepared by Seller in anticipation of the Contemplated Transactions. As the Company and the Assets have been historically managed and financed as part of a larger group, the accounts reflect certain charges for functions provided by Seller and its Affiliates that have been identified as related party transactions. It is possible that the terms of the related party transactions are not the same as the terms that

might otherwise result from transactions between unrelated parties. The Carve-Out Financials may not necessarily reflect the financial position, results of operations or cash flows that the Company or the Assets might have had in the past, or might have in the future, if they had existed as a separate, stand-alone enterprise.

(d) Notwithstanding any provision to the contrary contained in this Agreement, Seller and its Affiliates (excluding the Company after the Closing) shall NOT have any Obligation or liability whatsoever to Buyer or any other Person for any statements (whether oral or in writing)(including the Carve-Out Financials), materials or information provided by or on behalf of Seller to Buyer, any Equity Source or Debt Lender or any of their respective Diligence Representatives with respect to the Financings or the Financing Commitments. Without limiting the generality of the preceding sentence, Seller is not making and shall NOT be deemed to make any representation or warranty whatsoever concerning or related to the Carve-Out Financials or the information contained therein and the information contained therein shall not be the basis for redetermination or adjustment of the Purchase Price or the basis for any alleged breach of Seller's representations and warranties contained in this Agreement.

(e) Notwithstanding any provision to the contrary contained in this Agreement, the Closing condition set forth in Section 8.3(b) as it applies to Seller's obligations under this Section 6.9, shall be deemed satisfied unless any Debt Financing is not obtained primarily as a result of Seller's willful and material breach of its obligations under this Section 6.9.

(f) Nothing contained in this Section 6.9 or otherwise shall require Seller or its Affiliates (other than the Company as of the Closing) to be an issuer or obligor in respect of any Financing.

Section 6.10 **Title Insurance and Surveys**. Buyer, at its sole cost and expense, may procure owner's title insurance policies (the "***Title Policies***") from Title Company with respect to the Owned Real Property or the Leased Real Property insuring title subject only to the Permitted Liens and such other general title exceptions as may be raised by the Title Company, such policies to be based on the Title Commitment and issued on the ALTA Form Owner's Title Policy and in the amount of the Purchase Price allocated to the Real Property Interests; *provided*, that Buyer's ability or inability to obtain the Title Policies shall not result in an adjustment to the Purchase Price. If Buyer requests extended coverage policies or any endorsements to the Title Policies, Buyer shall also be responsible for the cost of such extended coverage and endorsements and the delivery of any documentation required by the Title Company in connection with the issuance of such extended coverage and endorsements (including surveys or zoning reports). At Buyer's request, Seller and its Affiliates shall cooperate with and assist Buyer with any reasonable request in Buyer's efforts to obtain the Title Policies and shall execute and deliver to the Title Company such affidavits, certificates, and other documentation as are customary and reasonably requested to cause the Title Company to issue the Title Policies, provided that no such cooperation or assistance and nothing in such affidavits, certificates or documentation shall require Seller or its Affiliates to incur any Obligations to any Person that are not otherwise expressly set forth in this Agreement. Prior to Closing, Buyer may, at its sole cost and expense, obtain and update any surveys pertaining to the Owned Real Property or the Leased Real Property; *provided, however*, that any such surveys and survey updates shall be performed by a surveyor acceptable to Seller, the approval of which shall not be unreasonably withheld, conditioned or delayed. Neither Buyer's or any of its lenders' receipt of any new or updated surveys shall constitute a condition to Closing or form the basis for delaying Closing; however, Seller agrees to reasonably cooperate with Buyer prior to the Closing to permit Buyer to attempt to procure any surveys of the Real Property Interests that Buyer reasonably deems necessary, all at Buyer's sole risk, cost and expense.

ARTICLE VII

POST-CLOSING COVENANTS

Section 7.1 Insurance.

(a) Seller and Buyer acknowledge that Seller participates in a program of property and liability insurance coverage for itself and its Affiliates. This program has been designed to achieve a coordinated risk-management package for Seller and all of its Affiliates. All of the insurance policies through which the program of coverage is presently or has previously been provided by or to the Company, its predecessors or Affiliates are herein referred to collectively as the "***Seller Policies***." It is understood and agreed by Buyer that from and after the Closing:

(i) No insurance coverage shall be provided under the Seller Policies to Buyer or the Company;

(ii) Any and all Seller Policies shall be deemed terminated, commuted and cancelled *ab initio* as to the Refinery, the Business, Buyer and its Affiliates (including the Company), but without prejudice to Seller's and its Affiliates' rights thereunder; and

(iii) No Claims regarding any matter whatsoever, whether or not arising from events occurring prior to the Closing, shall be made by Buyer or the Company against or with respect to any of the Seller Policies, regardless of their date of issuance.

(b) Buyer shall procure, pay for and maintain in effect its own policies of insurance with respect to the Business and the Assets and shall indemnify and defend Seller and its Affiliates against, and shall hold them harmless from, any Orders, Claims, Losses or other Obligations arising out of claims made after the Closing against any of the Seller Policies by the Company, Buyer, any Affiliate of Buyer or any Person claiming to be subrogated to Buyer's or any of its Affiliates' rights. Such indemnity shall cover, without limitation, any claim by an insurer for reinsurance, retrospective premium payments, prospective premium increases or any other restitution or funding requirements attributable to any such claim or policy requirements.

Section 7.2 Tax Matters.

(a) Tax Returns.

(i) Seller Tax Returns. Seller shall (a) cause the Company to be included in the Tax Returns of each Seller Consolidated Group, to the extent the Company is eligible to be included in each such Seller Consolidated Group, for all applicable periods or portions thereof ending on or before the Closing Date and (b) prepare all Tax Returns required to be filed by the Company after the Closing Date with respect to a Tax period ending on or before the Closing Date (clauses (a) and (b), the "***Seller Tax Returns***"). All such Seller Tax Returns shall be prepared in a manner consistent with practices followed in prior years by the Company with respect to similar Tax Returns except as required by applicable Law. With respect to any Seller Tax Return described in clause (b) of the preceding sentence, Seller shall deliver a copy of such Seller Tax Return to Buyer, together with all supporting documentation and workpapers, to Buyer for Buyer's review and comment at least thirty (30) days prior to the due date (taking into account all valid extensions) for filing such Seller Tax Return (unless such Seller Tax Return is due within thirty (30) days of the Closing Date, in which case Seller shall provide a copy of such Seller Tax Return to Buyer as soon as reasonably practical after the Closing Date). Seller shall include any reasonable comments provided in writing by Buyer to Seller at least five (5) days prior to the due date (taking into account all

valid extensions) for filing such Seller Tax Return. Buyer and Seller shall attempt in good faith to reach agreement with respect to any issue resulting from Buyer's review of a Seller Tax Return (each, a "***Disputed Tax Issue***"). If Buyer and Seller fail to reach such an agreement within thirty (30) days after delivery of such Seller Tax Return, then the Accountant will be engaged by the Parties to resolve each Disputed Tax Issue. The Accountant: (1) will be jointly engaged by Seller and Buyer; (2) will be provided, within ten (10) days of accepting the engagement, with a definitive written statement from each of Seller and Buyer of its respective position with respect to each Disputed Tax Issue and a copy of the Seller Tax Return in dispute; (3) will be advised in the engagement letter that the Parties accept the Accountant as the appropriate Person to interpret this Agreement for all purposes relevant to the resolution of the Disputed Tax Issues; (4) will be granted access to all records and personnel of the Company; and (5) will have thirty (30) days to carry out a review and prepare a written statement of its decision regarding the Disputed Tax Issues. In no event shall the Accountant's determination of the Disputed Tax Issue be outside of the range of amounts claimed by the Parties. Each Party will be afforded the opportunity to present to the Accountant any material such Party deems relevant to the determination. The decision of the Accountant shall be final and binding upon the Parties except in the event of manifest error (with the relevant part of its determination being void and the matter being remitted to the Accountant for correction) or in the case of a subsequent adjustment by a Taxing Authority, and shall be in substitution for and precludes the bringing by any Party of any Proceedings, including in any court, in connection with any dispute under this Section 7.2(a)(i), except in the case of a subsequent adjustment by a Taxing Authority. The fees and expenses of the Accountant incurred in resolving the disputed matter shall be shared equally by Seller, on the one hand, and Buyer, on the other hand. If the Disputed Tax Issue is not resolved before the due date (taking into account all valid extensions) for an applicable Seller Tax Return, such Seller Tax Return shall be filed as proposed by Seller; *provided*, that Buyer shall, if applicable, promptly amend such Seller Tax Return in a manner consistent with the Accountant's determination. Seller shall pay to Buyer all Taxes shown as due and payable on such Seller Tax Return (other than any Tax liabilities of the Company that actually reduced the Closing Date Payment pursuant to Section 2.5(a)(i)(2)) not later than five (5) days before the due date thereof (taking into account all valid extensions). If any Disputed Tax Issue with respect to any Seller Tax Return is resolved by the Accountant after the due date of such Seller Tax Return (taking into account all valid extensions), (a) Seller shall pay to Buyer an amount equal to the amount by which the amount of any Taxes shown as due and payable on such Seller Tax Return as determined by the Accountant exceeds the amount of any Taxes previously paid by Seller to Buyer pursuant to this Agreement with respect to such Seller Tax Return (including pursuant to Section 2.5(a)(i)(2)) or (ii) Buyer shall pay to Seller an amount equal to the amount by which the amount of any Taxes previously paid by Seller to Buyer pursuant to this Agreement with respect to such Seller Tax Return (including pursuant to Section 2.5(a)(i)(2)) exceeds the amount of any Taxes shown as due and payable on such Seller Tax Return as determined by the Accountant, in each case within five (5) days of the Accountant's resolution of all Disputed Tax Issues with respect to such Seller Tax Return. Buyer shall cause such Seller Tax Returns to be properly filed and shall cause the Company to pay to the appropriate Taxing Authority the amount of Taxes shown to be due on such Seller Tax Return.

(ii) Buyer Tax Returns. Buyer shall (a) cause the Company to prepare and file Tax Returns that are required to be filed by the Company for each Straddle Period, with each such Tax Return prepared in a manner consistent with practices followed in prior years by the Company with respect to similar Tax Returns except as required by applicable Law (the "***Buyer Tax Returns***"), and (b) determine in accordance with Section 7.2(b) the amount of Seller Taxes reflected on each Buyer Tax Return (" ***Seller's Share***"). Buyer shall provide a copy of each such Buyer Tax Return and calculation of Seller's Share related thereto, together with all supporting documentation and workpapers, to Seller for Seller's review and comment at least thirty (30) days prior to the due date (taking into account all valid extensions) for filing such Buyer Tax Return (unless such Buyer Tax Return is due within thirty (30) days of the Closing Date, in which case Buyer shall provide a copy of such Buyer Tax Return to Seller as soon as reasonably practical after the Closing Date). Buyer shall include any reasonable comments provided in writing by

Seller to Buyer at least five (5) days prior to the due date (taking into account all valid extensions) for filing such Buyer Tax Return. Buyer and Seller shall attempt in good faith to reach agreement with respect to any Disputed Tax Issue and the determination of Seller's Share with respect to any Buyer Tax Return. If Buyer and Seller reach an agreement with respect to the amount of the Seller's Share with respect to a Buyer Tax Return, Seller shall pay to Buyer such amount not later than five (5) days before the due date thereof (taking into account all valid extensions). If Buyer and Seller fail to reach an agreement with respect to the amount of Seller's Share with respect to a Buyer Tax Return prior to the due date of such Buyer Tax Return (taking into account all valid extensions), Seller shall pay to Buyer the amount that Seller does not dispute is the Seller's Share not later than five (5) days before the due date thereof (taking into account all valid extensions). If Buyer and Seller shall fail to reach such an agreement within thirty (30) days after delivery of such Buyer Tax Return and, if applicable, such determination of Seller's Share, then the Accountant will be engaged by the Parties to resolve each Disputed Tax Issue and to determine the Seller's Share. The Accountant: (1) will be jointly engaged by Seller and Buyer; (2) will be provided, within ten (10) days of accepting the engagement, with a definitive written statement from each of Seller and Buyer of its respective position with respect to each such Disputed Tax Issue and the calculation of the Seller's Share and a copy of each of the Buyer Tax Return in dispute and the calculation of Seller's Share; (3) will be advised in the engagement letter that the Parties accept the Accountant as the appropriate Person to interpret this Agreement for all purposes relevant to the resolution of the Disputed Tax Issues and the calculation of the Seller's Share; (4) will be granted access to all records and personnel of the Company; and (5) will have thirty (30) days to carry out a review and prepare a written statement of its decision regarding the Disputed Tax Issues and the calculation of the amount of the Seller's Share. In no event shall the Accountant's determination of the Seller's Share be outside of the range of amounts claimed by the Parties. Each Party will be afforded the opportunity to present to the Accountant any material such Party deems relevant to the determination. The decision of the Accountant shall be final and binding upon the Parties except in the event of manifest error (with the relevant part of its determination being void and the matter being remitted to the Accountant for correction) or in the case of a subsequent adjustment by a Taxing Authority, and shall be in substitution for and precludes the bringing by any Party of any Proceedings, including in any court, in connection with any dispute under this Section 7.2(a)(ii), except in the case of a subsequent adjustment by a Taxing Authority. The fees and expenses of the Accountant incurred in resolving the disputed matter shall be shared equally by Seller, on the one hand, and Buyer, on the other hand. If the Disputed Tax Issue and the calculation of the amount of the Seller's Share are not resolved before the due date (taking into account all valid extensions) for an applicable Buyer Tax Return, such Buyer Tax Return shall be filed as proposed by Buyer; *provided*, that Buyer shall, if applicable, promptly amend such Buyer Tax Return in a manner consistent with the Accountant's determination. If the amount of the Seller's Share with respect to any Buyer Tax Return is resolved after the due date of such Buyer Tax Return by the Accountant (taking into account all valid extensions), (i) Seller shall pay over to Buyer an amount equal to the amount by which the amount of the Seller's Share as determined by the Accountant with respect to such Buyer Tax Return exceeds the amount, if any, previously paid by Seller to Buyer pursuant to this Agreement with respect the Seller's Share of such Buyer Tax Return or (ii) Buyer shall pay to Seller an amount equal to the amount by which the amount previously paid by Seller to Buyer pursuant to this Agreement with respect to the Seller's Share of such Buyer Tax Return exceeds the amount of the Seller's Share as determined by the Accountant with respect to such Buyer Tax Return, in each case within five (5) days of the Accountant's resolution of all Disputed Tax Issues with respect to such Buyer Tax Return. Buyer shall cause to be paid to the appropriate Tax Authority the amount of Taxes shown to be due on each Buyer Tax Return.

(b) Straddle Period Allocation. The portion of Taxes attributable to a Straddle Period that are allocated to the Pre-Closing Tax Period of such Straddle Period shall be determined as follows:

(i) in the case of any real property, personal property, *ad valorem*, and similar Taxes ("***Property Tax***") attributable to a Straddle Period, the amount of such Property Tax attributable to the Pre-

Closing Tax Period shall be deemed to be the amount of such Property Tax for the entire Straddle Period, multiplied by a fraction, the numerator of which is the number of days in such Straddle Period ending on and including the Closing Date, and the denominator of which is the number of total days in such Straddle Period; and

(ii) in the case of any Tax that is based on income, sales, revenue, production, compensation or similar items, or other Taxes not described in Section 7.2(b)(i), and pertains or is attributable to a Straddle Period, the amount any such Tax attributable to the Pre-Closing Tax Period of such Straddle Period shall be determined based on an interim closing of the books as of and including the Closing Date.

Notwithstanding the foregoing, (a) exemptions, allowances, or deductions that are calculated on an annual basis, such as the deduction for depreciation, shall be apportioned ratably between such periods on a daily basis; (b) any franchise Tax paid or payable with respect to the Company shall be allocated to the Tax period during which the gross receipts, income, operations, assets, margin, or capital comprising the base of such Tax is measured, regardless of whether the right to do business for another period is obtained by the payment of such franchise Tax, and if the Tax period to which such franchise Tax is so allocated is a Straddle Period, then such franchise Tax allocated to a Straddle Period shall be determined in the manner set forth in Section 7.2(b)(ii); and (c) no election shall be made under Treasury Regulations Section 1.1502-76(b)(2)(ii) to ratably allocate the Company's items. At least ten (10) days before the Closing Date, Seller shall provide Buyer with its reasonable estimate of the *ad valorem* Property Taxes of the Company for the Pre-Closing Tax Period (based upon the most recent property tax bills available).

(c) Amended Tax Returns. Except as otherwise contemplated by this Agreement, Buyer shall not, and shall not cause or permit any of its Affiliates or the Company, to (i) amend, modify, or re-file any Tax Return of the Company that covers a Pre-Closing Tax Period; (ii) make or change any Tax election that affects any Pre-Closing Tax Period of the Company, or (iii) take any action or position that results in any increased Tax liability (including a reduction in a refund) of the Company with respect to Pre-Closing Tax Periods, in each case without the prior written consent of Seller (not to be unreasonably withheld, conditioned or delayed).

(d) Tax Contests.

(i) Buyer shall notify Seller in writing within ten (10) days of receipt by Buyer (or any Buyer Indemnitee) of written notice of any pending or threatened audits, adjustments, claims, examinations, assessments, or other administrative or judicial Proceedings with the purpose or effect of re-determining Taxes of or with respect to the Company (including any administrative or judicial review of any claim for refund) for which Seller could reasonably be expected to be required to provide indemnification pursuant to this Agreement (a "***Tax Contest***"), and shall provide Seller with a copy of any such written notice. Seller shall notify Buyer in writing within ten (10) days of receipt by Seller of written notice of any pending or threatened Tax Contest, and shall provide Buyer with a copy of any such written notice. The failure of either Buyer or Seller to provide a notification described in this Section 7.2(d)(i) shall not release Seller or Buyer, respectively, from its obligations hereunder except to the extent, and only to the extent, that the Party that was supposed to receive the notification is prejudiced as a result of such failure.

(ii) Seller, at its expense, shall have the right to control and defend the conduct of any Tax Contest covering a taxable period ending on or prior to the Closing Date (a "***Pre-Closing Tax Contest***") with counsel (including, for the avoidance of doubt, accountants) of its choice; *provided, however*, that (A) Seller shall keep Buyer reasonably informed regarding the progress and substantive aspects of the Pre-Closing Tax Contest, (B) Buyer may retain separate co-counsel at its sole cost and expense, and participate

in the defense of with respect to the Pre-Closing Tax Contest, including having an opportunity to review and reasonably comment on any written materials prepared in connection with such Pre-Closing Tax Contest and the right to attend and participate in any conferences relating thereto, and (C) Seller will not settle or consent to the entry of any Order or other similar determination or finding with respect to such Pre-Closing Tax Contest without the prior written consent of Buyer (which consent shall not be unreasonably withheld, conditioned or delayed). For the avoidance of doubt, any Claims pending as of the Closing Date for refund of Property Taxes with respect to Property Taxes which were paid by or on behalf of the Company prior to the Closing Date shall be deemed to be a Pre-Closing Tax Contest.

(iii) Buyer shall have the right to control and defend (x) any Tax Contest covering any Straddle Period, and (y) any Pre-Closing Tax Contest for which Seller has not assumed its right to control and defend such Pre-Closing Tax Contest as contemplated by Section 7.2(d)(ii) (each, an "***Other Tax Contest***") with counsel (including, for the avoidance of doubt, accountants) of its choice, *provided*, that, with respect to any Tax items in the Other Tax Contest for which the resulting Tax liability Seller would be required to provide indemnification pursuant to this Agreement, (A) Buyer shall keep Seller reasonably informed regarding the progress and substantive aspects of such Tax items in the Other Tax Contest, (B) Seller may retain separate co-counsel at its sole cost and expense, and participate in the defense of such Tax items in the Other Tax Contest, including having an opportunity to review and reasonably comment on any written materials prepared in connection with such Tax items in the Other Tax Contest and the right to attend and participate in any conferences relating thereto, and (C) Buyer will not settle or consent to the entry of any Order or other similar determination or finding with respect to such Tax items in the Other Tax Contest without the prior written consent of Seller (which consent shall not to be unreasonably withheld, conditioned, or delayed).

(iv) For the avoidance of doubt, the term Tax Contest shall not include, and this Section 7.2(d) shall not apply to, any audits, adjustments, claims, examinations, assessments or other administrative or judicial proceedings with the purpose or effect of re-determining Taxes of or with respect to any Tax Return of any Seller Consolidated Group (which includes the consolidated U.S. federal income tax return of any Seller Consolidated Group).

(e) Refunds. The amount of any refund of Taxes of the Company for any Pre-Closing Tax Period (other than any refund resulting from the carryback of a net operating loss or other Tax attribute from a period beginning after the Closing Date to a period ending on or prior to the Closing Date, which refund shall be for the account of Buyer) received by Buyer or the Company after the Closing Date (or credited against Taxes of Buyer or the Company attributable to Tax periods after the Closing Date) in respect of Taxes of the Company paid on or before the Closing Date or were otherwise borne by Seller pursuant to this Agreement (each a "***Tax Refund***") shall be for the account of Seller; *provided*, that such amounts shall be net of (i) any third party costs or expenses incurred by the Company or Buyer after the Closing Date in obtaining such Tax Refunds after the Closing Date, (ii) any undisputed amounts owed by Seller pursuant to Section 7.2(a) or Section 10.2(a) and (iii) any Taxes borne by Buyer, the Company, or any of their Affiliates as a result of its receipt of such Tax Refund that are not otherwise borne by Seller pursuant to this Agreement. The amount of any refund of Taxes of the Company for any Tax period beginning after the Closing Date shall be for the account of Buyer. The amount of any refund of Taxes of the Company for any Straddle Period shall be equitably apportioned between Buyer and Seller in accordance with the principles set forth in Section 7.2(b). Each Party shall forward, and shall cause its Affiliates to forward, to the Party entitled to receive a refund of Tax pursuant to this Section 7.2(e) the net amount of such Tax Refund within thirty (30) days after such refund is received. If there is a subsequent reduction by a Governmental Authority (or by virtue of a change in applicable Tax Law) of any amounts with respect to which a payment has been made to Seller pursuant to this Section 7.2(e), then Seller shall pay to Buyer an amount equal to such reduction plus any interest or penalties imposed by a Governmental Authority with respect to such reduction.

(f) Cooperation. Each of Buyer and Seller, and each of their respective Affiliates, shall cooperate fully, as and to the extent reasonably requested by the other Party, in connection with the filing of Tax Returns of or with respect to the Company and/or during the course of any audit, litigation or other Proceeding with respect to Taxes of or attributable to the Company. Such cooperation shall include the retention and (upon the other Party's request) the provision of records and information that are reasonably relevant to any such audit, litigation, or other Proceeding and making employees available on a mutually convenient basis to provide additional information and explanation of any material provided hereunder. Each of Seller and Buyer agrees, (i) that Seller shall retain all books and records with respect to Tax matters pertaining to the Company relating to any taxable period beginning on or before the Closing Date until the expiration of the applicable statute of limitations (and, to the extent notified by Buyer, any extensions thereof) of the respective taxable periods; shall provide copies of the foregoing to Buyer upon Buyer's request; and shall abide by all record retention agreements entered into with any Taxing Authority; and (ii) to give the other Party (and following the Closing, Buyer agrees to cause the Company to give Seller) reasonable written notice prior to transferring, destroying or discarding any such material books and records and, on receipt of such notice, if the other Party so requests, Seller or Buyer shall, as applicable, allow the other Party to take possession of such books and records. Buyer and Seller further agree, upon request, to use Commercially Reasonable Efforts to obtain any certificate or other document from any Governmental Authority or any other Person as may be reasonably necessary to mitigate, reduce or eliminate any Tax that could be imposed with respect to the Contemplated Transactions.

(g) Transfer Taxes. All transfer, documentary, sales, general excise, use, stamp, registration, and other similar Taxes, and all conveyance fees, recording charges, and other fees and charges (including any penalties and interest), incurred in connection with the Contemplated Transactions ("***Transfer Taxes***") shall be borne and paid fifty percent (50%) by Buyer and fifty percent (50%) by Seller when due, and Buyer will file, or cause to be filed all necessary Tax Returns and other documents with respect to all such Transfer Taxes.

(h) Tax Treatment of Indemnity Payments. Except as otherwise required by applicable Law, Buyer and Seller agree that any indemnification payments made under this Agreement shall be treated as Purchase Price adjustments for U.S. federal income tax purposes (and state, local, and foreign Tax purposes where applicable).

(i) Tax Withholding. With respect to any amount of Taxes deducted or withheld by Buyer pursuant to Section 2.8, Buyer shall pay the full amount of any such Taxes deducted or withheld to the applicable Taxing Authority.

(j) Section 336(e) Elections.

(i) If the Closing occurs, Seller shall cause an election to be made under Section 336(e) of the Code and the Treasury Regulations promulgated thereunder and under any comparable provision of applicable state, local, and foreign Law (collectively, the "***Section 336(e) Elections***") with respect to the purchase of the Purchased Shares pursuant to this Agreement. To effect such Section 336(e) Elections, (1) on or before the Closing Date, Seller and the Company shall enter into a written, binding agreement (a "***Section 336(e) Agreement***") to make the Section 336(e) Elections, as required by Treasury Regulations Section 1.336-2(h)(1)(i); (2) Seller shall cause the "common parent" (within the meaning of such term in Section 1504 of the Code) of the Seller Consolidated Group to retain a copy of the Section 336(e) Agreement, as required by Treasury Regulations Section 1.336-2(h)(1)(ii); (3) Seller shall prepare the Section 336(e) statements required by Treasury Regulations Section 1.336-1(h)(1)(iii) and cause such statements to be attached to the consolidated federal income Tax Return (and any corresponding state or local income Tax Returns) of the Seller Consolidated Group for the Tax year that includes the Closing Date; and (4) Seller shall provide a copy of the Section 336(e) statements described in clause (3) to the

Company on or before the due date (including extensions) for filing such consolidated federal income Tax Return (and any corresponding state or local income Tax Returns) for the Tax year that includes the Closing Date, as required by Treasury Regulations Section 1.336-2(h)(1)(iv). Seller and Buyer shall (and shall cause their Affiliates to) (A) take all necessary steps (including the timely filing of all required Tax Returns) to properly make and preserve the Section 336(e) Elections in accordance with applicable federal income Tax Law (and any corresponding provisions under applicable state, local or foreign Law); and (B) report the purchase of the Purchased Shares consistent with such Section 336(e) Election and not take any position contrary thereto or action that could cause the Section 336(e) Elections to be invalid. Seller and Buyer agree that any income and gain recognized as a result of, and in accordance with, the making of such Section 336(e) Election will be included in the consolidated federal income Tax Return of the Seller Consolidated Group for the Tax year that includes the Closing Date, and Seller will pay the Taxes attributable to the making of the Section 336(e) Elections.

(k) Purchase Price Allocation.

(i) Buyer shall deliver to Seller, within one hundred and twenty (120) days of the Closing Date, a proposed allocation schedule (the "***Allocation Schedule***") allocating the "aggregate deemed sales price" and the "adjusted grossed-up basis" (as defined under applicable Treasury Regulations) that results from the Section 336(e) Elections among the Assets in accordance with Section 336 of the Code and the applicable Treasury Regulations promulgated thereunder.

(ii) The Allocation Schedule delivered by Buyer to Seller shall become final and binding upon Buyer and Seller on the fifteenth (15th) day following the date it is delivered by Buyer to Seller, unless prior to such date Seller notifies Buyer in writing of any objections to such Allocation Schedule (an "***Allocation Schedule Notice of Disagreement***"). An Allocation Schedule Notice of Disagreement shall specifically set forth all of Seller's disputed items to the Allocation Schedule, together with Seller's proposed changes thereto, including an explanation in reasonable detail of the basis on which Seller proposes such changes. If Seller has delivered a timely Allocation Schedule Notice of Disagreement, then Buyer and Seller shall use their good faith efforts to reach agreement on the disputed items to determine the final and binding Allocation Schedule. If all of Seller's disputed items with respect to the Allocation Schedule have not been resolved by Buyer and Seller by the thirtieth (30th) day following the date that Buyer receives the Allocation Schedule Notice of Disagreement, then the items that are still disputed shall be submitted to binding arbitration to be determined by the Accountant. The Accountant's determination of the disputed issues shall in no event be more favorable to Buyer than reflected on the Allocation Schedule as proposed by Buyer or more favorable to Seller than reflected in the proposed changes to the Allocation Schedule delivered by Seller in the Allocation Schedule Notice of Disagreement. Following the determination by the Accountant, the Allocation Schedule shall be revised to include the determination of the Accountant on the disputed issues, and such revised Allocation Schedule shall be final and binding upon Buyer and Seller. The fees and expenses of any such arbitration shall be borne fifty percent (50%) by Buyer and fifty percent (50%) by Seller.

(iii) Any adjustment of the Purchase Price, and to any other items of consideration, cost or expense taken into account in the Allocation Schedule for U.S. federal income tax purposes, will be allocated by Buyer in a manner consistent with the Allocation Schedule that has become final and binding pursuant to the provisions of this Section 7.2(k), including the dispute resolution mechanism therein. The Allocation Schedule, including as adjusted pursuant to this Section 7.2(k)(iii), shall be final and binding on the Parties. Except as otherwise required by a "determination" (as defined in Code Section 1313) or similar provisions of state, local or foreign Law, (A) each of Buyer and Seller shall, and shall cause each of its Affiliates, to report, act and file all Tax Returns in all respects and for all purposes consistent with the Allocation Schedule determined to be final and binding pursuant to this Section 7.2(k), and (B) each of

Buyer and Seller will not, and will not permit of any of its Affiliates to, take any action or position that is inconsistent with such final and binding Allocation Schedule.

(l) Tax Sharing Agreements. Any and all existing Tax Sharing Agreements to which the Company is a party shall be terminated, and all payables and receivables arising thereunder shall be settled, in each case, prior to the Closing Date.

(m) Conflict. In the event of conflict between any of the provisions of this Section 7.2 and any other provision of this Agreement, the provisions of this Section 7.2 shall control.

Section 7.3 Third Person Consents Not Obtained Prior To Closing.

(a) Notwithstanding anything to the contrary in this Agreement, this Agreement shall not constitute an agreement to assign any Seller Contract or any benefit arising under or resulting from such Seller Contract if an attempted assignment thereof, without a required Third Person Consent or Authorization, would constitute a breach or other contravention of the rights of such third party, would be ineffective with respect to any party to an agreement concerning such Seller Contract, would violate or otherwise is not permitted by Law or would in any way adversely affect the rights of Seller or, upon transfer, of the Company under or in respect of such Seller Contract. If any transfer or assignment by Seller to, or any assumption by the Company of, any interest in, or Obligation under, any Seller Contract, requires any Third Person Consent or Authorization, then no such assignment or assumption shall be made without such Third Person Consent or Authorization being obtained. To the extent any Seller Contract may not be assigned to the Company by reason of the absence of any such Third Person Consent or Authorization, the Company shall not be required to assume any Obligations arising under such Seller Contract; *provided, however*, that upon the receipt of any such Third Person Consent or Authorization after the Closing, such Seller Contract shall be assigned to the Company and the Company shall assume such Seller Contract.

(b) If any such Third Person Consent or Authorization is not obtained prior to the Closing Date, Seller shall, to the extent not prohibited by the terms of any applicable Seller Contract or Law and until the receipt of such Third Person Consent or Authorization, hold the Seller Contract, subject to such Third Person Consent or Authorization, together with any proceeds therefrom, in trust for the Company, and Seller and the Company shall cooperate (each at its own expense) in any mutually acceptable, lawful and reasonable arrangement under which the Company shall obtain, to the extent practicable, the economic rights and benefits under such Seller Contract with respect to which the Third Person Consent or Authorization has not been obtained in accordance with this Agreement. Such reasonable arrangement may include the entering into of a subcontract, sublicense, sublease or other similar arrangement between Seller and the Company. During the period from Closing until such Third Person Consent or Authorization is obtained, Seller will use Commercially Reasonable Efforts to enforce such Seller Contracts for the benefit of the Company, on the condition that the Company shall bear all costs and expenses (including legal expenses) related to such enforcement. If the Company is able to receive the economic rights and benefits under such Seller Contract, such economic rights and benefits shall constitute an Asset, and the Obligations, if any, related to such economic rights and benefits under such Asset shall constitute Obligations of the Company (other than any Obligations arising out of or relating to a breach or any operation of the Business or the ownership or operation of the Assets that occurred prior to the Closing), as applicable. Seller's Obligations under this Section 7.3(b) shall expire as of the second (2^{nd}) annual anniversary of the Closing Date.

Section 7.4 Multi-Site Contracts. Schedule 7.4 sets forth a list of certain "master" contracts and agreements that the Company is a party to, or otherwise authorized to utilize, and which pertain to multiple refineries and facilities owned by Seller and its Affiliates in addition to the Assets (each, a "***Multi-Site Contract***" and collectively, the "***Multi-Site Contracts***"). Some of those Multi-Site Contracts may

constitute Seller Contracts or Material Company Contracts. With respect to all Multi-Site Contracts, Buyer acknowledges and agrees that the Company shall not be entitled to remain or become a party thereto, or otherwise make use thereof, after Closing, and it is Seller's intention to terminate all Multi-Site Contracts as to the Company effective as of Closing. Notwithstanding such termination, the Company shall be obligated to honor any work releases, purchase commitments or other similar commitments made by them under any Multi-Site Contracts prior to Closing, but not yet fully performed or satisfied as of Closing, so long as such commitments were not made in violation of Seller's Obligations under Section 6.1. To the extent a Multi-Site Contract by its terms is not terminable as to the Company, Buyer covenants and agrees to (i) negotiate in good faith with the counterparty(ies) to such Multi-Site Contract in an effort to enter into a new agreement between such counterparty(ies) and the Company as soon as reasonably practicable as possible following Closing, and (ii) until such new agreement becomes effective, honor the terms of the Multi-Site Contract and not make any elective purchases or other elective commitments thereunder. Buyer acknowledges that the terms and conditions of Multi-Site Contracts that relate to other facilities of Seller and its Affiliates other than the Refinery (including rate sheets and other commercial terms and conditions covering such other facilities) are confidential and proprietary information of Seller and its Affiliates, and Buyer shall destroy any such information it may inadvertently obtain, and shall not use such information for any purpose. Without limiting any of Buyer's other indemnification Obligations under this Agreement, Buyer shall indemnify, defend and hold harmless the Seller Indemnitees against any and all Claims and Losses arising out of Buyer's breach or utilization of any Multi-Site Contract after Closing.

Section 7.5 **Operation of Business**. During the period commencing at the Closing and ending at the Measurement Time, Buyer (with respect to the Company and the Business) shall, and shall cause the Company to operate and maintain the properties and assets of the Company and the Business in the ordinary course of business (including maintenance of appropriate insurance coverages with respect to the assets to be measured hereunder as of the Measurement Time) and not enter into or effect any transaction outside the ordinary course of business except as otherwise required by applicable Law; *provided* that Buyer may cause the Company to enter into financing arrangements during such period, which financing arrangements would constitute Company Assumed Liabilities and would not be in derogation of any representations and warranties in Article III or Article IV.

Section 7.6 **Seller's Names; Removal of Logos and Signs**.

(a) Except as provided in this Section 7.6, following the Closing, Buyer will not (and will cause the Company not to) use or otherwise exploit the Alon Marks in the operation of the Business. As promptly as practicable following the Closing Date, but in no event later than one hundred eighty (180) days after the Closing Date, Buyer will stop (and will cause the Company to stop) using the Alon Marks in any form in the operation of the Business, including by removing, permanently obliterating or covering all references to the Alon Marks that appear on any Assets, including all signage, storage containers, uniforms and clothing, promotional or advertising literature, stationery, purchase order forms, office forms and labels, packaging, manuals, policy books, reference materials and other such documents (including signs displaying Seller's or its Affiliates' emergency contact telephone numbers or otherwise using or displaying the Alon Marks or the phrase "Alon," "Delek" or "Paramount" in whole or in part). As promptly as practical after the Closing Date, Buyer shall post Buyer's emergency contact telephone numbers in place of any of Seller's or its Affiliates' emergency contact telephone numbers. Without limiting the foregoing restrictions, until such time as the Alon Marks are removed or covered by Buyer or the Company as provided above, in no event will Buyer or the Company use or display the Alon Marks in any way other than in the same manner used by the Business immediately prior to the Closing Date and all signs and graphics incorporating any of the Alon Marks shall be maintained by Buyer and the Company in keeping with a first class operation. During any period that the Company is using the Alon Marks as provided in this Section 7.6, the Company shall use Commercially Reasonable Efforts to inform customers, suppliers and contractors that Buyer and the Company are not part of or Affiliates of Seller and that the Company are using the Alon

Marks with permission solely to facilitate the transition of the Business. Notwithstanding anything to the contrary, neither Buyer nor the Company shall have any right to create any new materials to be used in the operation of the Business containing the Alon Marks or any right to transfer, assign, license or sublicense any of the Alon Marks. Neither Buyer nor the Company shall contest the validity of the Alon Marks, claim adversely to Seller or its Affiliates any right, title or interest in or to the Alon Marks, or the distinctive features of the designs used in connection with the Alon Marks, and shall not register, apply to register or aid a third party in registering any of the Alon Marks or a confusingly similar trademark or service mark.

(b) Within four (4) Business Days following the Closing Date, Buyer shall (i) cause the Company to file appropriate documentation with the applicable Governmental Authorities to change the legal name of the Company to remove the name "Alon" and any name that would reasonably be expected to be confused therewith; (ii) provide Seller evidence of such filings; and (iii) take such other actions as required to cause the Company to abandon the name "Alon," "Delek," "Paramount" and any derivations thereof that would reasonably be expected to be confused therewith.

Section 7.7 **Further Assurances**. Without limiting Section 6.2, Seller and Buyer each agree that from time to time after the Closing Date they will execute and deliver and will cause their respective Affiliates to execute and deliver such further instruments, and take, and cause their respective Affiliates to take, such other actions as may be reasonably necessary to carry out the purposes and intents of this Agreement and the Related Agreements, including with respect to any consent, authorization, order or approval sought from, or exemption, review, investigation or inquiry conducted by, any Governmental Authority in connection with this Agreement and the Contemplated Transactions; *provided*, *however* that the provisions of this Section 7.7 shall not impose any Obligation on any Party or its Affiliates greater than (and shall be subject to limitations similar to) the Obligations imposed on the Parties during the Interim Period pursuant to Section 6.2.

Section 7.8 **Retention of and Access to Books and Records**.

(a) After the Closing Date, Seller will deliver or cause to be delivered to Buyer the Books and Records that are in the possession or control of Seller or its Affiliates other than Books and Records in the possession of the Company. Buyer agrees (and shall cause the Company to agree) to hold and maintain the Books and Records that are transferred to Buyer or the Company so that they may be reasonably retrievable and not to destroy or dispose of any portion thereof for a period of five (5) years from the Closing Date or such longer time as may be required by applicable Law, *provided*, that, if Buyer or the Company desires to destroy or dispose of such Books and Records during such period, they will first offer in writing at least ninety (90) days before such destruction or disposition to surrender them to Seller, and if Seller does not accept such offer within sixty (60) days after receipt of such offer, Buyer or the Company, as applicable, may proceed with the destruction of such Books and Records.

(b) Unless in violation of Law, each Party agrees (and shall cause its Affiliates to agree) to afford the other Party and its Affiliates and their respective accountants and counsel, during normal business hours, upon reasonable request, at a mutually agreeable time, full access to and the right to make copies of the Books and Records delivered to Buyer or other information that Seller retains that relates to the Assets or the Business (including those that are not "Books and Records") at no cost to such Party or its Affiliates (other than for reasonable out-of-pocket copying expenses); *provided, however*, that in the event of any litigation, nothing herein shall limit any Party's rights of discovery under applicable Law. Without limiting the generality of the preceding sentences, each Party agrees to provide the other Party and its Affiliates reasonable access to and the right to make copies of the Books and Records or other information (excluding confidential, privileged or proprietary information) that Seller retains that relates to the Assets or the Business (including those that are not "Books and Records") after the Closing Date, for the purposes of assisting such Party and its Affiliates (i) in complying with the Obligations under this

Agreement or the Related Agreements (including to comply with any indemnity obligations), (ii) in preparing and delivering any accounting statements provided for under this Agreement or the Related Agreements and adjusting, prorating and settling the charges and credits provided for in this Agreement or the Related Agreements, (iii) in the case of Seller, in owning or operating the Excluded Assets or Retained Liabilities, (iv) in preparing Tax Returns or in responding to or disputing any Tax audit, Tax appeal, other Tax proceeding, (v) in asserting, defending or otherwise dealing with any Claim, known or unknown, under this Agreement or the Related Agreements or, in the case of Seller, with respect to Excluded Assets or Retained Liabilities or (vii) in asserting, defending or otherwise dealing with any Third-Party Claim or dispute by or against a Party or its Affiliates relating to the Business or the Assets.

Section 7.9 Intellectual Property.

(a) Seller Process Licenses. Seller shall transfer to the Company or cause the transfer of (A) all licenses of Intellectual Property held by Seller or its Affiliates that are used exclusively in connection with the operation of the Refinery process units or other Assets as currently operated or as operated immediately prior to the Closing, and (B) that portion of any license agreement covering the Refinery or other Assets as well as other facilities or assets owned by Seller or its Affiliates (a "***Multi-Site License***") that is allocable to the operation of the Refinery process units or other Assets as currently operated or as operated immediately prior to the Closing (the interests in the foregoing clauses (A) and (B) being herein collectively referred to as the "***Licensed Technology Rights***"), in all cases only to the extent that such Licensed Technology Rights are freely transferable or to the extent that the licensor otherwise agrees to such transfer, it being understood that Seller makes no representations or warranties as to the assignability or transferability of any Licensed Technology Rights. Buyer shall be solely responsible for seeking the consent of the licensor(s) of any such Licensed Technology Rights and for paying any costs associated with the transfer of such Licensed Technology Rights or the issuance of replacement licenses; *provided, however*, that Seller agrees to (i) reasonably cooperate in requesting such transfers and in executing any reasonable transfer or assignment documents that do not impose any Obligations on Seller, and (ii) pay any accrued and unpaid royalties arising out of Seller's use of the Licensed Technology Rights at the Refinery prior to Closing. Without limiting the foregoing, Buyer agrees that Seller shall not be obligated to transfer any Licensed Technology Rights to the Company where such transfer would require Seller or its Affiliates to surrender any paid-up capacity or other rights allocable to other facilities owned by Seller or its Affiliates (but for the avoidance of doubt, Seller will agree to release any Licensed Technology Rights allocable to the Refinery or other Assets under a Multi-Site License). Effective as of and related to the period on and after the Closing Date, Buyer or the Company shall be solely responsible for complying with all Obligations (including non-disclosure, export control and grant-back obligations) under Licensed Technology Rights used by the Company after Closing and shall indemnify, defend and hold the Seller Indemnitees harmless in accordance with Section 10.3 against any Losses they may suffer by reason of Buyer's or the Company's failure to do so. Without limiting the foregoing, Buyer shall indemnify, defend and hold the Seller Indemnitees harmless in accordance with Section 10.3 against any Losses they may suffer by reason of Buyer's or the Company's use of Licensed Technology Rights beyond the use of such rights by the Company as of the Closing.

(b) Seller's obligations under this Section 7.9 shall expire on the second (2^{nd}) annual anniversary of the Closing Date.

Section 7.10 Collection of Amounts Owed to a Party. In the event any Party receives any funds or other property that belongs to another Party then the receiving Party shall receive and hold such funds and property in trust for the benefit of the rightful Party and shall promptly forward such funds and property to the rightful Party. It is the intention of the Parties that, as between the Parties, Seller shall be entitled to all income attributable to the operations conducted prior to the Measurement Time and Buyer shall be entitled to all income attributable to the operations conducted after the Measurement Time. Each

Party shall pay to the other Party, promptly after receipt thereof, any amount received by said Party from any third party with respect to (i) rentals, fees or other revenues relating to the Operations and attributable to the ownership period of the other Party; and (ii) products delivered, services performed or other obligations performed by the other Party and attributable to the ownership period of such other Party.

Section 7.11 Releases.

(a) Simultaneously with the Closing, Seller, on behalf of itself and its Affiliates (other than the Company), hereby unconditionally and irrevocably releases and forever discharges, effective as of and forever after the Closing Date, to the fullest extent permitted by Law, the Company from any and all debts, Obligations, Claims, Proceedings, judgments or controversies of any kind whatsoever (collectively, "***Pre-Transaction Claims***") that Seller and its Affiliates (other than the Company), may possess, if any, against the Company to the extent arising out of or based upon any agreement or understanding or act or failure to act (**including any act or failure to act that constitutes ordinary or gross negligence or reckless or willful, wanton misconduct**), misrepresentation, omission, transaction, fact, event or other matter occurring prior to the Closing Date (whether based at law or in equity or otherwise, foreseen or unforeseen, matured or unmatured, known or unknown, accrued or not accrued) (collectively, "***Pre-Transaction Matters***"), including: (i) claims by Seller with respect to repayment of loans or other indebtedness; (ii) any rights, titles and interests in, to or under any agreements, arrangements or understandings to which Seller or any of its Affiliates (other than the Company), is a party; and (iii) Claims by Seller and its Affiliates (other than the Company), with respect to dividends, distributions, violations of preemptive rights and Seller's status as a stockholder, option holder or other security holder of the Company; *provided, however*, that this Section 7.11(a) shall not apply to any Claim or Obligation pursuant to this Agreement or the Related Agreements. Seller, on behalf of itself and its Affiliates (other than the Company), hereby further agrees, from and after the Closing Date, not to file or initiate any Proceeding before any Governmental Authority on the basis of or respecting any Pre-Transaction Claim concerning any Pre-Transaction Matter that is released under this Section 7.11(a).

(b) Simultaneously with the Closing, Buyer, on behalf of the Company, hereby unconditionally and irrevocably releases and forever discharges, effective as of and forever after the Closing Date, to the fullest extent permitted by Law, Seller and its Affiliates from any and all Pre-Transaction Claims that the Company may possess, if any, against Seller and its Affiliates to the extent arising out of or based upon any Pre-Transaction Matters, including: (a) claims by the Company with respect to repayment of loans or other indebtedness; (b) any rights, titles and interests in, to or under any agreements, arrangements or understandings to which either of the Company, is a party; and (c) Claims by the Company with respect to dividends and distributions; *provided, however*, that this Section 7.11(b) shall not apply to any Claim or Obligation pursuant to this Agreement or the Related Agreements. Buyer, on behalf of the Company, hereby further agrees, from and after the Closing Date, not to file or initiate any Proceeding before any Governmental Authority on the basis of or respecting any Pre-Transaction Claim concerning any Pre-Transaction Matter that is released under this Section 7.11(b).

(c) The foregoing releases of Section 7.11(a) and Section 7.11(b) extend to all Claims covered by the foregoing paragraphs, whether or not claimed or suspected, and constitutes a waiver of each and all the provisions of the California Civil Code, Section 1542 (to the extent it would be applicable), which reads as follows:

> A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

The Parties acknowledge and understand the significance and consequence of this waiver of Section 1542 (to the extent it would be applicable). For the avoidance of doubt, the Parties acknowledge that the law of Delaware governs this Agreement and the reference to California Civil Code, Section 1542 is not intended to indicate otherwise or modify or amend Section 10.8.

Section 7.12 Cleaning Plan, Tank Lease, and Cleaning Costs. Schedule 7.12 sets forth the agreement of the Parties related to the Cleaning Work (as defined therein).

Section 7.13 Environmental Acknowledgements.

Buyer understands and acknowledges:

(a) The Assets have been used for the refining and production of crude oil for the last eighty (80) years. Area 1 began operating as Mohawk Petroleum Company in 1932, and the US Government built Area 2 in 1942. The Refinery has been operated by numerous companies, including Mohawk Petroleum, the US Government, Reserve Oil and Gas, Getty Petroleum, Texaco, Shell, Equilon, and Big West. There have been numerous Releases of Hazardous Materials at the Refinery, most of which have occurred prior to Seller's ownership of the Refinery. The Refinery is under Cleanup and Abatement Order No. R5-2010-0701 (the "***CAO***") issued by the California Regional Water Quality Control Board to remediate certain Releases of Hazardous Materials. As of December 31, 2018, more than 1,710,785 gallons of Hazardous Materials (petroleum hydrocarbons) have been recovered from the soils and groundwater beneath the Refinery by the Area 1 and Area 2 SVE systems.

(b) The Assets may contain Hazardous Materials, including *inter alia* asbestos in pipe coating, undisplaced petroleum hydrocarbon products in pipelines, coats of lead-based paints, polychlorinated biphenyls ("***PCBs***") in transformers, rectifiers, paints, caulks and other electrical or building materials, mercury in electrical switches and other equipment, and Naturally Occurring Radioactive Material ("***NORM***") in various potential forms. Special procedures may be required for the remediation, removal, transportation and disposal of such affixed or attached materials. Notwithstanding any provision to the contrary contained in this Agreement, the Company Environmental Liabilities shall include all Obligations with respect to the future abandonment or removal of NORM, lead-based paint, undisplaced petroleum hydrocarbon products, mercury, asbestos or PCBs to the extent contained in or on the Assets.

Section 7.14 Childhood Lead Poisoning Prevention Fees. Seller shall retain and agrees to pay, perform, and discharge when due (as a Retained Liability), payments of California Childhood Lead Poisoning Prevention Fees ("***Childhood Lead Fees***") to the extent assessed against the Company with respect to activities of the Company prior to the Closing Date. Childhood Lead Fees that are assessed against the Company with respect to activities of the Company from and after the Closing Date shall be Company Assumed Liabilities. Any Claim by Buyer or the Company for indemnification pursuant to this Section 7.14 shall be subject to the procedures set forth in Section 10.4. Additionally, Seller shall have the right to control the discussions, communications, and negotiations with (including meetings or teleconferences with, or hearings before) any Governmental Authority with respect to any proposed Childhood Lead Fees. Buyer shall provide (and shall cause the Company to provide) reasonable assistance and cooperation in order to minimize the amount of Childhood Lead Fees actually imposed.

ARTICLE VIII

CLOSING CONDITIONS

Section 8.1 **Conditions to Obligations of Each Party Under this Agreement**. The respective Obligations of Buyer and Seller to consummate the Contemplated Transactions shall be subject to the satisfaction at or prior to the Closing of the following conditions, any or all of which may be waived by the Parties, in whole or in part, to the extent permitted by Law:

(a) Any waiting or review period applicable to the Contemplated Transactions under applicable antitrust, trade regulation or foreign investment Laws and regulations shall have expired or been terminated;

(b) No temporary restraining Order, preliminary or permanent injunction or other Order issued by any court of competent jurisdiction or other statute, rule or legal restraint of a Governmental Authority shall be in effect preventing the consummation of the Contemplated Transactions; and

(c) There shall not be pending or threatened in writing any Proceeding instituted by any Governmental Authority to materially restrain, prohibit or otherwise materially interfere with or obtain substantial monetary damages in connection with the consummation of the Contemplated Transactions.

Section 8.2 **Additional Conditions to Seller's Obligations**. The Obligations of Seller to affect the Contemplated Transactions shall be subject to the satisfaction at or prior to the Closing of the following conditions, any or all of which may be waived by Seller, in whole or in part, to the extent permitted by Law:

(a) The representations and warranties of Buyer made in Section 5.1 (Organization and Qualification) and Section 5.2 (Authority; Enforceability) shall be complete and correct in all respects when made and on and as of the Closing Date, as though made on and as of the Closing Date (except for representations and warranties that speak only as of a specific date or time, which need be so complete and correct only as of such date or time). The other representations and warranties of Buyer made in Article V shall, when read without any qualification as to "materiality" or "material adverse effect" or another similar qualifier shall be complete and correct in all respects when made and on and as of the Closing Date, as though made on and as of the Closing Date (except for representations and warranties that speak as of a specific date or time, which need be so complete and correct only as of such date or time) except where the failure to be so complete and correct, individually and in the aggregate, has not had and is not reasonably likely to have a material adverse effect on the ability of Buyer to consummate the Contemplated Transactions or to perform its Obligations under this Agreement, and Seller shall have received a certificate of an executive officer of Buyer, dated the Closing Date, to such effect;

(b) Buyer shall have performed or complied in all material respects with all Obligations required by this Agreement to be performed or complied with by it on or prior to the Closing Date, and Seller shall have received a certificate of an executive officer of Buyer, dated the Closing Date, to such effect;

(c) All Third Person Consents and all Authorizations specified in Schedule 8.2(c) shall have been obtained; and

(d) Since the Execution Date, there must not have been any event or series of events which has had or would reasonably be expected to have a Material Adverse Effect.

Section 8.3 **Additional Conditions to Buyer's Obligations**. The Obligations of Buyer to affect the Contemplated Transactions shall be subject to the satisfaction at or prior to the Closing of the following conditions, any or all of which may be waived by Buyer, in whole or in part, to the extent permitted by Law:

(a) The representations and warranties of Seller made in Section 3.1 and Section 4.1 (Organization and Qualification), Section 3.2 and Section 4.2 (Authority; Enforceability), Section 3.5 (Ownership of the Purchased Shares), and Section 4.4 (Capitalization of the Company) shall be complete and correct in all respects when made and on and as of the Closing Date, as though made on and as of the Closing Date (except for representations and warranties that speak only as of a specific date or time, which need be so complete and correct only as of such date or time). The other representations and warranties of Seller made in Article III and Article IV shall, when read without any qualification as to "materiality" or "Material Adverse Effect" or another similar qualifier shall be complete and correct in all respects when made and on and as of the Closing Date, as though made on and as of the Closing Date (except for representations and warranties that speak as of a specific date or time, which need be so complete and correct only as of such date or time) except where the failure to be so complete and correct, individually and in the aggregate, has not had and is not reasonably likely to have a Material Adverse Effect or a material adverse effect on the ability of Seller to consummate the Contemplated Transactions or to perform its Obligations under this Agreement, and Buyer shall have received a certificate of an executive officer of Seller, dated the Closing Date, to such effect;

(b) Seller shall have performed or complied in all material respects with all Obligations required by this Agreement to be performed or complied with by it on or prior to Closing Date, and Buyer shall have received a certificate of an executive officer of Seller, dated the Closing Date, to such effect;

(c) All Third Person Consents and all Authorizations specified in Schedule 8.2(c) shall have been obtained; and

(d) Since the Execution Date, there must not have been any event or series of events which has had or would reasonably be expected to have a Material Adverse Effect.

ARTICLE IX

TERMINATION

Section 9.1 **Termination**. This Agreement may be terminated at any time prior to the Closing:

(a) by mutual written consent of Seller and Buyer;

(b) by Seller or Buyer upon written notice to the other Party, if the Closing contemplated hereby shall not have occurred or shall have become incapable of occurring as of the Long Stop Date, *provided* that the failure to Close or inability to Close as of the Long Stop Date is not due, *inter alia,* to any breach by the Party seeking to terminate this Agreement of any of its representations, warranties, covenants or other Obligations contained in this Agreement;

(c) by Seller (so long as Seller is not then in material breach of any of its representations, warranties, covenants or other Obligations contained in this Agreement), if there has been a breach of any of Buyer's representations, warranties, covenants or other Obligations contained in this Agreement that would result in the failure of a condition set forth in Section 8.2, and which breach has not

been cured or cannot be cured within the earlier of the Long Stop Date or thirty (30) days following the delivery to Buyer by Seller of a written notice of such breach specifying particularly such breach; or

(d) by Buyer (so long as Buyer is not then in material breach of any of its representations, warranties, covenants or other Obligations contained in this Agreement), if there has been a breach of any of Seller's representations, warranties, covenants or other Obligations contained in this Agreement that would result in the failure of a condition set forth in Section 8.3, and which breach has not been cured or cannot be cured within the earlier of the Long Stop Date or thirty (30) days following the delivery to Seller by Buyer of a written notice of such breach specifying particularly such breach.

Section 9.2 **Extension of Long Stop Date**. In the event the Closing has not occurred as of August 26, 2019, then Buyer shall have the right, but not the obligation, to extend the Long Stop Date to September 27, 2019 by providing written notice thereof to Seller by 5:00 p.m. Central Daylight Time on August 26, 2019 and paying to Seller a non-refundable payment in an amount equal to $500,000 (the "***Extension Payment***") which shall be paid to Seller no later than August 27, 2019 by wire transfer or delivery of other immediately available funds to an account, or accounts, designated by Seller. In the event Buyer fails to provide such notice on August 26, 2019 or in the event Buyer provides such notice to Seller but Seller does not receive the Extension Payment as required by 5:00 p.m. Central Daylight Time on August 27, 2019 then the Long Stop Date shall not be extended beyond August 27, 2019 unless the Parties expressly agree in writing to extend the Long Stop Date. If the Closing eventually occurs, an amount equal to the Extension Payment will be applied to the Purchase Price as provided in Section 2.5(a)(i). The Extension Payment shall be fully earned by Seller upon payment by Buyer and shall NOT be refundable (in that it shall not be returned to Buyer) for any reason whatsoever, including in the event this Agreement is later terminated by Buyer pursuant to Section 9.1(d). The Extension Payment shall NOT be deemed to be part of the Deposit and shall NOT be subject to Section 2.2.

Section 9.3 **Effect of Termination**. Except for this Section 9.3, Section 6.4, Section 10.7(c), Section 10.8, Section 10.9, Section 11.2, Section 11.3 and Section 11.4, this Agreement shall, upon termination hereof pursuant to Section 9.1, forthwith become of no further force or effect and (a) except as provided in this Section 9.3 and by Section 2.2, there shall be no liability on the part of Seller, the Company or Buyer or any of their respective Affiliates, or any of their respective officers, directors or managers, to any other party and (b) all rights and Obligations of any Party shall cease; *provided, however*, that any such termination shall not relieve Seller, the Company or Buyer from liability for any intentional and material breach of this Agreement occurring prior to such termination. The termination of this Agreement shall have no effect on the provisions of the Confidentiality Agreement.

ARTICLE X

INDEMNIFICATION AND REMEDIES

Section 10.1 **Survival**. Subject to the limitations and other provisions of this Agreement, (a) the representations and warranties of the Parties contained in this Agreement shall survive the Closing and shall remain in full force and effect for a period of twelve (12) months after the Closing Date (except for those contained in Section 3.1, Section 4.1 and Section 5.1 (Organization and Qualification), Section 3.2, Section 4.2 and Section 5.2 (Authority; Enforceability), Section 3.5 (Ownership of the Purchased Shares), Section 4.4 (Capitalization of the Company), and Section 3.6 and Section 5.5 (Brokers), and Section 4.12 (Taxes) (the foregoing representations hereinafter referred to as the "***Fundamental Representations***"), which shall survive the Closing until the thirtieth (30^{th}) day following the expiration of the statute of limitations applicable to the subject matter thereof, and until the resolution of the indemnification Claims received by the Indemnifying Party in accordance with the provisions hereof prior to the expiration of the relevant time period, (b) each covenant and agreement of the Parties contained in this Agreement which by its terms are

to be performed at or prior to the Closing shall terminate twelve (12) months after the Closing Date, (c) each covenant and agreement of the Parties contained in this Agreement which by its terms are to be performed after the Closing Date shall survive the Closing and shall remain in full force and effect until such covenant or agreement is fully performed, and (d) the provisions of Section 6.5 and Section 6.6 shall survive the Closing without limit as to time.

Section 10.2 Indemnification Provisions for the Benefit of Buyer.

(a) If the Closing occurs and subject to the other provisions of this Article X, Seller shall indemnify, defend, save and hold the Buyer Indemnitees harmless from and against any Claims and Losses actually suffered or incurred by them to the extent arising out of or related to (without duplication):

(i) the breach of any representation or warranty of Seller or the Company contained in this Agreement when made or at and as of the Closing Date (or at and as of such different date or period specified for such representation or warranty) as though such representation and warranty were made at and as of the Closing Date (or such different date or period);

(ii) the breach of any covenants or agreements of Seller contained in this Agreement (other than with respect to the Retained Liabilities and Taxes, which are covered by clauses (iii) and (iv) below);

(iii) the Retained Liabilities;

(iv) Seller Taxes; and

(v) regardless of any matter set forth in the Seller Disclosure Schedule, any employee benefit plan of the Company or any ERISA Affiliate of the Company that is described in subsections (A) through (D) of Section 4.11, or that is a plan or arrangement providing for health or other welfare benefits after termination of employment (other than as required by "COBRA" or similar state continuation coverage laws for which the employee pays the full premium cost).

(b) No Claim may be asserted nor may any Proceeding be commenced against Seller pursuant to this Section 10.2 unless written notice of such Claim or Proceeding is received by Seller describing in reasonable detail the facts and circumstances with respect to the subject matter of such Claim or Proceeding, and with respect to Claims or Proceedings based on the breach of any representation, warranty or covenant, on or prior to the date such representation, warranty or covenant ceases to survive as set forth in Section 10.1; *provided, however*, that no Claim may be asserted nor may any Proceeding be commenced by Buyer against Seller arising out of or related to a breach of any representation, warranty or covenant of which Buyer had Knowledge on or prior to the Closing Date and for which Buyer failed to deliver a Breach Notice in accordance with Section 6.3. A speculative, prospective, unspecified or possible future Claim shall not be adequate to support a timely indemnification Claim. If a Buyer Indemnitee has recovered any Losses pursuant to one subsection of this Section 10.2(a), such Buyer Indemnitee shall not be entitled to recover the same Losses under another subsection of this Section 10.2(a). Notwithstanding the foregoing, a Buyer Indemnitee shall be entitled to seek recovery under such provisions of this Agreement that maximizes its recovery.

(c) No Claim may be made against Seller for indemnification pursuant to clauses (i) or (ii) of Section 10.2(a) with respect to any individual action, occurrence or event subject to the indemnifications thereunder (or group of related actions, occurrences or events) unless (i) such individual action, occurrence or event exceeds $100,000 (the "***De Minimis Amount***") (and in such case, no Loss below such De Minimis Amounts be applied to or considered for purposes of calculating the aggregate amount of

the Buyer Indemnitees' Losses) or (ii) such Claim relates to the breach of a Fundamental Representation by Seller or the Company. For the avoidance of doubt, the De Minimis Amount limitation shall not apply to a Claim or Loss pursuant to clauses (iii), (iv) or (v) of Section 10.2(a).

(d) No Claim may be made against Seller for indemnification pursuant to clauses (i) or (ii) of Section 10.2(a) unless the aggregate amount of all Claims and Losses of the Buyer Indemnitees with respect to clauses (i) and (ii) of Section 10.2(a) (excluding individual Claims and Losses less than the De Minimis Amounts) shall exceed an amount equal to $500,000 (the "***Indemnification Deductible***"), after which point Seller shall be obligated only to indemnify the Buyer Indemnitees from and against such aggregate Claims and Losses (excluding individual Claims and Losses less than the De Minimis Amounts) in excess of the Indemnification Deductible, *provided*, that the Indemnification Deductible shall not apply with respect to Losses arising under Section 10.2(a)(i) with respect to a breach of a Fundamental Representation by Seller or the Company. For the avoidance of doubt, the Indemnification Deductible shall not apply to a Claim or Loss pursuant to clauses (iii), (iv) or (v) of Section 10.2(a).

(e) The maximum amount that Seller shall be required to pay pursuant to clauses (i) and (ii) of Section 10.2(a) in respect of all Claims and Losses by all Buyer Indemnitees (the "***Indemnification Cap***") shall equal the lesser of (i) $2,500,000 or (ii) the amount of the Purchase Price *minus* the aggregate Reimbursement Amounts paid by Seller as of the date of such Claims and Losses, after which point Seller will have no Obligation to indemnify the Buyer Indemnitees from and against further such Claims and Losses; *provided*, *however*, that with respect to a breach of a Fundamental Representation made by Seller or the Company, the maximum amount of Losses that Buyer will be able to recover from Seller pursuant to Section 10.2(a)(i) shall not be limited by the Indemnification Cap but shall be limited to an amount equal to the Purchase Price. In addition, Seller shall have as an affirmative defense to any claim for indemnity under Section 10.2(a)(i) arising out of or related to a breach of any representation or warranty of Seller or the Company that Buyer had Knowledge of such breach on or prior to the Closing Date and Buyer failed to deliver a Breach Notice in accordance with Section 6.3. For the avoidance of doubt, the Indemnification Cap shall not apply to a Claim or Loss pursuant to clauses (iii), (iv) or (v) of Section 10.2(a).

Section 10.3 Indemnification Provisions for the Benefit of Seller.

(a) Subject to the other provisions of this Article X, Buyer agrees to indemnify, defend, save and hold the Seller Indemnitees harmless from and against any Claims and Losses actually suffered or incurred by them to the extent arising out of or related to:

(i) the breach of any representation or warranty of Buyer contained in this Agreement when made or at and as of the Closing Date (or at and as of such different date or period specified for such representation or warranty) as though such representation and warranty were made at and as of the Closing Date (or such different date or period);

(ii) the breach of any covenants or agreements of Buyer contained in this Agreement (other than with respect to employees and employee benefits, Taxes and Multi-Site Contracts, which are covered by clauses (v) through (vi) below, respectively);

(iii) the Company Assumed Liabilities;

(iv) the ownership of the Purchased Shares, the Company or the Assets after the Closing, or the operation of the Business after the Closing (in each case excluding the Excluded Assets, Taxes and the Retained Liabilities and to the extent such Losses are not indemnifiable by Seller pursuant to Section 10.2);

(v) (A) the breach of any covenants or agreements of Buyer (or any Affiliate of Buyer, which includes the Company with respect to any post-Closing Date covenants) in Section 7.2, or (B) any Obligations of Buyer (or any Affiliate of Buyer, which includes the Company post-Closing) with respect to Taxes which are the responsibility of Buyer (or any Affiliate of Buyer, which includes the Company post-Closing) as provided in Section 7.2; or

(vi) any Obligations of Buyer with respect to Multi-Site Contracts as provided in Section 7.4.

(b) No Claim may be asserted nor may any Proceeding be commenced against Buyer pursuant to this Section 10.3 unless written notice of such Claim or Proceeding is received by Buyer describing in reasonable detail the facts and circumstances with respect to the subject matter of such Claim or Proceeding, and with respect to Claims or Proceedings based on the breach of representation or warranty, on or prior to the date such representation or warranty ceases to survive as set forth in Section 10.1. A speculative, prospective, unspecified or possible future Claim shall not be adequate to support a timely indemnification Claim. If a Seller Indemnitee has recovered any Losses pursuant to one subsection of Section 10.3(a), such Seller Indemnitee shall not be entitled to recover the same Losses under another subsection of Section 10.3(a).

Section 10.4 Indemnification Procedures; Matters Involving Third Parties.

(a) A Seller Indemnitee or Buyer Indemnitee, as the case may be (for purposes of this Section 10.4, an "***Indemnified Party***"), shall give the indemnifying party under Section 10.2 and Section 10.3, as applicable (for purposes of this Section 10.4, an "***Indemnifying Party***"), prompt written notice of any matter which it has determined has given or could give rise to a right of indemnification under this Agreement stating the nature of the Claim and an estimated or actual amount of the Loss, if known, and method of computation thereof, containing a reference to the provisions of this Agreement in respect of which such right of indemnification is claimed or arises; *provided, however*, that the failure to provide such notice shall not release the Indemnifying Party from its Obligations under this Article X except to the extent, and only to the extent, the Indemnifying Party is prejudiced by such failure or to the extent the survival period, if applicable, expires pursuant to Section 10.1 or Section 10.2(b) prior to the giving of such notice.

(b) If any third party shall notify an Indemnified Party with respect to any matter (a " ***Third-Party Claim***") that may give rise to a claim for indemnification against the Indemnifying Party under this Article X, then the Indemnified Party shall promptly (and in any event within twenty (20) days after receiving notice of the Third-Party Claim) notify the Indemnifying Party thereof in writing; *provided, however*, that the failure to provide such notice shall not release the Indemnifying Party from its Obligations under this Article X except to the extent, and only to the extent, the Indemnifying Party is prejudiced by such failure.

(c) The Indemnifying Party shall have the right to participate in, or by giving written notice to the Indemnified Party, to assume and thereafter conduct the defense of any Third-Party Claim at the Indemnifying Party's expense and by the Indemnifying Party's own counsel, and the Indemnified Party shall cooperate in good faith in such defense. In the event that the Indemnifying Party assumes the defense of any Third-Party Claim, subject to Section 10.4(d), it shall have the right to take such action as it deems necessary to avoid, dispute, defend, appeal or make counterclaims pertaining to any such Third-Party Claim in the name and on behalf of the Indemnified Party. The Indemnified Party shall have the right to participate in the defense of any Third-Party Claim with counsel selected by it subject to the Indemnifying Party's right to control the defense thereof. The fees and disbursements of such counsel shall be at the expense of the Indemnified Party. The Parties shall cooperate in a manner to preserve in full (to the extent possible) the attorney-client and work-product privileges.

(d) The Indemnifying Party will not consent to the entry of any judgment or enter into any settlement with respect to the Third-Party Claim without the prior written consent of the Indemnified Party unless the judgment or proposed settlement (i) involves only the payment of money damages and does not impose an injunction or other equitable relief upon the Indemnified Party or would not reasonably be expected to have a material adverse effect on the Indemnified Party and (ii) includes as an unconditional term thereof the giving by the claimant or the plaintiff to the Indemnified Party a complete release from all liability in respect of such Third-Party Claim and does not involve any admission of wrongdoing by the Indemnified Party or any of its Affiliates.

(e) Unless and until the Indemnifying Party assumes the defense of the Third Party Claim as provided in Section 10.4(c), the Indemnified Party may defend against the Third- Party Claim in any manner it may reasonably deem appropriate.

(f) In no event will the Indemnified Party consent to the entry of any judgment or enter into any settlement with respect to the Third-Party Claim without the prior written consent of the Indemnifying Party (not to be unreasonably withheld).

(g) If a claim for indemnification against the Indemnifying Party under this Article X does not relate to a Third-Party Claim (a "***Direct Claim***"), the Indemnifying Party shall have thirty (30) days after its receipt of notice to respond in writing to such Direct Claim. If the Indemnifying Party does not so respond within such thirty (30) day period, the Indemnifying Party shall be deemed to have rejected such claim, in which case the Indemnified Party shall be free to pursue such remedies as may be available to the Indemnified Party on the terms and subject to the provisions of this Agreement with respect to the Losses specified in such notice.

(h) The provisions of Section 10.4(b) through (g) shall not apply to Tax Contests or Other Tax Contests.

Section 10.5 Determination of Losses.

(a) Losses giving rise to any indemnification Obligation hereunder shall be reduced by any insurance proceeds actually received by the Indemnified Party as a result of the events giving rise to the claim for indemnification, net of any third party expenses related to the receipt of such proceeds, including retrospective premium adjustments, if any. The amount of the indemnity obligation shall bear interest at the Applicable Rate from twenty (20) days after the indemnity payment is due and payable to the Indemnified Party until such indemnity payment is paid in full. Upon the request of the Indemnifying Party, the Indemnified Party shall provide the Indemnifying Party with information sufficient to allow the Indemnifying Party to calculate the amount of the indemnity payment in accordance with this Section 10.5.

(b) An Indemnified Party shall take all reasonable steps to mitigate damages in respect of any claim for which it is seeking indemnification and shall use reasonable efforts to avoid any costs or expenses associated with such claim and, if such costs and expenses cannot be avoided, to minimize the amount thereof; *provided*, that an Indemnified Party shall have no Obligation to make a claim for recovery against any insurer of such Indemnified Party with respect to any such Losses.

Section 10.6 No Multiple Recoveries. Any liability for indemnification hereunder shall be determined without duplication of recovery by reason of the state of facts giving rise to such liability constituting a breach of more than one representation, warranty or covenant.

Section 10.7 Limitations on Liability/Exclusive Remedies.

(a) **BUYER ACKNOWLEDGES AND AGREES THAT, EXCEPT FOR ACTUAL FRAUD, INTENTIONAL MISREPRESENTATION AND INTENTIONAL BREACH, THE REMEDIES SET FORTH IN ARTICLE VII, ARTICLE IX, THIS ARTICLE X (INCLUDING THE LIABILITY LIMITS AND SURVIVAL PERIODS SET FORTH ABOVE AND SUBJECT TO THE DISCLAIMERS SET FORTH IN SECTION 6.5 AND SECTION 6.6), ARE INTENDED TO BE, AND SHALL BE, THE SOLE AND EXCLUSIVE REMEDIES OF THE BUYER INDEMNITEES WITH RESPECT TO ANY ASPECT OF THE CONTEMPLATED TRANSACTIONS. IF THE CLOSING OCCURS, EXCEPT FOR THE REMEDIES SET FORTH IN ARTICLE VII, ARTICLE IX, AND THIS ARTICLE X, BUYER HEREBY IRREVOCABLY WAIVES, DISCHARGES AND RELEASES (ON BEHALF OF ITSELF AND THE OTHER BUYER INDEMNITEES), TO THE FULLEST EXTENT PERMITTED BY LAW, ANY AND ALL OTHER CLAIMS, OBLIGATIONS AND LOSSES (INCLUDING RIGHTS OF CONTRIBUTION, IF ANY) WHICH EXIST OR MAY ARISE IN THE FUTURE, THAT THE BUYER INDEMNITEES MAY HAVE AGAINST SELLER OR ITS AFFILIATES, AS THE CASE MAY BE, ARISING UNDER OR BASED UPON ANY LAW (INCLUDING ANY SUCH LAW RELATING TO ENVIRONMENTAL LAW OR ARISING UNDER OR BASED UPON ANY SECURITIES LAW, COMMON OR CIVIL LAW OR OTHERWISE) THAT ARE ATTRIBUTABLE TO OR RELATED TO THE CONTEMPLATED TRANSACTIONS, THE BUSINESS, THE ASSETS, THE PURCHASED SHARES OR THE COMPANY.**

(b) **SELLER ACKNOWLEDGES AND AGREES THAT, EXCEPT FOR ACTUAL FRAUD, INTENTIONAL MISREPRESENTATION AND INTENTIONAL BREACH, THE REMEDIES SET FORTH IN ARTICLE VII, ARTICLE IX, AND THIS ARTICLE X (INCLUDING THE LIABILITY LIMITS AND SURVIVAL PERIODS SET FORTH ABOVE), ARE INTENDED TO BE, AND SHALL BE, THE SOLE AND EXCLUSIVE REMEDIES OF THE SELLER INDEMNITEES WITH RESPECT TO ANY ASPECT OF THE CONTEMPLATED TRANSACTIONS.**

(c) **NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AGREEMENT, NO PARTY HERETO SHALL BE ENTITLED TO RECOVER FROM ANY OTHER PARTY HERETO OR ANY OF SUCH PARTY'S AFFILIATES OR ANY FINANCING SOURCE ANY AMOUNT IN RESPECT OF EXEMPLARY, PUNITIVE, SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES, INCLUDING LOST PROFITS; EXCEPT, HOWEVER, WITH RESPECT TO ANY OF THE FOREGOING PAID OR OWING TO A THIRD PARTY WITH RESPECT TO A THIRD PARTY CLAIM, WHICH DAMAGES SHALL BE CONSIDERED PART OF LOSSES AND SHALL BE COVERED BY THE INDEMNIFICATIONS SET FORTH IN THIS ARTICLE X.**

(d) **ALL RELEASES, DISCLAIMERS, LIMITATIONS ON LIABILITY AND INDEMNITIES IN THIS AGREEMENT, INCLUDING THOSE IN THIS ARTICLE X, SHALL APPLY EVEN IN THE EVENT OF THE SOLE, JOINT OR CONCURRENT, ACTIVE OR PASSIVE NEGLIGENCE, STRICT LIABILITY OR FAULT OF THE PARTY WHOSE LIABILITY IS RELEASED, DISCLAIMED, LIMITED OR INDEMNIFIED.**

Section 10.8 Governing Law. This Agreement shall be construed (both as to validity and performance), interpreted and enforced in accordance with, and governed by, the Laws of the State of Delaware, without regard to conflicts of laws rules or principles as applied in Delaware. Notwithstanding anything herein to the contrary, the Parties hereto, the Seller Indemnified Parties and the Seller Consolidated Group agree that any claim, controversy or dispute of any kind or nature (whether based upon contract, tort or otherwise) against a Debt Lender that is related to the Debt Financing, this Agreement or the Contemplated Transactions, but excluding any provisions relating to the interpretation or enforcement of this Agreement or the Related Agreements (including the determination as to whether a Material Adverse Effect has occurred and is continuing or whether the Contemplated Transactions have been consummated in accordance with this Agreement), shall be governed by, and construed in accordance with, the laws of the State of New York without regard to conflict of law principles (other than sections 5 1401 and 5-1402 of the New York General Obligations Law).

Section 10.9 **Jurisdiction; Consent to Service of Process; Waiver**. Each of the Parties agrees that it shall bring any Proceeding in respect of any claim arising out of or related to this Agreement, whether in tort or contract or at law or in equity, exclusively in any Federal or state court in New Castle County, Delaware, and solely in connection with claims arising under such agreement or instrument or the transactions contained in or contemplated by such agreement or instrument, (i) irrevocably submits to the exclusive jurisdiction of such courts, (ii) waives any objection to laying venue in any such Proceeding in such courts, (iii) waives any objection that such courts are an inconvenient forum or do not have jurisdiction over it and (iv) agrees that service of process upon it may be effected by mailing a copy thereof by registered or certified mail (or any substantially similar form of mail), postage prepaid, to it at its address specified in Section 11.2. The foregoing consents to jurisdiction and service of process shall not constitute general consents to service of process in the State of California for any purpose except as provided herein and shall not be deemed to confer rights on any Person other than the Parties. Notwithstanding the foregoing, each of the Parties agrees that it will not bring or support any Proceeding against the Debt Lender in any way relating to this Agreement in any forum other than federal or state courts located in the Borough of Manhattan in the City of New York, New York, and solely in connection with any such Proceeding with or against the Debt Lender, (i) irrevocably submits to the exclusive jurisdiction of such courts, (ii) waives any objection to laying venue in any such Proceeding in such courts, (iii) waives any objection that such courts are an inconvenient forum or do not have jurisdiction over it , and (iv) agrees that service of process upon it may be effected by mailing a copy thereof by registered or certified mail (or any substantially similar form of mail), postage prepaid, to it at its address specified in Section 11.2.

Section 10.10 **Waiver of Jury Trial**. **EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY DISPUTE IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND THEREFORE EACH SUCH PARTY HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT SUCH PARTY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE RELATED AGREEMENTS, THE CONTEMPLATED TRANSACTIONS OR THE FINANCINGS. EACH PARTY CERTIFIES AND ACKNOWLEDGES THAT: (I) NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER; (II) EACH PARTY UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER; (III) EACH PARTY MAKES THIS WAIVER VOLUNTARILY; AND (IV) EACH PARTY HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 10.10**.

Section 10.11 **Exculpation of Debt Lender**. Notwithstanding anything to the contrary contained in this Agreement, neither Seller nor its Affiliates (other than the Company after the Closing) shall have any Claims against any Debt Lender in connection with the Contemplated Transactions or the Debt Financing, and no Debt Lender shall have any Claims against Seller or its Affiliates (other than the Company after the Closing) in connection with the Contemplated Transactions or the Debt Financing.

ARTICLE XI

MISCELLANEOUS

Section 11.1 **Amendment**. This Agreement (including this Section 11.1) may not be amended except by an instrument in writing executed and delivered by the Parties. The failure of any Party at any time or times to require performance of any provision hereof shall in no manner affect the right at a later time to enforce the same. No waiver by any Party of any condition, or of any breach of any term, covenant, representation or warranty contained in this Agreement, in any one or more instances, shall be deemed to be or construed as a further or continuing waiver of any such condition or breach or a waiver of any other condition or of any breach of any other term, covenant, representation or warranty. No course of dealing

between or among any Persons having any interest in this Agreement shall be deemed effective to modify, amend or discharge any part of this Agreement or any rights or obligations of any Person under or by reason of this Agreement. Notwithstanding the foregoing, Section 10.9, Section 10.10, Section 10.7(c), Section 10.11, or Section 11.9 may not be amended or waived in any manner materially adverse to any Debt Lender without the written consent of such affected Debt Lender.

Section 11.2 **Notices**. All notices and other communications that are required to be or may be given pursuant to this Agreement shall be in writing and shall be deemed to have been duly given if delivered in person or by courier or mailed by registered or certified mail (postage prepaid, return receipt requested) or by a national overnight delivery service to the relevant Party at the following addresses or sent by facsimile (with transmission confirmation) to the following numbers or sent by email to the following email addresses:

If to Seller or to the Company (prior to the Closing for the Company), to:

Alon Paramount Holdings, Inc.
c/o Delek US Holdings, Inc.
7102 Commerce Way
Brentwood, Tennessee 37027
Attention: General Counsel
Fax: (615) 334-8562
Email: legalnotices@delekus.com

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

Baker Botts L.L.P.
910 Louisiana Street
Houston, Texas 77002
Attention: Daniel L. Mark
Fax: (713) 229-7723
Email: dan.mark@bakerbotts.com

If to Buyer or to the Company (after the Closing for the Company), to:

GCE Holdings Acquisitions, LLC
c/o Global Clean Energy Holdings Inc.
2790 Skypark Drive, Suite 105
Torrance, CA 90505
Attention: Richard Palmer
Fax: (310) 929-1139
Email: rpalmer@gceholdings.com

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

TroyGould PC
1801 Century Park East,
16th Floor
Los Angeles, CA 90067
Attention: Istvan Benko
Fax: (310) 789-1426
Email: IBenko@troygould.com

or to such other address, facsimile number or email address as any party may, from time to time, designate in a written notice given in accordance with this Section 11.2. Any such notice or communication shall be effective (i) if delivered in person or by courier, upon actual receipt by or on behalf of the intended recipient, (ii) if sent by facsimile transmission or email, upon actual receipt if received during the recipient's normal business hours, or at the beginning of the recipient's next Business Day after receipt if not received during recipient's normal business hours, or (iii) if mailed in accordance with the foregoing provisions, upon the earlier of the third (3^{rd}) Business Day after deposit in the mail or the date of delivery as shown by the return receipt therefor.

Section 11.3 **Public Announcements**. No Party, or their Affiliates, shall issue or make any press releases or similar public announcements concerning the Contemplated Transactions or by the Related Agreements without the written consent of Buyer and Seller (which consent shall not be unreasonably withheld, conditioned or delayed), except as may be required by Law or the rules or regulations of any applicable United States securities exchange or Governmental Authority to which the relevant Party, or its Affiliates, is subject, wherever situated. In the event that a Party believes it is required to issue or make any press release or public announcement, such Party shall (a) give prompt notice thereof to the other Parties, (b) allow such other Parties reasonable opportunity to review and provide comments with respect to the content of such press release or public announcement and (c) use Commercially Reasonable Efforts to incorporate any reasonable comment from any other Party prior to any release or public announcement. Promptly after the execution of this Agreement, Buyer shall be authorized to cause a Form 8-K to be filed with the appropriate Governmental Authority in the form of Exhibit E attached hereto.

Section 11.4 **Expenses**. Except as otherwise expressly provided herein, all costs and expenses incurred by Seller or its Affiliates in connection with this Agreement and the Contemplated Transactions shall be paid by Seller, and all costs and expenses incurred by Buyer or its Affiliates in connection with this Agreement and the Contemplated Transactions shall be paid by Buyer. For the avoidance of doubt, in the event Buyer elects to obtain title insurance then all costs and expenses related to such title insurance shall be paid by Buyer.

Section 11.5 **Headings**. The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

Section 11.6 **No Strict Construction**. The Parties acknowledge that each of them has been represented by counsel in connection with this Agreement and the Contemplated Transactions. Notwithstanding the fact that this Agreement has been drafted or prepared by one of the Parties, the Parties confirm that they and their respective counsel have reviewed, negotiated and adopted this Agreement as the joint agreement and understanding of the Parties, and the language used in this Agreement shall be deemed to be the language chosen by the Parties to express their mutual intent, and no rule of strict construction shall be applied against any Person and any rule of Law that would require interpretation of any claimed ambiguities in this Agreement against the Party that drafted it has no application and is expressly waived.

Section 11.7 **Severability**. If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any rule of Law or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect, and the invalid, illegal or unenforceable provision shall be reformed to the minimum extent required to render such provision valid, legal and enforceable and in a manner so as to preserve the economic and legal substance of the Contemplated Transactions to the fullest extent permitted by Law. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the Parties shall negotiate in good faith to modify this Agreement so as to affect the original intent of the Parties as closely as possible in an acceptable manner to the end that Contemplated Transactions are fulfilled to the extent possible.

Section 11.8 **Assignment**. This Agreement shall not be assigned, directly or indirectly, by any Party (including by operation of Law or otherwise) except with the prior written consent of the other Parties. Any purported assignment of this Agreement in violation of this Section 11.8 shall be null and void. Without limiting the generality of the preceding, the indemnification Obligations of Seller and Buyer pursuant to this Agreement shall not be transferable or assignable in whole or in part without the other Party's prior written consent and any purported or attempted transfer or assignment by an Indemnified Party (whether directly, indirectly, by operation of Law or otherwise including in the event of a Change in Control of the Company after the Closing) shall be null and void without the prior written consent of the Indemnifying Party.

Section 11.9 **Parties in Interest**. This Agreement shall be binding upon and inure solely to the benefit of each Party and its permitted successors and assigns, and nothing in this Agreement, express or implied, is intended to or shall confer upon any other Person any right, benefit or remedy of any nature whatsoever under or by reason of this Agreement; except, that the Seller Indemnitees and the Buyer Indemnitees shall be third party beneficiaries of the indemnifications provided for in Article X. Additionally, the Debt Lender shall be a third party beneficiary of Section 10.9, Section 10.10, Section 10.7(c), Section 10.11, and the last sentence of Section 11.1, each of such Sections shall expressly inure to the benefit of the Debt Lender, and the Debt Lender shall be entitled to rely on and enforce the provisions of such Sections to the extent applicable to the Debt Lender.

Section 11.10 **Failure or Indulgence Not Waiver**. No failure or delay on the part of any Party in the exercise of any right hereunder shall impair such right or be construed to be a waiver of, or acquiescence in, any breach of any representation, warranty, covenant or agreement herein, nor shall any single or partial exercise of any such right preclude other or further exercise thereof or of any other right.

Section 11.11 **Seller Disclosure Schedule**. For the purposes of the Seller Disclosure Schedules, any information, item or other disclosure set forth in any part of the Seller Disclosure Schedules shall be deemed to have been set forth in all other applicable parts of the Seller Disclosure Schedules, as applicable, and disclosed not only in connection with the representation and warranty specifically referenced on a given part of the Seller Disclosure Schedules, as applicable, but for all purposes relating to the representations and warranties set forth in Article III or Article IV of this Agreement, and shall be deemed to be disclosed and incorporated by reference in any such other part of the Seller Disclosure Schedules, as applicable, as though fully set forth in such part of the Seller Disclosure Schedules, as applicable, for which applicability of such information and disclosure is reasonably apparent on its face, and for the avoidance of doubt, without reading the contents of the documents referred to in order to determine such relevance. The listing (or inclusion of a copy) of a document or other item in the Seller Disclosure Schedule shall be adequate to disclose an exception to a representation or warranty made herein if the nature and relevance of such exception is readily apparent from the listing (or inclusion of a copy) of such document.

Section 11.12 **Time of the Essence**. Time is of the essence in this Agreement. If the date specified in this Agreement for giving any notice or taking any action is not a Business Day (or if the period during which any notice is required to be given or any action taken expires on a date which is not a Business Day), then the date for giving such notice or taking such action (and the expiration date of such period during which notice is required to be given or action taken) shall be the next day which is a Business Day.

Section 11.13 **Entire Agreement**. This Agreement and the Related Agreements (together with the Exhibits, the Seller Disclosure Schedule, the Buyer Disclosure Schedule, and the other Schedules hereto and thereto) constitute the entire agreement of the parties hereto and thereto, and supersede all prior agreements and undertakings, both written and oral, among the Parties, with respect to the subject matter hereof (other than the Confidentiality Agreement, which shall continue in full force and effect).

Section 11.14 **Specific Performance**. Each Party acknowledges that the breach of this Agreement by the other Parties would cause irreparable damage to such Party and that money damages or other legal remedies would not be an adequate remedy for any such damages. Therefore, the Obligations of each Party under this Agreement, including Seller's obligation to sell the Purchased Shares to Buyer and Buyer's obligation to purchase the Purchased Shares from Seller, shall be enforceable by a decree of specific performance and appropriate injunctive relief may be applied for and granted in connection therewith, without the requirement to post any bond or security in connection therewith. Such remedies shall, however, be cumulative and not exclusive and shall be in addition to any other remedies which any Party may have under this Agreement or otherwise.

Section 11.15 **Role of Baker Botts L.L.P.; Waiver of Conflicts and Privilege**.

(a) Buyer waives and will not assert, and agrees to cause the Company to waive and to not assert, any conflict of interest arising out of or relating to the potential representation, after the Closing (the "***Post-Closing Representation***"), of Seller or the Company or any officer, employee, director or manager of Seller or the Company (any such Person, a "***Designated Person***") in any matter involving this Agreement or the Contemplated Transactions, by Baker Botts L.L.P. (" ***Seller Counsel***") in connection with this Agreement or the transactions contemplated by the Related Agreements (the "***Current Representation***").

(b) The Parties agree that, following the Closing, with respect to any communication between Seller Counsel, on the one hand, and any of Seller, the Company or any Designated Person or their respective Affiliates, on the other hand, occurring during the Current Representation in connection with this Agreement, the Related Agreements or the Contemplated Transactions (collectively, the "***Privileged Communications***"), the attorney-client privilege and expectation of client confidence shall be vested in and belong to, and may be controlled by, Seller and shall not pass to or be claimed by Buyer or the Company. Accordingly, following the Closing, (i) Buyer and the Company will not have access to any such communications or the files of any such legal counsel or other advisor relating to the Current Representation, (ii) to the extent such files constitute property of the client during the Current Representation, only Seller (and not the Company) shall hold such property rights, (iii) Seller Counsel shall have no duty to reveal or disclose any such Privileged Communications to Buyer or the Company by reason of any Post-Closing Representation, (iv) Seller may use the Privileged Communications in any dispute that relates in any way to this Agreement, the Related Agreements or the Contemplated Transactions (including in any claim for indemnification brought by Buyer or its representatives) and (v) neither Buyer nor the Company may use or rely on any of the Privileged Communications in any action against or involving any of the Parties or seek to obtain such communications (whether by seeking a waiver of the attorney-client privilege or through other means). Notwithstanding the foregoing, Seller shall use reasonable efforts to protect such privilege with respect to third parties and shall not waive or compromise such privilege without the express consent of Buyer. The Parties acknowledge that such privileged information may also be subject to the "common interest" or "joint defense" privilege.

Section 11.16 **Non-Recourse**. This Agreement may only be enforced against, and any Claim or Proceeding based upon, arising under, out of, or in connection with, or related in any manner to this Agreement or the Contemplated Transactions (but excluding the Confidentiality Agreement) may only be brought against the Parties and then only with respect to the specific obligations set forth herein with respect to such Party. No Person that is not a Party, including any representative of any Party (each, a "***Nonparty Affiliate***"), shall have any Obligation (whether in contract, tort, at law or in equity, or granted by statute or otherwise) for any Claims or other Obligations arising under, out of, or in connection with, or related in any manner to this Agreement or the Contemplated Transactions (but excluding the Confidentiality Agreement), or based on, in respect of, or by reason of this Agreement or its negotiation, execution, performance or breach. To the maximum extent permitted by applicable Law, (a) each Party hereby waives and releases all

such Obligations and Claims against any such Nonparty Affiliates, and (b) each Party disclaims any reliance upon any Nonparty Affiliates with respect to the performance of this Agreement or any representation or warranty made in, in connection with, or as an inducement to this Agreement.

Section 11.17 **Bulk Transfer Laws**. Buyer hereby waives compliance by Seller with the provisions of any so-called bulk transfer laws of any jurisdiction in connection with the purchase and sale of the Purchased Shares (and indirect purchase and sale of the Assets).

Section 11.18 **Anti-Money Laundering**.

(a) Buyer undertakes to Seller that, in connection with this Agreement, Buyer is knowledgeable about and will comply with all applicable Laws relating to anti-money laundering applicable to its performance of this Agreement.

(b) Buyer represents and warrants to Seller that Buyer's payments to Seller shall not constitute the proceeds of crime in contravention of anti-money laundering laws.

(c) Buyer agrees to provide to Seller the details of the bank account(s) from which Buyer will be providing (or cause to be providing) funds to Seller pursuant to this Agreement (including name of account holder, account number, SWIFT code, etc. of such account(s)).

Section 11.19 **Counterparts**. This Agreement may be executed in multiple counterparts and by the different Parties in separate counterparts, each of which when executed shall be deemed to be an original but all of which taken together shall constitute one and the same agreement. Signed counterparts of this Agreement may be delivered by facsimile and by scanned pdf image.

Balance of page intentionally left blank

IN WITNESS WHEREOF, each of the Parties has caused this Agreement to be executed as of the date first written above by their respective officers thereunto duly authorized.

ALON PARAMOUNT HOLDINGS, INC.

By: /s/ FREDEREC GREEN

Name: Frederec Green
Title: EVP

By: /s/ MARK PAGE

Name: Mark Page
Title: EVP

GCE HOLDINGS ACQUISITIONS, LLC

By: /s/ RICHARD PALMER

Name: Richard Palmer
Title: President and CEO

EXHIBIT A

ASSIGNMENT AND ASSUMPTION OF CONTRACTS

This ASSIGNMENT AND ASSUMPTION OF CONTRACTS (this " ***Agreement***"), dated [●], 2019, is by and between Alon Paramount Holdings, Inc., a Delaware corporation ("***Assignor***"), and Alon Bakersfield Property, Inc., a Delaware corporation ("***Assignee***"). All capitalized terms used but not otherwise defined herein shall have the meanings set forth in that certain Share Purchase Agreement, dated April 29, 2019, by and between Assignor and GCE Holdings Acquisitions, LLC, a Delaware limited liability company (the "***Purchase Agreement***").

W I T N E S S E T H

WHEREAS, Assignor desires to contribute the Seller Contracts to Assignee and Assignee desires to unconditionally assume the Obligations of Assignor related to such Seller Contracts;

WHEREAS, Assignee and Assignor now desire to evidence the assignment of all of Assignor's right, title and interest to the Seller Contracts and to effectuate the assumption by Assignee of the Obligations related thereto; and

NOW, THEREFORE, in consideration of the mutual covenants set forth herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Assignee and Assignor hereby agree as follows:

1. Assignment. Assignor hereby transfers, conveys and assigns to Assignee, its successors and assigns, all of Assignor's right, title and interest in and to the Seller Contracts, to have and to hold the same forever. Assignee hereby accepts such assignment and agrees to perform all of Assignor's Obligations under the Seller Contracts.

2. Assumption. Assignee hereby assumes and agrees to pay, perform and discharge the Obligations related to the Seller Contracts.

3. Conflict. This Agreement is an instrument of transfer contemplated by, and is executed and delivered under and subject to in all respects, the Purchase Agreement, and nothing contained in this Agreement shall be deemed to amend, modify, limit or expand any of the provisions of the Purchase Agreement or any rights or obligations of Assignor or Assignee under the Purchase Agreement. In the event of any conflict between any term or provision hereof and any term or provision of the Purchase Agreement, the latter shall control.

4. Certain Transfers Requiring Consents. In the event that an attempted transfer, conveyance or assignment of the Seller Contracts would be ineffective without the consent of a third party, Assignor will cooperate with Assignee in attempting to obtain such consent or in any arrangement reasonably required to provide Assignee with the benefits of the Seller Contracts. Assignee shall use all commercially reasonable efforts to obtain any such consents as promptly as practicable.

5. Further Assurances. From time to time after the date of this Agreement, without the payment of any additional consideration, each party hereto shall execute all such instruments and take all such other actions as the other party shall reasonably request in connection with carrying out and effectuating the intent and purpose hereof and all of the transactions contemplated by this Agreement.

6. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the respective successors and assigns of the parties hereto.

7. Amendments and Waivers. This Agreement may not be modified or amended except by an instrument or instruments in writing signed by the party against whom enforcement of any such modification or amendment is sought.

8. Governing Law. This Agreement shall be construed (both as to validity and performance), interpreted and enforced in accordance with, and governed by, the Laws of the State of Delaware, without regard to conflicts of laws rules or principles as applied in Delaware.

9. Headings. The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

10. Counterparts. This Agreement may be executed in multiple counterparts and by the different parties hereto in separate counterparts, each of which when executed shall be deemed to be an original but all of which taken together shall constitute one and the same agreement. Signed counterparts of this Agreement may be delivered by facsimile and by scanned pdf image; provided that each party hereto uses Commercially Reasonable Efforts to deliver to each other party hereto original signed counterparts as soon as possible thereafter.

[*Remainder of page intentionally left blank. Signature page follows.*]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first written above.

ALON PARAMOUNT HOLDINGS, INC.

By: _____
Name:
Title:

By: _____
Name:
Title:

ALON BAKERSFIELD PROPERTY, INC.

By: _____
Name:
Title:

By: _____
Name:
Title:

EXHIBIT B

BACKSTOP GUARANTY

[see attached]

EXHIBIT C

KNOWLEDGE INDIVIDUALS

Part I – Seller Knowledge Parties

1. George Stutzmann
2. Mark Denis
3. Matthew Jalali
4. Helen Ordway
5. Steve Piatek
6. Robert Pino

Part II – Buyer Knowledge Parties

1. Richard Palmer
2. Dave Walker
3. Noah Verlun
4. Marshall Bell
5. Adam Burton
6. Gary McDonald

EXHIBIT D

AREAS 1, 2 AND 3 MAPS

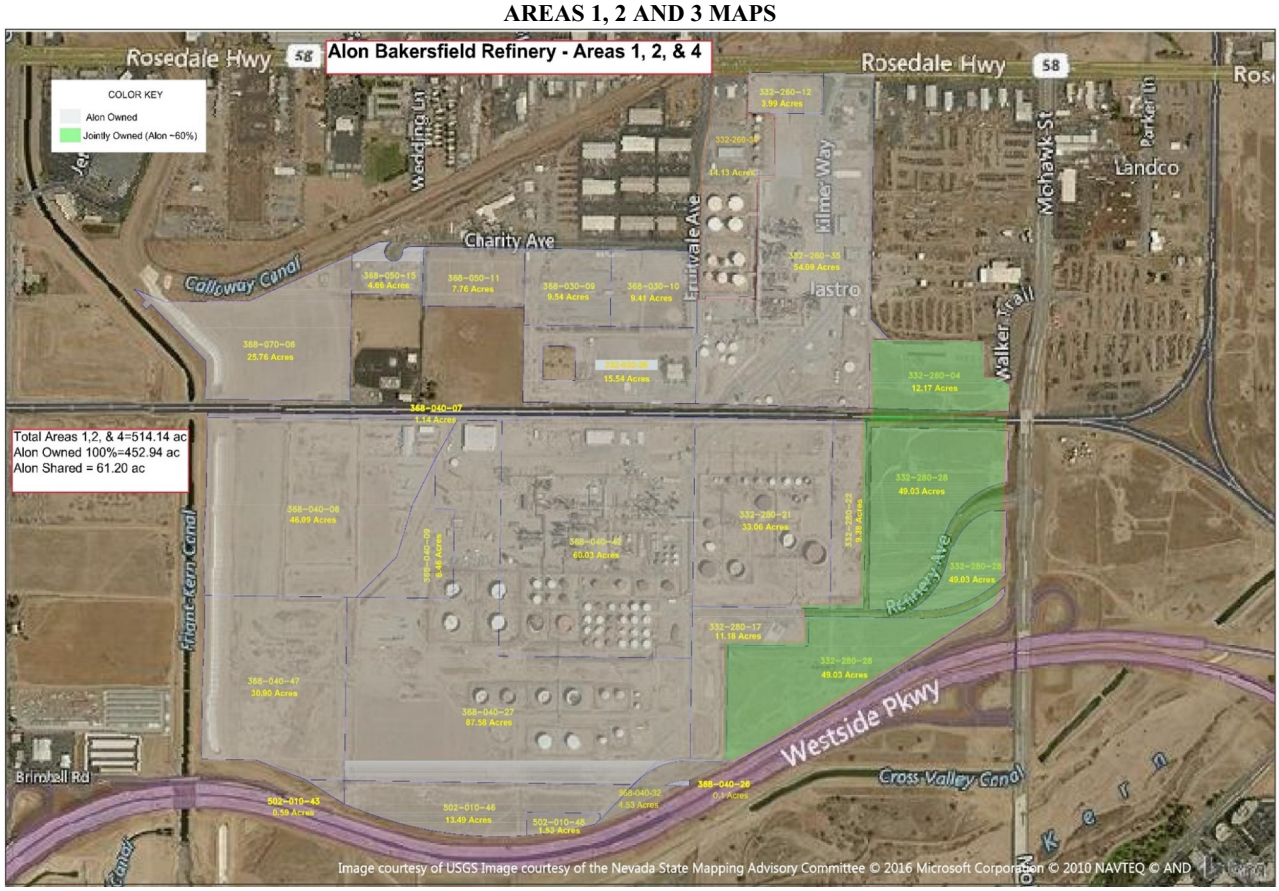

Exhibit D to Share Purchase Agreement

Exhibit D to Share Purchase Agreement

EXHIBIT E

FORM 8-K

[see attached]

Exhibit 10.16
Execution Version

FIRST AMENDMENT
TO
SHARE PURCHASE AGREEMENT

This First Amendment to Share Purchase Agreement, dated as of September 27, 2019 (this "***Amendment***"), is by and among ALON PARAMOUNT HOLDINGS, INC., a Delaware corporation ("***Seller***"), and GCE HOLDINGS ACQUISITIONS, LLC, a Delaware limited liability company ("***Buyer***"). Seller and Buyer are from time to time referred to herein individually as a "***Party***" and collectively as the "***Parties***."

WHEREAS, Seller and Buyer are parties to that certain Share Purchase Agreement by and between Seller and Buyer dated April 29, 2019 (the "***Purchase Agreement***"); and

WHEREAS, Seller and Buyer desire to amend the Purchase Agreement as further described in this Amendment.

NOW, THEREFORE, in consideration of the mutual premises and covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the undersigned hereby agree as follows:

1. Definitions. All capitalized terms used and not defined in this Amendment shall have the meanings ascribed thereto in the Purchase Agreement unless expressly provided otherwise in this Amendment, and all rules as to interpretation and usage set forth therein shall apply hereto

2. Section 1.1 (Definitions). The definition of "Long Stop Date" in Section 1.1 of the Purchase Agreement is hereby deleted in its entirety and replaced as follows:

> ""***Long Stop Date***" means August 27, 2019 unless Buyer extends such date to September 27, 2019 as permitted and pursuant to Section 9.2, *provided* that if Buyer elects to extend the Long Stop Date to September 27, 2019 pursuant to Section 9.2 and the Closing has not occurred as of September 27, 2019, then the Long Stop Date shall be extended to the date set forth in Section 9.4."

3. Section 9.4 (Further Extension of Long Stop Date). The following paragraph is hereby added as a new Section 9.4 of the Purchase Agreement:

> "Without limiting or modifying the provisions of Section 9.2, the Parties hereby agree to extend the Long Stop Date to October 4, 2019."

4. Instrument of Amendment. Seller and Buyer acknowledge and agree that this Amendment constitutes a written amendment signed by each Party to the Purchase Agreement and fulfills the requirements of an amendment contemplated by Section 11.1 of the Purchase Agreement. Upon the effectiveness of this Amendment, each reference in the Purchase Agreement to "this Agreement," "hereunder," "hereof," "herein" or words of similar import shall mean and be a reference to the Purchase Agreement as modified by this Amendment.

4. Ratification. Except as otherwise set forth herein, the Purchase Agreement is hereby ratified, confirmed and approved in all respects.

5. Entire Agreement. This Amendment (which term shall be deemed to include any annexes, schedules and disclosure schedules hereto), the Purchase Agreement (which term shall be deemed to include the annexes, schedules and disclosure schedules thereto and the other certificates, documents and instruments delivered thereunder), as amended from time to time, and the other Transaction Documents constitute the entire agreement among the Parties and supersede all prior agreements and understandings, both written and oral, among the Parties with respect to the subject matter hereof and thereof.

6. Governing Law. This Amendment and the rights and obligations of the Parties hereto shall be governed, construed, and enforced in accordance with the laws of the State of Delaware.

7. Expenses. All fees, costs and expenses incurred by Seller or Buyer in negotiating this Amendment, conducting the non-binding discussions contemplated herein or consummating the transactions contemplated by this Amendment shall be paid by the Party incurring the same, including legal and accounting fees, costs and expenses.

8. Counterparts. This Amendment may be executed in multiple counterparts and by the different Parties in separate counterparts, each of which when executed shall be deemed to be an original but all of which taken together shall constitute one and the same agreement. Signed counterparts of this Agreement may be delivered by facsimile and by scanned pdf image.

[*Signature page follows.*]

IN WITNESS WHEREOF, the Parties hereto have caused this Amendment to be duly executed by their respective authorized representative(s) effective as of the day and year first written above.

"***Seller***"

ALON PARAMOUNT HOLDINGS, INC.

By: /s/ FREDEREC GREEN

Name: Frederec Green
Title: EVP

By: /s/ MARK PAGE

Name: Mark Page
Title: EVP

[*Signature Page to First Amendment to SPA*]

"***Buyer***"

GCE HOLDINGS ACQUISITIONS, LLC

By: /s/ RICHARD PALMER

Name: Richard Palmer
Title: President and CEO

[*Signature Page to First Amendment to SPA*]

SECOND AMENDMENT
TO
SHARE PURCHASE AGREEMENT

This Second Amendment to Share Purchase Agreement, dated as of October 4, 2019 (this "***Second Amendment***"), is by and among ALON PARAMOUNT HOLDINGS, INC., a Delaware corporation ("***Seller***"), and GCE HOLDINGS ACQUISITIONS, LLC, a Delaware limited liability company ("***Buyer***"). Seller and Buyer are from time to time referred to herein individually as a "***Party***" and collectively as the "***Parties***."

WHEREAS, Seller and Buyer are parties to that certain Share Purchase Agreement by and between Seller and Buyer dated April 29, 2019 (as amended by that certain First Amendment to Share Purchase Agreement (the " ***First Amendment***"), dated September 27, 2019, the "***Purchase Agreement***"); and

WHEREAS, Seller and Buyer desire to amend the Purchase Agreement as further described in this Second Amendment.

NOW, THEREFORE, in consideration of the mutual premises and covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the undersigned hereby agree as follows:

1. Definitions. All capitalized terms used and not defined in this Second Amendment shall have the meanings ascribed thereto in the Purchase Agreement unless expressly provided otherwise in this Second Amendment, and all rules as to interpretation and usage set forth therein shall apply hereto

2. Section 9.4 (Further Extension of Long Stop Date). Section 9.4 of the Purchase Agreement is hereby deleted in its entirety and replaced with the following new Section 9.4:

"Without limiting or modifying the provisions of Section 9.2, the Parties hereby agree to extend the Long Stop Date to October 11, 2019."

3. Instrument of Amendment. Seller and Buyer acknowledge and agree that this Second Amendment constitutes a written amendment signed by each Party to the Purchase Agreement and fulfills the requirements of an amendment contemplated by Section 11.1 of the Purchase Agreement. Upon the effectiveness of this Second Amendment, each reference in the Purchase Agreement to "this Agreement," "hereunder," "hereof," "herein" or words of similar import shall mean and be a reference to the Purchase Agreement as modified by this Second Amendment.

4. Ratification. Except as otherwise set forth herein, the Purchase Agreement is hereby ratified, confirmed and approved in all respects.

5. Entire Agreement. This Second Amendment (which term shall be deemed to include any annexes, schedules and disclosure schedules hereto), the Purchase Agreement

(which term shall be deemed to include the annexes, schedules and disclosure schedules thereto and the other certificates, documents and instruments delivered thereunder), as amended from time to time, and the other Transaction Documents constitute the entire agreement among the Parties and supersede all prior agreements and understandings, both written and oral, among the Parties with respect to the subject matter hereof and thereof.

6. Governing Law. This Second Amendment and the rights and obligations of the Parties hereto shall be governed, construed, and enforced in accordance with the laws of the State of Delaware.

7. Expenses. All fees, costs and expenses incurred by Seller or Buyer in negotiating this Second Amendment, conducting the non-binding discussions contemplated herein or consummating the transactions contemplated by this Second Amendment shall be paid by the Party incurring the same, including legal and accounting fees, costs and expenses.

8. Counterparts. This Second Amendment may be executed in multiple counterparts and by the different Parties in separate counterparts, each of which when executed shall be deemed to be an original but all of which taken together shall constitute one and the same agreement. Signed counterparts of this Agreement may be delivered by facsimile and by scanned pdf image.

[*Signature page follows.*]

IN WITNESS WHEREOF, the Parties hereto have caused this Second Amendment to be duly executed by their respective authorized representative(s) effective as of the day and year first written above.

"***Seller***"

ALON PARAMOUNT HOLDINGS, INC.

By: /s/ MARK PAGE

Name: Mark Page
Title: Executive Vice President

By: /s/ REGINA BYNOTE JONES

Name: Regina Bynote Jones
Title: Executive Vice President

[*Signature Page to Second Amendment to SPA*]

"***Buyer***"

GCE HOLDINGS ACQUISITIONS, LLC

By: /s/ RICHARD PALMER

Name: Richard Palmer
Title: President and CEO

[*Signature Page to Second Amendment to SPA*]

Exhibit 10.18
Execution Version

THIRD AMENDMENT
TO
SHARE PURCHASE AGREEMENT

This Third Amendment to Share Purchase Agreement, dated as of October 11, 2019 (this "***Third Amendment***"), is by and among ALON PARAMOUNT HOLDINGS, INC., a Delaware corporation ("***Seller***"), and GCE HOLDINGS ACQUISITIONS, LLC, a Delaware limited liability company ("***Buyer***"). Seller and Buyer are from time to time referred to herein individually as a "***Party***" and collectively as the "***Parties***."

WHEREAS, Seller and Buyer are parties to that certain Share Purchase Agreement by and between Seller and Buyer dated April 29, 2019 (as amended by that certain First Amendment to Share Purchase Agreement, dated September 27, 2019, and that certain Second Amendment to Share Purchase Amendment, dated October 4, 2019, the "***Purchase Agreement***"); and

WHEREAS, Seller and Buyer desire to amend the Purchase Agreement as further described in this Third Amendment.

NOW, THEREFORE, in consideration of the mutual premises and covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the undersigned hereby agree as follows:

1. Definitions. All capitalized terms used and not defined in this Third Amendment shall have the meanings ascribed thereto in the Purchase Agreement unless expressly provided otherwise in this Third Amendment, and all rules as to interpretation and usage set forth therein shall apply hereto

2. Section 9.4 (Further Extension of Long Stop Date). Section 9.4 of the Purchase Agreement is hereby deleted in its entirety and replaced with the following new Section 9.4:

"Without limiting or modifying the provisions of Section 9.2, the Parties hereby agree to extend the Long Stop Date to October 18, 2019."

3. Instrument of Amendment. Seller and Buyer acknowledge and agree that this Third Amendment constitutes a written amendment signed by each Party to the Purchase Agreement and fulfills the requirements of an amendment contemplated by Section 11.1 of the Purchase Agreement. Upon the effectiveness of this Third Amendment, each reference in the Purchase Agreement to "this Agreement," "hereunder," "hereof," "herein" or words of similar import shall mean and be a reference to the Purchase Agreement as modified by this Third Amendment.

4. Ratification. Except as otherwise set forth herein, the Purchase Agreement is hereby ratified, confirmed and approved in all respects.

5. Entire Agreement. This Third Amendment (which term shall be deemed to include any annexes, schedules and disclosure schedules hereto), the Purchase Agreement (which term shall be deemed to include the annexes, schedules and disclosure schedules thereto and the other certificates, documents and instruments delivered thereunder), as amended from time to time, and the other Transaction Documents constitute the entire agreement among the Parties and supersede all prior agreements and understandings, both written and oral, among the Parties with respect to the subject matter hereof and thereof.

6. Governing Law. This Third Amendment and the rights and obligations of the Parties hereto shall be governed, construed, and enforced in accordance with the laws of the State of Delaware.

7. Expenses. All fees, costs and expenses incurred by Seller or Buyer in negotiating this Third Amendment, conducting the non-binding discussions contemplated herein or consummating the transactions contemplated by this Third Amendment shall be paid by the Party incurring the same, including legal and accounting fees, costs and expenses.

8. Counterparts. This Third Amendment may be executed in multiple counterparts and by the different Parties in separate counterparts, each of which when executed shall be deemed to be an original but all of which taken together shall constitute one and the same agreement. Signed counterparts of this Agreement may be delivered by facsimile and by scanned pdf image.

[*Signature page follows.*]

IN WITNESS WHEREOF, the Parties hereto have caused this Third Amendment to be duly executed by their respective authorized representative(s) effective as of the day and year first written above.

"***Seller***"

ALON PARAMOUNT HOLDINGS, INC.

By: /s/ MARK PAGE

Name: Mark Page
Title: Executive Vice President

By: /s/ REGINA BYNOTE JONES

Name: Regina Bynote Jones
Title: Executive Vice President

[*Signature Page to Third Amendment to SPA*]

"***Buyer***"

GCE HOLDINGS ACQUISITIONS, LLC

By: /s/ RICHARD PALMER

Name: Richard Palmer
Title: President and CEO

[*Signature Page to Third Amendment to SPA*]

FOURTH AMENDMENT
TO
SHARE PURCHASE AGREEMENT

This Fourth Amendment to Share Purchase Agreement (this "***Fourth Amendment***"), dated effective as of October 28, 2019, is by and between ALON PARAMOUNT HOLDINGS, INC., a Delaware corporation ("***Seller***"), and GCE HOLDINGS ACQUISITIONS, LLC, a Delaware limited liability company ("***Buyer***"). Seller and Buyer are from time to time referred to herein individually as a "***Party***" and collectively as the "***Parties***."

WHEREAS, Seller and Buyer are parties to that certain Share Purchase Agreement dated April 29, 2019 (as amended by that certain First Amendment to Share Purchase Agreement, dated September 27, 2019, that certain Second Amendment to Share Purchase Agreement, dated October 4, 2019, and that certain Third Amendment to Share Purchase Agreement, dated October 11, 2019, collectively, the "***Purchase Agreement***"); and

WHEREAS, Buyer has previously extended the Long Stop Date and paid the Extension Payment to Seller all pursuant to Section 9.2 of the Purchase Agreement;

WHEREAS, Buyer has requested to further extend the Long Stop Date pursuant to the terms of this Fourth Amendment; and

WHEREAS, Seller and Buyer desire to amend certain provisions of the Purchase Agreement as further described in this Fourth Amendment.

NOW, THEREFORE, in consideration of the mutual premises and covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the undersigned hereby agree as follows:

1. Definitions. All capitalized terms used and not defined in this Fourth Amendment shall have the meanings ascribed thereto in the Purchase Agreement unless expressly provided otherwise in this Fourth Amendment, and all rules as to interpretation and usage set forth therein shall apply hereto.

2. Article II (Purchase and Sale).

(a) Section 2.2 (Deposit). The fifth sentence of Section 2.2 of the Purchase Agreement is hereby deleted in its entirety and replaced with the following sentence:

> "Notwithstanding anything to the contrary contained in this Agreement (including the initial sentence of this Section 2.2), if the Closing occurs, the Deposit will NOT be applied to or credited against the Purchase Price."

(b) Section 2.5 (Deliveries at the Closing). Section 2.5(a)(i) of the Purchase Agreement is hereby deleted in its entirety and replaced with the following:

"(i) An amount (the "***Closing Date Payment***") equal to the Purchase Price,

(1) *less,* an amount equal to Seller's estimate of *ad valorem* Property Taxes of the Company for the Pre-Closing Tax Period (based upon the most recent property tax bills available), and

(2) *plus or minus*, as applicable, such other matters as the Parties agree to be added to or deducted from the calculation of the Closing Date Payment,

such Closing Date Payment to be paid by wire transfer of immediately available funds to the account of Seller set forth in Section 2.5(a)(i) of the Seller Disclosure Schedule."

3. Article IX (Termination).

(a) Section 9.2 (Extension of Long Stop Date). Section 9.2 of the Purchase Agreement is hereby amended by deleting the third sentence thereof in its entirety and replaced with the following sentence:

"Notwithstanding anything to the contrary contained in this Agreement, if the Closing occurs, the Extension Payment will NOT be applied to or credited against the Purchase Price."

(b) Section 9.4 (Further Extension of Long Stop Date). Section 9.4 of the Purchase Agreement is hereby deleted in its entirety and replaced with the following:

"**Section 9.4 Further Extension of Long Stop Date**. Without limiting or modifying the provisions of Section 9.2, the Parties hereby agree to extend the Long Stop Date to December 6, 2019.

(a)

(b) On or before October 31, 2019, Buyer shall pay Seller, by wire transfer or delivery of other immediately available funds to an account, or accounts, designated by Seller, an amount equal to two million two hundred fifty thousand dollars ($2,250,000) (the "***Expense Fee***") in consideration of additional costs that Seller has and may incur to maintain and manage the assets of the Company in connection with the execution of the Fourth Amendment. The Expense Fee shall be fully earned by Seller upon payment by Buyer and shall NOT be refundable (in that it shall not be returned to Buyer) for any reason whatsoever, including in the event this Agreement is later terminated by Buyer pursuant to Section 9.1 or subject to any audit or accounting backup with respect to costs incurred by Seller. The Extension Payment shall NOT be deemed to be part of the Deposit and shall NOT be subject to Section 2.2. Notwithstanding anything to the contrary contained in this Agreement, if the Closing

occurs, the Expense Fee will NOT be applied to or credited against the Purchase Price."

4. Expense Fee. This Fourth Amendment will not become a legally binding and enforceable obligation of Seller unless and until the Expense Fee is received by Seller.

5. Instrument of Amendment. Seller and Buyer acknowledge and agree that this Fourth Amendment constitutes a written amendment signed by each Party to the Purchase Agreement and fulfills the requirements of an amendment contemplated by Section 11.1 of the Purchase Agreement. Upon the effectiveness of this Fourth Amendment, each reference in the Purchase Agreement to "this Agreement," "hereunder," "hereof," "herein" or words of similar import shall mean and be a reference to the Purchase Agreement as modified by this Fourth Amendment.

6. Ratification. Except as otherwise set forth herein, the Purchase Agreement is hereby ratified, confirmed and approved in all respects.

7. Entire Agreement. This Fourth Amendment (which term shall be deemed to include the annexes, schedules and disclosure schedules hereto), the Purchase Agreement (which term shall be deemed to include the annexes, schedules and disclosure schedules thereto and the other certificates, documents and instruments delivered thereunder), as amended from time to time, and the other Transaction Documents constitute the entire agreement among the Parties and supersede all prior agreements and understandings, both written and oral, among the Parties with respect to the subject matter hereof and thereof.

8. Constructions, Etc. This Fourth Amendment shall be governed by all provisions of the Purchase Agreement, unless the context otherwise requires, including all provisions concerning construction, enforcement, notices, governing law, waiver of jury trial and arbitration.

9. Governing Law. This Fourth Amendment and the rights and obligations of the Parties hereto shall be governed, construed, and enforced in accordance with the laws of the State of Delaware.

10. Expenses. All fees, costs and expenses incurred by Seller or Buyer in negotiating this Fourth Amendment, conducting the non-binding discussions contemplated herein or consummating the transactions contemplated by this Fourth Amendment shall be paid by the Party incurring the same, including legal and accounting fees, costs and expenses.

11. Counterparts. This Fourth Amendment may be executed in multiple counterparts and by the different Parties in separate counterparts, each of which when executed shall be deemed to be an original but all of which taken together shall constitute one and the same agreement. Signed counterparts of this Agreement may be delivered by facsimile and by scanned pdf image.

[*Signature page follows.*]

IN WITNESS WHEREOF, the Parties hereto have caused this Fourth Amendment to be duly executed by their respective authorized representative(s) as of the day and year first written above.

"***Seller***"

ALON PARAMOUNT HOLDINGS, INC.

By: /s/ MARK PAGE

Name: Mark Page
Title: Executive Vice President

By: /s/ REGINA BYNOTE JONES

Name: Regina Bynote Jones
Title: Executive Vice President

[*Signature Page to Fourth Amendment to SPA*]

"***Buyer***"

GCE HOLDINGS ACQUISITIONS, LLC

By: /s/ RICHARD PALMER

Name: Richard Palmer
Title: President and CEO

[*Signature Page to Fourth Amendment to SPA*]

FIFTH AMENDMENT
TO
SHARE PURCHASE AGREEMENT

This Fifth Amendment to Share Purchase Agreement (this "***Fifth Amendment***"), dated effective as of March 23, 2020, is by and between ALON PARAMOUNT HOLDINGS, INC., a Delaware corporation ("***Seller***"), and GCE HOLDINGS ACQUISITIONS, LLC, a Delaware limited liability company ("***Buyer***"). Seller and Buyer are from time to time referred to herein individually as a "***Party***" and collectively as the "***Parties***."

WHEREAS, Seller and Buyer are parties to that certain Share Purchase Agreement dated April 29, 2019 (as amended by that certain First Amendment to Share Purchase Agreement, dated September 27, 2019, that certain Second Amendment to Share Purchase Agreement, dated October 4, 2019, that certain Third Amendment to Share Purchase Agreement, dated October 11, 2019, and that certain Fourth Amendment to Share Purchase Agreement, dated October 28, 2019, collectively, the "***Purchase Agreement***");

WHEREAS, Buyer has previously extended the Long Stop Date and paid the Extension Payment to Seller all pursuant to Section 9.2 of the Purchase Agreement;

WHEREAS, the Long Stop Date has previously been extended to December 6, 2019 and Buyer has now requested to further extend the Long Stop Date pursuant to the terms of this Fifth Amendment;

WHEREAS, Buyer and Seller entered into that certain letter agreement dated December 15, 2019 (the "***Letter Agreement***") concerning certain matters as provided therein; and

WHEREAS, Seller and Buyer desire to amend certain provisions of the Purchase Agreement as further described in this Fifth Amendment.

NOW, THEREFORE, in consideration of the mutual premises and covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the undersigned hereby agree as follows:

1. Definitions. All capitalized terms used and not defined in this Fifth Amendment shall have the meanings ascribed thereto in the Purchase Agreement unless expressly provided otherwise in this Fifth Amendment, and all rules as to interpretation and usage set forth therein shall apply hereto.

2. Section 1.1 (Definitions). Section 1.1 of the Purchase Agreement is hereby amended by adding the following definitions thereto:

> ""***Call Option Agreement***" means an agreement in form and substance as that certain Call Option Agreement attached to this Agreement as Exhibit F."

3. Section 2.3 (Purchase Price). The first sentence of Section 2.3 of the Purchase Agreement is hereby deleted in its entirety and replaced with the following sentence:

> "As consideration for the sale and transfer of the Purchased Shares, Buyer shall pay to Seller an amount equal to Thirty-Six Million Seven Hundred Fifty Thousand Dollars ($36,750,000) (the "***Purchase Price***")."

4. Section 2.5 (Deliveries at the Closing).

(a) Section 2.5(a) of the Purchase Agreement is hereby amended by adding the following subsection (viii) thereto:

"(viii) the Call Option Agreement."

(b) Section 2.5(b) of the Purchase Agreement is hereby amended by adding the following subsection (xiii) thereto:

"(xiii) the Call Option Agreement."

5. Section 9.4(a) (Further Extension of Long Stop Date). Section 9.4(a) of the Purchase Agreement is hereby amended by deleting the fourth sentence thereof in its entirety and replaced with the following sentence:

> "Without limiting or modifying the provisions of Section 9.2, the Parties hereby agree to extend the Long Stop Date to April 30, 2020."

6. Exhibit F. Exhibit F to this Fifth Amendment is hereby added as Exhibit F to the Purchase Agreement.

7. Pre-Closing Conversion of the Company.

(a) At the sole option of Buyer, upon delivery of written notice no later than ten (10) days prior to the Closing Date, Seller shall cause the Company to convert, immediately prior to the Closing, its organizational form from being a Delaware corporation to being a Delaware limited liability company pursuant to the applicable Delaware state law conversion statutes (such conversion being the "***Conversion***"). In the event of a Conversion, Buyer shall refrain from taking any action inconsistent with the converted Company being classified as an entity disregarded as separate from Seller for U.S. federal income tax purposes. Notwithstanding the preceding to the contrary, Seller shall not be required to effect the Conversion in the event Seller reasonably estimates that the Taxes arising or resulting from the Conversion would be greater than the reasonably estimated Taxes arising or resulting from the Contemplated Transactions without the Conversion (such incremental Taxes being the "***Incremental Conversion Taxes***"), unless Buyer agrees in writing prior to the Conversion to indemnify, defend, and hold the Seller Indemnities harmless from all Losses for the Incremental Conversion Taxes. Seller shall provide Buyer, prior to Closing, with Seller's estimate of the Incremental Conversion Taxes, if any, and if there are estimated Incremental Conversion Taxes, a summary calculation of such Incremental Conversion Taxes.

(b) If Buyer intends to elect to have Seller effect the Conversion, then prior to the Closing the Parties shall cooperate to agree to further amend the Purchase Agreement, effective

as of the Closing, to (i) reflect the Company's changed organizational form as a limited liability company, (ii) to delete the Section 336(e) Election, (iii) to adjust and amend Seller's representations and warranties and the indemnifications for the benefit of Buyer to exclude the effects of the Conversion, and (iv) reflect that the Company Assumed Liabilities shall include all liabilities and other Obligations arising from or directly related to the Conversion. Additionally, Seller shall not have any Obligations to Buyer or the Company with respect to the effects of the Conversion including effects with respect to any contracts, emission credits, or permits held by the Company prior to the Closing. Such amendments and modifications of the Purchase Agreement shall contain such other terms and conditions as mutually agreeable to the Parties.

(c) In the event Buyer elects to have Seller effect the Conversion, the Parties shall mutually agree prior to the Closing Date upon closing procedures which would utilize a closing escrow agent (the "***Closing Agent***") for the Closing and would include the following: (i) at least one (1) day prior to the Closing Date the Parties would irrevocably deliver to the Closing Agent in escrow all Closing documents and payments, including the Closing Date Payment, accompanied with mutually agreeable closing instructions, and (ii) the Closing Agent would electronically file with the Secretary of State of Delaware the documentation necessary to effectuate the Conversion, with the Conversion to become effective no later than one (1) day prior to the Closing Date. Provided that the Closing Agent electronically receives the file stamped Conversion document from Delaware evidencing that the Conversion has become effective at least one (1) day prior to the Closing Date, then the Closing would proceed on the Closing Date, and the Closing Agent would release the closing funds and closing documents to the respective Parties.

(d) In the event Seller effects the Conversion pursuant to Buyer's request and the Closing does not occur due to Buyer failing to Close the Contemplated Transactions, then Buyer shall indemnify, defend, and hold Seller Indemnities harmless from all Losses arising from or related to the Conversion. This Section 7(d) shall survive the termination of the Purchase Agreement.

8. Instrument of Amendment. Seller and Buyer acknowledge and agree that this Fifth Amendment constitutes a written amendment signed by each Party to the Purchase Agreement and fulfills the requirements of an amendment contemplated by Section 11.1 of the Purchase Agreement. Upon the effectiveness of this Fifth Amendment, each reference in the Purchase Agreement to "this Agreement," "hereunder," "hereof," "herein" or words of similar import shall mean and be a reference to the Purchase Agreement as modified by this Fifth Amendment.

9. Ratification. Except as otherwise set forth herein, the Purchase Agreement is hereby ratified, confirmed and approved in all respects.

10. Entire Agreement. This Fifth Amendment (which term shall be deemed to include the annexes, schedules and disclosure schedules hereto), the Purchase Agreement (which term shall be deemed to include the annexes, schedules and disclosure schedules thereto and the other certificates, documents and instruments delivered thereunder), as amended from time to time, the Letter Agreement (to the extent not inconsistent with this Fifth Amendment), and the other Transaction Documents constitute the entire agreement among the Parties and supersede all

prior agreements and understandings, both written and oral, among the Parties with respect to the subject matter hereof and thereof.

11. Constructions, Etc. This Fifth Amendment shall be governed by all provisions of the Purchase Agreement, unless the context otherwise requires, including all provisions concerning construction, enforcement, notices, governing law, waiver of jury trial and arbitration.

12. Governing Law. This Fifth Amendment and the rights and obligations of the Parties hereto shall be governed, construed, and enforced in accordance with the laws of the State of Delaware.

13. Expenses. All fees, costs and expenses incurred by Seller or Buyer in negotiating this Fifth Amendment, conducting the non-binding discussions contemplated herein or consummating the transactions contemplated by this Fifth Amendment shall be paid by the Party incurring the same, including legal and accounting fees, costs and expenses.

14. Counterparts. This Fifth Amendment may be executed in multiple counterparts and by the different Parties in separate counterparts, each of which when executed shall be deemed to be an original but all of which taken together shall constitute one and the same agreement. Signed counterparts of this Agreement may be delivered by facsimile and by scanned pdf image.

[*Signature page follows.*]

IN WITNESS WHEREOF, the Parties hereto have caused this Fifth Amendment to be duly executed by their respective authorized representative(s) as of the day and year first written above.

"***Seller***"

ALON PARAMOUNT HOLDINGS, INC.

By: /s/ FREDEREC GREEN

Name: Frederec Green
Title: EVP

By: /s/ MARK PAGE

Name: Mark Page
Title: EVP

[*Signature Page to Fifth Amendment to SPA*]

"***Buyer***"

GCE HOLDINGS ACQUISITIONS, LLC

By: /s/ RICHARD PALMER

Name: Richard Palmer
Title: President and CEO

[*Signature Page to Fifth Amendment to SPA*]

Exhibit F
Form of Call Option Agreement

(*see attached*)

SIXTH AMENDMENT
TO
SHARE PURCHASE AGREEMENT

This Sixth Amendment to Share Purchase Agreement (this "***Sixth Amendment***"), dated effective as of May 4, 2020, is by and between ALON PARAMOUNT HOLDINGS, INC., a Delaware corporation ("***Seller***"), and GCE HOLDINGS ACQUISITIONS, LLC, a Delaware limited liability company ("***Buyer***"). Seller and Buyer are from time to time referred to herein individually as a "***Party***" and collectively as the "***Parties***."

WHEREAS, Seller and Buyer are parties to that certain Share Purchase Agreement, dated April 29, 2019 (as amended by that certain First Amendment to Share Purchase Agreement, dated September 27, 2019, that certain Second Amendment to Share Purchase Agreement, dated October 4, 2019, that certain Third Amendment to Share Purchase Agreement, dated October 11, 2019, that certain Fourth Amendment to Share Purchase Agreement, dated October 28, 2019, and that certain Fifth Amendment to Share Purchase Agreement, dated March 23, 2020, collectively, the "***Purchase Agreement***"); and

WHEREAS, Seller and Buyer desire to amend certain provisions of the Purchase Agreement as further described in this Sixth Amendment.

NOW, THEREFORE, in consideration of the mutual premises and covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the undersigned hereby agree as follows:

1. **Definitions**. All capitalized terms used and not defined in this Sixth Amendment shall have the meanings ascribed thereto in the Purchase Agreement unless expressly provided otherwise in this Sixth Amendment, and all rules as to interpretation and usage set forth therein shall apply hereto.

2. **Section 1.1 (Definitions)**. Section 1.1 of the Purchase Agreement is hereby amended as follows:

(a) by alphabetically adding the following definitions thereto:

"***ABPI Conversion***" means the conversion of the Company from its organizational form as a Delaware corporation to a Delaware limited liability company pursuant to the Delaware Limited Liability Company Act.

"***Assignment of Membership Interests***" means the Assignment of Membership Interests to transfer all of Seller's right, title, and interest in and to the Purchased Shares, effective as of the Closing Date and duly executed by Seller and Buyer, substantially in the form of Exhibit G attached hereto.

"***GCEH Operating Agreement***" means that certain Fourth Amended and Restated Limited Liability Company Agreement of GCE Holdings

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Acquisitions, LLC, a Delaware limited liability company, f.k.a. Global Clean Energy Holdings, LLC, to be executed and delivered at the Closing pursuant to the Call Option Agreement, substantially in the form of Exhibit F-1.

"***Incremental Conversion Taxes***" means the amount, if any, by which (a) the amount of Taxes incurred by the Seller Indemnitees (including the Company) attributable to the consummation of the Contemplated Transactions taking into account the APBI Conversion, exceeds (b) the amount of Taxes that would have been incurred by the Seller Indemnitees (including the Company) if the Contemplated Transactions had been consummated without the ABPI Conversion and instead an effective, valid and timely election had been made under Section 336(e) of the Code with respect to a sale of all the stock of the Company by Seller to Buyer.

"***Industry Track Agreement***" means that certain Industry Track Agreement, dated June 7, 2011, by and between Seller and BNSF Railway Company, a Delaware corporation.

"***ITA Assignment***" means that certain Assignment, Assumption and Amendment of Industry Track Agreement, dated May 4, 2020, by and among Seller, the Company, and BNSF Railway Company, a Delaware corporation.

"***Maranatha Easement***" means that certain Non-Exclusive Right of Way and Easement, dated July 26, 2019, by and between the Company and TWBB1.

"***O&G Indemnity Bond***" means that certain Blanket Oil and Gas Indemnity Bond in the amount of $200,000 that Seller has put in place on behalf of the Company in favor of the State of California.

"***Supersedeas Bond Letter***" means that certain letter to be executed and delivered at the Closing by Alon USA Energy, Inc., an Affiliate of Seller, in favor of Buyer, substantially in the form of Exhibit H.

"***Tank Lease***" means the tank lease agreement, to be effective immediately after the Closing, substantially in the form of Exhibit I.

"***Transition Services Agreement***" means the transition services agreement, to be effective immediately after the Closing, substantially in the form of Exhibit J."

"***UIC Bond***" means that certain surety bond in the amount of $314,330 that Seller has obtained on behalf of the Company in connection with the application for an EPA permit for a Class I non-hazardous well."

(b) by deleting the definition of "***Seller Taxes***" in its entirety and replacing it with the following:

"***Seller Taxes***" means any and all Taxes, without duplication, (A) imposed on the Company for any Pre-Closing Tax Period (as determined in accordance with Section 7.2(b) for Straddle Periods); (B) of another Person (including the Seller and its Affiliates) imposed on the Company pursuant to Treasury Regulation Section 1.1502-6 or any analogous state, local or foreign Law or by reason of the Company having been a member of any consolidated, combined or unitary group (including the Seller Consolidated Group) on or before the Closing Date; (C) of another Person imposed on the Company pursuant to any contractual agreement entered into prior to Closing; (D) of another Person imposed on the Company as a transferee or successor, by Law or otherwise, which Taxes relate to an event or transaction occurring prior to Closing; and (E) attributable to a breach of a representation or warranty in Section 4.12 or a Seller covenant in Section 7.2; *provided*, *however*, that (i) Seller shall have no obligation to indemnify the Buyer Indemnitees from and against any Claims and Losses arising out of or related to Taxes described in subclause (A) if such Taxes are attributable to transactions occurring on the Closing Date after the Closing that are outside the ordinary course of business (other than any such transactions specifically contemplated by this Agreement), (ii) Seller Taxes shall not include any Tax liabilities of the Company that actually reduced the Closing Date Payment pursuant to Section 2.5(a)(i)(2), and (iii) Seller Taxes shall not include any Incremental Conversion Taxes.

(c) by deleting the definition of "***Section 336(e) Agreement***" in its entirety.

(d) by deleting the definition of "***Section 336(e) Elections***" in its entirety.

3. **ABPI Conversion**.

(a) As a result of Buyer's election, Seller shall, on May 6, 2020, cause the Company to convert its organizational form to a Delaware limited liability company pursuant to the Delaware Limited Liability Company Act (the "***Act***") on the condition that Buyer and Buyer's lenders confirm in advance of such conversion that Buyer is ready, willing, and able to close the Contemplated Transactions on May 7, 2020. Prior to the date hereof, Buyer has approved the Certificate of Conversion and the Certificate of Formation which Seller shall file pursuant to the Act to consummate the ABPI Conversion. The ABPI Conversion shall be effective prior to the Closing. Seller shall be the sole member of the Company immediately following and as a result of the ABPI Conversion. As part of the ABPI Conversion, the Company shall change its name to "Bakersfield Renewable Fuels, LLC." Buyer shall reimburse Seller for all filing fees related to the ABPI Conversion including fees incurred to pre-clear or expedite processing of the Certificate of Conversion and the Certificate of Formation with the office of the Secretary of State of Delaware.

(b) All references in the Purchase Agreement to the "**Company**" shall be deemed to be references to Alon Bakersfield Property, Inc., a Delaware corporation, and the converted entity resulting from the change in its organizational form pursuant to the ABPI Conversion.

(c) All references in the Purchase Agreement to "**Purchased Shares**" shall be deemed to be the limited liability company interests of the Company owned by Seller resulting from the ABPI Conversion. Such limited liability company interests shall not be certificated.

(d) Notwithstanding anything to the contrary contained in the Purchase Agreement, (i) Seller shall not have any Obligations related to or arising from the effects of the ABPI Conversion except as expressly set forth in this Sixth Amendment, (ii) Seller has not made and is not making any representations or warranties concerning the ABPI Conversion and none of the representations or warranties of Seller contained in the Purchase Agreement, including Section 4.3, shall include, relate to, arise from, or include any effects from the ABPI Conversion except to the extent expressly set forth in this Sixth Amendment, and (iii) the Company Assumed Liabilities shall include all liabilities and other Obligations arising from or directly related to the Conversion including effects with respect to any contracts, emission credits, or permits held by the Company prior to the ABPI Conversion except to the extent expressly set forth in this Sixth Amendment, but, in the case of Obligations related to Taxes, only to the extent of Incremental Conversion Taxes.

(e) Notwithstanding anything to the contrary contained in this Sixth Amendment or the Purchase Agreement, in the event the Closing has not been completed (including receipt by Seller of the Closing Date Payment) by 3:00 pm Central Time on May 7, 2020, then Seller may elect, in its sole discretion, to file promptly in Delaware all documents and instruments determined by Seller to be necessary or desirable to reverse the ABPI Conversion (including filing a Certificate of Conversion of the Company) to convert the Company's organizational form back to being a Delaware corporation and Seller shall have no further Obligation for the ABPI Conversion or the Closing.

4. **Article II (Purchase and Sale)**.

(a) Section 2.4(a) of the Purchase Agreement is hereby deleted in its entirety and replaced with the following:

> "(a) The closing of the Contemplated Transactions (the "***Closing***") shall take place at such place as Buyer and Seller may mutually agree, including by electronic exchange of documents and funds, on May 7, 2020. The date of the Closing is referred to in this Agreement as the "***Closing Date***."

(b) Section 2.5(a) of the Purchase Agreement is hereby amended as follows:

(i) by deleting Section 2.5(a)(i) in its entirety and replacing it with the following:

"(i) An amount (the "***Closing Date Payment***") equal to the Purchase Price,

(1) *plus,* an amount equal to Seller's estimate of pre-paid *ad valorem* Property Taxes of the Company for the Pre-Closing Tax Period (based upon the most recent property tax bills available),

(2) *less,* an amount equal to the California cap and trade allowance of Seller as mutually agreed by the Parties, and

(3) *plus or minus*, as applicable, such other matters as the Parties agree to be added to or deducted from the calculation of the Closing Date Payment,

such Closing Date Payment to be paid by wire transfer of immediately available funds to the account of Seller set forth in Section 2.5(a)(i) of the Seller Disclosure Schedule."

(ii) by adding the following new subsections to Section 2.5(a) (with the "and" at the end of Section 2.5(a)(vi) deemed deleted and the period at the end of Section 2.5(a)(viii) deemed replaced with ";"):

"(ix) the Assignment of Membership Interests;"

(x) the GCEH Operating Agreement;

(xi) the Tank Lease; and

(xii) the Transition Services Agreement."

(c) Section 2.5(b) of the Purchase Agreement is hereby amended as follows:

(i) by deleting Section 2.5(b)(i) in its entirety and replacing it with the following:

"(i) the Assignment of Membership Interests;"

(ii) by deleting Section 2.5(b)(xii) in its entirety and replacing it with the following:

"(xii) [Reserved]"

(iii) by adding the following new subsections to Section 2.5(b) (with the "and" at the end of Section 2.5(b)(xi) deemed deleted and the period at the end of Section 2.5(b)(xiii) deemed replaced with ";"):

"(xiv) the Supersedeas Bond Letter;

(xv) the Tank Lease; and

(xvi) the Transition Services Agreement."

(d) Section 2.6 of the Purchase Agreement is hereby amended by adding the following new subsection thereto:

"(c) Notwithstanding anything to the contrary contained in the ITA Assignment, the Company Assumed Liabilities shall include all Obligations in any way arising out of or related to the Industry Track Agreement, whether or not such Obligations were required to be performed by Seller prior to the Closing Date."

5. **Section 4.1 (Organization and Qualification)**. Section 4.1(a) of the Purchase Agreement is hereby deleted in its entirety and replaced with the following:

"(a) The Company was a Delaware corporation duly organized and validly existing and in good standing under the Laws of the State of Delaware immediately preceding the ABPI Conversion."

6. **Section 4.4 (Capitalization of the Company)**. Section 4.4(a) of the Purchase Agreement is hereby amended by deleting the first sentence of Section 4.4(a) and replacing it with the following:

"Immediately prior to the ABPI Conversion, the authorized capital stock of the Company consisted solely of 1,000 shares of common stock, par value $0.01 per share, of which 1,000 shares were issued and outstanding."

7. **Section 4.7 (Authorizations)**. Section 4.7(a) of the Purchase Agreement is hereby amended by deleting the first sentence of Section 4.7(a) and replacing it with the following:

"(a) The Company possesses, as of the Execution Date, all Authorizations (or has timely applied for the renewal or the issuance of all Authorizations, the granting of which is pending) that are materially necessary to carry on the Business, as currently conducted, all of which, to the extent material to the operation of the Business as currently conducted, are set forth in Section 4.7(a) of the Seller Disclosure Schedule, and, to Seller's Knowledge, all such Authorizations are in full force and effect."

8. **Section 4.12 (Taxes)**. Section 4.12(a) of the Purchase Agreement is hereby amended by adding a new Section 4.12(m) thereto as follows:

"(m) Following the ABPI Conversion and prior to the Closing, (i) Seller is the sole owner of 100% of the equity interests in the Company and (ii)

the Company has not filed a Form 8832, Entity Classification Election, with the IRS (or any state equivalent)."

9. **Article VI (Pre-Closing Covenants)**. Article VI of the Purchase Agreement is hereby amended by adding a new Section 6.11 thereto as follows:

"**Section 6.11 Maranatha Easement**. Notwithstanding anything in Section 6.1 to the contrary, Buyer hereby consents to Seller's execution of (or the Company's execution of, as applicable) and delivery of the Maranatha Easement, which shall not be deemed to be in violation of any covenant hereof."

[Note to GCE: The deletion made by GCE of the provision concerning Credit Support Arrangements is acceptable provided that GCE provides the 3 replacement bonds prior to execution of this Sixth Amendment]

10. **Section 7.2 (Tax Matters)**. Section 7.2 of the Purchase Agreement is hereby amended as follows

(a) by adding the following new subsection to Section 7.2(d):

"(v) Notwithstanding any provision of this Agreement to the contrary, (A) Buyer shall have the right to control and defend any pending or threatened audits, adjustments, claims, examinations, assessments, or other administrative or judicial Proceedings of the Company with the purpose or effect of determining any Incremental Conversion Taxes owed by the Company (including any administrative or judicial review of any claim for refund) and (B) Seller shall have the right to control and defend all other pending or threatened audits, adjustments, claims, examinations, assessments, or other administrative or judicial Proceedings with the purpose or effect of determining any Incremental Conversion Taxes (including any administrative or judicial review of any claim for refund). Seller shall keep Buyer reasonably informed and shall not settle any such Proceeding described in clause (B) without Buyer's written consent (not to be unreasonably withheld, conditioned, or delayed)."

(b) by deleting Section 7.2(g) in its entirety and replacing it with the following:

"(g) Transfer Taxes. All transfer, documentary, sales, general excise, use, stamp, registration, and other similar Taxes, and all conveyance fees, recording charges, and other fees and charges (including any penalties and interest) ("***Transfer Taxes***"), incurred in connection with the Contemplated Transactions (other than the ABPI Conversion) shall be borne and paid fifty percent (50%) by Buyer and fifty percent (50%) by Seller when due, and Buyer will file, or cause to be filed all necessary Tax Returns and other documents with respect to all such Transfer Taxes. Notwithstanding

any provision of this Agreement to the contrary, Buyer shall bear and pay when due all Transfer Taxes attributable to the ABPI Conversion."

(c) by deleting Section 7.2(j) in its entirety and replacing it with the following:

"(j) [Reserved]."

(d) by deleting Section 7.2(k)(i) in its entirety and replacing it with the following:

"(i) Buyer shall deliver to Seller, within one hundred and twenty (120) days after the Closing Date, a proposed allocation schedule (the "***Allocation Schedule***") allocating the Purchase Price and all other items included in consideration for purposes of Section 1060 of the Code and the Treasury Regulations thereunder among the Assets in accordance with Section 1060 of the Code and the applicable Treasury Regulations promulgated thereunder."

11. **Section 10.3 (Indemnification Procedures for the Benefit of Seller)**. Section 10.3(a) of the Purchase Agreement is hereby amended (with the "or" at the end of Section 10.3(a)(v) deemed deleted and the period at the end of Section 10.3(a)vi) deemed replaced with ";") by adding the following new subsections thereto:

"(vii) the O&G Indemnity Bond, to the extent arising after the Closing Date;

(viii) the UIC Bond and the appointment of a corporate trustee for a standby trust; or

(ix) any Incremental Conversion Taxes."

12. **Section 11.3 (Publicity)**. Section 11.3 of the Purchase Agreement is hereby amended by adding the following sentence to the end thereof:

"Promptly after the Closing Date, Buyer shall be authorized to cause a Form 8-K to be filed with the appropriate Governmental Authority in the form of Exhibit E-1 attached hereto."

13. **Exhibit C**. Exhibit C (Knowledge Individuals) of the Purchase Agreement is hereby deleted in its entirety and replaced with the Exhibit C attached to this Sixth Amendment.

14. **Exhibit D**. Exhibit D (Areas 1, 2, and 3 Maps) of the Purchase Agreement is hereby deleted in its entirety and replaced with the Exhibit D attached to this Sixth Amendment.

15. **Exhibit E-1**. Exhibit E-1 (Form of 8-K) to this Sixth Amendment is hereby added as Exhibit E-1 to the Purchase Agreement.

16. **Exhibit F**. Exhibit F (Call Option Agreement) of the Purchase Agreement is hereby deleted in its entirety and replaced with the Exhibit F attached to this Sixth Amendment.

17. **Exhibit F-1**. Exhibit F-1 (GCEH Operating Agreement) to this Sixth Amendment is hereby added as Exhibit F-1 to the Purchase Agreement.

18. **Exhibit G**. Exhibit G (Form of Assignment of Membership Interests) to this Sixth Amendment is hereby added as Exhibit G to the Purchase Agreement.

19. **Exhibit H**. Exhibit H (Form of Supersedeas Bond Letter) to this Sixth Amendment is hereby added as Exhibit H to the Purchase Agreement.

20. **Exhibit I**. Exhibit I (Form of Tank Lease Agreement) to this Sixth Amendment is hereby added as Exhibit I to the Purchase Agreement.

21. **Exhibit J**. Exhibit J (Form of Transition Services Agreement) to this Sixth Amendment is hereby added as Exhibit J to the Purchase Agreement.

22. **Schedule 6.2(g)**. Schedule 6.2(g) (Credit Support Arrangements) of the Purchase Agreement is hereby deleted in its entirety and replaced with the Schedule 6.2(g) attached to this Sixth Amendment.

23. **Schedule 7.4**. Schedule 7.4 (Multi-Site Contracts) of the Purchase Agreement is hereby deleted in its entirety and replaced with the Schedule 7.4 attached to this Sixth Amendment.

24. **Schedule 7.12**. Schedule 7.12 (Cleaning Plan) of the Purchase Agreement is hereby deleted in its entirety and replaced with the Schedule 7.12 attached to this Sixth Amendment.

25. **Seller Disclosure Schedule 1.1(a)**. Section 1.1(a) (Excluded Intellectual Property) of the Seller Disclosure Schedule is hereby deleted in its entirety and replaced with the Seller Disclosure Schedule 1.1(a) attached to this Sixth Amendment.

26. **Seller Disclosure Schedule 1.1(c)**. Section 1.1(c) (Pipeline Assets) of the Seller Disclosure Schedule is hereby deleted in its entirety and replaced with the Seller Disclosure Schedule 1.1(c) attached to this Sixth Amendment.

27. **Seller Disclosure Schedule 1.1(d)**. Section 1.1(d) (Seller Officers and Directors) of the Seller Disclosure Schedule is hereby deleted in its entirety and replaced with the Seller Disclosure Schedule 1.1(d) attached to this Sixth Amendment.

28. **Seller Disclosure Schedule 2.7**. Section 2.7 (Excluded Assets) of the Seller Disclosure Schedule is hereby deleted in its entirety and replaced with the Seller Disclosure Schedule 2.7 attached to this Sixth Amendment.

29. **Seller Disclosure Schedule 4.5(d)**. Section 4.5(d) (Leased Real Property) of the Seller Disclosure Schedule is hereby deleted in its entirety and replaced with the Seller Disclosure Schedule 4.5(d) attached to this Sixth Amendment.

30. **Seller Disclosure Schedule 4.6(a)**. Section 4.6(a) (Material Contracts) of the Seller Disclosure Schedule is hereby deleted in its entirety and replaced with the Seller Disclosure Schedule 4.6(a) attached to this Sixth Amendment.

31. **Seller Disclosure Schedule 4.6(b).** Section 4.6(b) (Material Company Contracts) of the Seller Disclosure Schedule is hereby deleted in its entirety and replaced with the Seller Disclosure Schedule 4.6(b) attached to this Sixth Amendment.

32. **Seller Disclosure Schedule 4.6(c)**. Section 4.6(c) (Seller Contracts) of the Seller Disclosure Schedule is hereby deleted in its entirety and replaced with the Seller Disclosure Schedule 4.6(c) attached to this Sixth Amendment.

33. **Seller Disclosure Schedule 4.7**. Section 4.7 (Authorizations) of the Seller Disclosure Schedule is hereby is hereby deleted in its entirety and replaced with the Seller Disclosure Schedule 4.7 attached to this Sixth Amendment.

34. **Seller Disclosure Schedule 4.9**. Section 4.9 (Proceedings and Orders) of the Seller Disclosure Schedule is hereby deleted in its entirety and replaced with the Seller Disclosure Schedule 4.9 attached to this Sixth Amendment.

35. **Seller Disclosure Schedule 4.10(a)**. Section 4.10(a) (Compliance with Environmental Laws) of the Seller Disclosure Schedule is hereby deleted in its entirety and replaced with the Seller Disclosure Schedule 4.10(a) attached to this Sixth Amendment.

36. **Seller Disclosure Schedule 4.10(b)**. Section 4.10(b) (Environmental Permits and Compliance Plans) of the Seller Disclosure Schedule is hereby deleted in its entirety and replaced with the Seller Disclosure Schedule 4.10(b) attached to this Sixth Amendment.

37. **Seller Disclosure Schedule 4.10(c)**. Section 4.10(c) (Environmental Matters) of the Seller Disclosure Schedule is hereby deleted in its entirety and replaced with the Seller Disclosure Schedule 4.10(c) attached to this Sixth Amendment.

38. **Seller Disclosure Schedule 4.12**. Section 4.12 (Taxes) of the Seller Disclosure Schedule is hereby deleted in its entirety and replaced with the Seller Disclosure Schedule 4.12 attached to this Sixth Amendment.

39. Instrument of Amendment. Seller and Buyer acknowledge and agree that this Sixth Amendment constitutes a written amendment signed by each Party to the Purchase Agreement and fulfills the requirements of an amendment contemplated by Section 11.1 of the Purchase Agreement. Upon the effectiveness of this Sixth Amendment, each reference in the Purchase Agreement to "this Agreement," "hereunder," "hereof," "herein" or words of similar import shall mean and be a reference to the Purchase Agreement as modified by this Sixth Amendment. To the extent of any conflict between this Sixth Amendment and any other amendments to the Purchase Agreement, this Sixth Amendment shall control.

40. **Ratification**. Except as otherwise set forth herein, the Purchase Agreement is hereby ratified, confirmed and approved in all respects.

41. **Entire Agreement**. This Sixth Amendment (which term shall be deemed to include the annexes, schedules and disclosure schedules hereto), the Purchase Agreement (which term shall be deemed to include the annexes, schedules and disclosure schedules thereto and the other certificates, documents and instruments delivered thereunder), as amended from time to time, and the other Transaction Documents constitute the entire agreement among the Parties and supersede all prior agreements and understandings, both written and oral, among the Parties with respect to the subject matter hereof and thereof.

42. **Constructions, Etc**. This Sixth Amendment shall be governed by all provisions of the Purchase Agreement, unless the context otherwise requires, including all provisions concerning construction, enforcement, notices, governing law, waiver of jury trial and arbitration.

43. **Governing Law**. This Sixth Amendment and the rights and obligations of the Parties hereto shall be governed, construed, and enforced in accordance with the laws of the State of Delaware.

44. **Expenses**. All fees, costs and expenses incurred by Seller or Buyer in negotiating this Sixth Amendment, conducting the non-binding discussions contemplated herein or consummating the transactions contemplated by this Sixth Amendment shall be paid by the Party incurring the same, including legal and accounting fees, costs and expenses.

45. **Counterparts**. This Sixth Amendment may be executed in multiple counterparts and by the different Parties in separate counterparts, each of which when executed shall be deemed to be an original but all of which taken together shall constitute one and the same agreement. Signed counterparts of this Agreement may be delivered by facsimile and by scanned pdf image.

46. **Assignment of Share Purchase Agreement**. Immediately subsequent to the execution of this Sixth Agreement, Buyer desires to assign, convey, and otherwise transfer all of Buyer's right, title, and interest in and to the Purchase Agreement to BKRF OCB, LLC, a Delaware limited liability company and Affiliate of Buyer, pursuant to an Assignment and Assumption of Share Purchase Agreement mutually agreed upon among all of the parties thereto including Seller. Such transfer and assignment shall be effective immediately subsequent to the execution of this Sixth Amendment.

[*Signature page follows*.]

IN WITNESS WHEREOF, the Parties hereto have caused this Sixth Amendment to be duly executed by their respective authorized representative(s) effective as of the day and year first written above.

"***Seller***"

ALON PARAMOUNT HOLDINGS, INC.

By: /s/ FREDEREC GREEN

Name: Frederec Green
Title: EVP

By: /s/ MARK PAGE

Name: Mark Page
Title: EVP

[*Signature Page to Sixth Amendment to Share Purchase Agreement*]

"***Buyer***"

GCE HOLDINGS ACQUISITIONS, LLC

By: /s/ RICHARD PALMER

Name: Richard Palmer
Title: President and CEO

[*Signature Page to Sixth Amendment to Share Purchase Agreement*]

EXHIBIT C

KNOWLEDGE INDIVIDUALS

[*See attached.*]

EXHIBIT D

AREAS 1, 2 AND 4 MAPS

[*See attached.*]

EXHIBIT E-1

FORM OF 8-K

[*See attached.*] [1]

[1] The Form 8-K shall be mutually agreed upon by the Parties prior to the Closing.

EXHIBIT F

FORM OF CALL OPTION AGREEMENT

[*See attached.*]

EXHIBIT F-1

FORM OF GCEH OPERATING AGREEMENT

[*See attached.*]

EXHIBIT G

FORM OF ASSIGNMENT OF MEMBERSHIP INTERESTS

[*See attached.*]

EXHIBIT H

FORM OF SUPERSEDEAS BOND LETTER

[*See attached.*]

EXHIBIT I

FORM OF TANK LEASE AGREEMENT

[*See attached.*]

EXHIBIT J

FORM OF TRANSITION SERVICES AGREEMENT

[*See attached.*]

Exhibit 10.22

CONTROL, OPERATIONS AND MAINTENANCE AGREEMENT

BETWEEN

BKRF OCB, LLC

("OWNER")

AND

GCE OPERATING COMPANY, LLC

("OPERATOR")

FOR THE

CONTROL, OPERATIONS AND MAINTENANCE

OF THE

BAKERSFIELD RENEWABLES REFINERY

LOCATED IN BAKERSFIELD, CALIFORNIA

EFFECTIVE AS OF MAY 4, 2020

CONTROL, OPERATIONS AND MAINTENANCE AGREEMENT

THIS CONTROL, OPERATION AND MAINTENANCE AGREEMENT ("Agreement"), is entered into as of this 4th day of May, 2020, by and between GCE OPERATING COMPANY, LLC, a Delaware limited liability company ("Operator"), and BKRF OCB, LLC, a Delaware limited liability company("Owner").

RECITAL:

Owner is a party to an agreement to purchase all of issued and outstanding capital stock of Alon Bakersfield Property, Inc., a company that owns the Facility (as hereinafter defined). Following the purchase of all of the equity interests of Alon Bakersfield Property, Inc. or its successor, Owner intends to convert the Facility into a renewable diesel refinery capable of producing up to 150 million gallons of renewable diesel per year.

Owner desires to engage Operator to operate and maintain the Facility during the period that the Facility is being converted into a biorefinery, and during the Facility's operations thereafter, all on the terms and conditions set forth herein.

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Operator and Owner agree as follows:

ARTICLE 1

ENGAGEMENT OF OPERATOR

Section 1.1 Engagement of Operator. As of the Closing Date, Owner hereby appoints Operator, and Operator hereby accepts the appointment, to operate and maintain the Facility, and to perform the Services, on and subject to the terms and conditions of this Agreement. This Agreement shall automatically terminate on May 31, 2020 if the Closing Date has not occurred by such date.

ARTICLE 2

DEFINITIONS

Section 2.1 Definitions. Unless otherwise specifically set forth in this Agreement, the following terms shall have the following meanings:

"*Agreement*" means this Control, Operations and Maintenance Agreement, as amended from time to time, and the attachments, exhibits, and amendments to this Agreement which have been accepted according to the procedures described herein.

"*Annual Operating Budget and Plan*" means an annual operating budget and plan prepared by Operator and submitted to Owner for approval in accordance with Section 5.1. The Annual Operating Budget and Plan shall be prepared for each Fiscal Year, commencing with, and including 2020. The Annual Operating Budget and Plan shall show for each month of the

Fiscal Year the Operating Expenses, capital maintenance expenditures and scheduled maintenance expenditures and a plan for the annual activities of the Facility. The Annual Operating Budget and Plan shall not be revised by Operator without the written approval of Owner. The initial Annual Operating Budget and Plan is attached hereto as Attachment A.

"*Applicable Laws*" means the applicable laws, rules, and regulations, including common law, of any Governmental Instrumentality.

"*Applicable Permits*" means all permits, licenses, approvals and similar items required to be obtained or maintained in connection with construction, repair, modification, or operation of the Facility.

"*Business Day*" means a day, other than Saturday or Sunday, on which banks are not required or authorized to close in Bakersfield, California.

"*Closing Date*" means the date on which owner purchase all of the equity interests of Alon Bakersfield Property, Inc. or its successor.

"*Emergency*" means an event occurring at the Facility which is likely to impose actual or imminent risk of serious personal injury, physical damage to any part of the Facility, or environmental contamination requiring immediate preventative or remedial action by Operator, and for which advance approval by Owner otherwise required under the Agreement would be impossible or impractical.

"*EPC Contract*" means the Turnkey Agreement with a Guaranteed Maximum Price for the Engineering, Procurement and Construction of the Bakersfield Renewable Fuels Project, dated as of April 30, 2020, by and between the GCE Holdings Acquisitions, LLC and the EPC Contractor.

"*EPC Contractor*" means ARB, Inc., a California corporation.

"*Facility*" shall mean the existing crude oil refinery formerly known as the Alon Bakersfield Refinery, located at 6451 Rosedale Highway, Bakersfield, California, together with the Site and all equipment currently existing thereon, or that may hereafter be installed at the Site from time to time.

"*Facility Manager*" means the Operator's employee who will be the senior on-site manager in charge of managing the construction, operation and maintenance of the Facility.

"*Facility Personnel*" means all employees, contractors and other persons employed by Operator in connection with providing the Services, which persons shall be located at, or provide services at the Facility. Facility Personnel includes the Facility Manager, on-site operations staff, on-site back office and support staff, and on-site managers.

"*Fiscal Year*" means the 12 month period from January 1st through December 31st of each year.

"*Force Majeure*" has the meaning assigned in Article 11.

"*Fuel*" means any natural gas, electricity or other energy source as required by the Facility.

"*Fuel Expenses*" means all amounts payable and Fuel Supply Agreements, the Fuel Transportation Agreements and any other agreements entered into by Owner with respect to natural gas, electricity or any other energy requirement and related services for the Facility.

"*Fuel Supply Agreements*" means any and all agreements entered into by Owner under which any fuel or energy source is supplied to the Facility.

"*Fuel Transportation Agreements*" means any and all agreements entered into by Owner for transporting fuel to the Facility.

"*GCEH Overhead*" means the fees charged by GCEH to Operator for (i) services provided by officers, employees, and consultants of GCEH to Operator as part of Operator's Services, and (ii) the use of offices, facilities, equipment and other materials used by such officers, employees, and consultants of GCEH in connection with providing Services on behalf of Operator. The services of officers, employees, and consultants of GCEH will be billed to Operator by GCEH based on the percentage of each person's time that is allocated to the Services, multiplied by such person's total compensation cost to GCEH (e.g., that person's salary, benefits, bonuses, contributions, and taxes). The fees charged to Operator for use of GCEH's offices, facilities and equipment will consist of an allocation, based on usage, of GCEH's costs for office rent, utilities, insurance, travel, legal, regulatory, audit/accounting, and other overhead costs and expenses.

"*GCEH*" means Global Clean Energy Holdings, Inc., the parent company of Operator.

"*Good Refinery Industry Operating Practices*" means the degree of care, standards, practices, methods and acts normally exercised by nationally recognized by oil refineries of a type and size similar to the Facility and such degrees of care, standards, practices, methods, and acts that at a particular time would have been expected to accomplish the desired result in a manner consistent with Applicable Laws, reliability, safety, environmental protection, economy, and expediency. Good Refinery Industry Operating Practices are not intended to be limited to the optimum practice or method to the exclusion of others, but rather to be a spectrum of possible but reasonable practices and methods.

"*Governmental Instrumentality*" means any federal, state, or local governmental body, department, office, instrumentality, agency, board, council, or commission having jurisdiction over a Party or any portion of the Services.

"*Hazardous Substances*" means, but is not limited to, any solid, liquid, gas, odor, radiation or other substance or emission which is a contaminant, pollutant, dangerous substance, toxic substance, regulated substance, hazardous waste, subject waste, hazardous material or hazardous substance which is or becomes regulated by applicable Environmental Laws or which is classified as hazardous or toxic under applicable Environmental Laws (including gasoline, diesel fuel or other petroleum hydrocarbons, polychlorinated biphenyls, asbestos and urea formaldehyde foam insulation) or with respect to which liability or standards of conduct are imposed under any Environmental Laws.

"*Index*" means the percentage increase or decrease from the prior year in the Consumer Price Index for the United States, All Items, West Urban Consumers (Series ID CUUR0400SA0).

"*Labor/Overhead Account*" means the bank that Operator has established in its own name for receipt of deposits from Owner. The Labor/Overhead Account will be used to fund the GCEH Overhead and the costs of the Facility Personnel.

"*Lender*" means Orion Energy Partners TP Agent, LLC, in its capacity as administrative agent for each lender that is a party to that certain Credit Agreement, dated as of May 4, 2020 between such parties and Owner.

"*Major Maintenance*" means the periodic major repair, refurbishment and replacement of equipment resulting from the ongoing wear and tear of the Facility from start up, operations and shut down.

"*Offtake Agreements* "means any and all agreements entered into by Owner under which liquid or gaseous fuels produced by the Facility is sold to one or more third parties.

"*Operating Expenses*" means costs and expenses incurred by the Operator in connection with the operation and maintenance of the Facility and the other Services performed by it pursuant to this Agreement, including but not limited to the reasonable and properly documented:

(i) amounts payable to vendors of the Facility;

(ii) amounts payable to Subcontractors;

(iii) GCEH Overhead;

(iv) Facility utility expenses (including costs of water);

(v) Facility insurance premiums;

(vi) capital expenditures and maintenance expenses incurred for the Facility in accordance with the provisions of this Agreement;

(vii) the cost of office space, furnishings, office equipment and office supplies for offices located at the Facility;

(viii) fees for accounting, legal, other professional services, and other general and administrative expenses that are not included in GCEH Overhead; and

(ix) all other expenditures relating to the operating, repair and maintenance costs of the Facility, including the costs of spare and replacement parts, equipment and tools, but excluding Fuel Expenses.

"*Operator*" means GCE Operating Company, LLC, a Delaware limited liability company, and its successors and permitted assigns.

"*Owner*" means BKRF OCB, LLC and its successors and permitted assigns.

"*Owner Project Manager*" means that person employed or designated by Owner as its representative under this Agreement for regular operational matters regarding the Facility. Owner shall notify Operator of the name of Owner Project Manager upon execution of this Agreement and upon any change in such person. Owner may also designate another individual to act hereunder when the individual appointed as Owner Project Manager is for any reason unavailable.

"*Party*" or "*Parties*" means Owner or Operator or both, as the context may require.

"*Procure*" or "*Procurement*" means that Operator or other party specified in this Agreement will specify, obtain, and evaluate bids, prepare purchase orders for materials and services and expedite performance of material deliveries and services on behalf of Owner and at Owner's expense.

"*Project Contracts*" means this Agreement and all other documents entered into by either Party or any Subcontractor related to the operation of the Facility.

"*Services*" means the work performed by Operator according to the terms and conditions of this Agreement.

"*Site*" means the land on which all or any part of the Facility is currently located or may in the future be built, including any adjacent working areas, and all rights of way and access rights. The Site consists of approximately 620 acres and is currently divided into areas known as Areas 1, 2 3 and 4.

"*Subcontractor*" means, in relation to Operator, any individual, firm, organization, or supplier under contract, at any time, to Operator for the operation or maintenance of the Facility or the performance of any part of Operator's Services.

ARTICLE 3

RESPONSIBILITIES AND DUTIES OF OPERATOR

Section 3.1 Enumeration of Responsibilities and Duties. Operator covenants to provide and perform the responsibilities and duties enumerated in this Section and contained elsewhere in this Agreement related to the operation and maintenance of the Facility on behalf of Owner; provided, however, that to the extent Owner identifies any additional services necessary for the operation of the Facility, the Parties shall negotiate in good faith the provision of such additional services, the terms and conditions of such services, and the fees and costs to be paid by the Owner pursuant to this Agreement. Operator shall:

(a) Operator acknowledges that during the period commencing on the Closing Date through the date of Substantial Completion as defined in the EPC Contract, the EPC

Contractor and Owner shall have access to the Facility to the extent provided in the EPC Contract. Operator agrees that it shall act as Owner's representative with respect to the EPC Contract and other construction agreements, and shall cooperate with all reasonable requests made by the EPC Contractor and the other contractors involved in the conversion of the Facility (including H&H Engineering Construction, Inc. and Underground Construction Company) to achieve the timely completion of the Facility and the commencement of commercial operations at the Facility. Where Operator is not required to perform certain services for the operation and maintenance of the Facility because of activities of the EPC Contractor and other contractors, Operator shall coordinate its other services and activities with such contractors to the extent necessary for the efficient construction and launch of operations of the Facility.

(b) Safely and efficiently operate and maintain the Facility in accordance with the following: (i) the Annual Operating Budget and Plan, (ii) operation and maintenance manuals provided by the manufacturers and vendors of the equipment contained in the Facility, (iii) Good Refinery Industry Operating Practices, (iv) Applicable Laws and (v) the other provisions of this Agreement.

(c) Use its best efforts to reasonably maximize the Facility's renewable fuels production and production capacity, optimize fuel and operating efficiency, and otherwise operate the Facility, in each case consistent with Good Refinery Industry Operating Practices.

(d) Prepare and submit to Owner for its approval an Annual Operating Budget and Plan in accordance with Section 5.1.

(e) Submit to Owner a two-year forecast of the Annual Operating Budget and Plan that projects future budgets and operating plans by a date no later than one hundred twenty (120) days before the beginning of each Fiscal Year.

(f) Employ and supervise one or more persons qualified to fulfill and be responsible for fulfilling the responsibilities of a Facility Manager. Operator shall inform Owner and the Lender of its intent to replace the Facility Manager, and shall obtain the written approval of both Owner and the Lender prior to such replacement.

(g) Employ, pay, train, and supervise that number of Facility Personnel which is sufficient for the operation and maintenance of the Facility, and administer all matters pertaining to such employed personnel in the areas of labor relations, salaries, wages, working conditions, hours of work, termination of employment, employee benefits, safety and related matters.

(h) Use reasonable care in the hiring of all agents and Facility Personnel and use reasonable efforts to cause all Facility Personnel to be reasonably skilled and trained in the duties to be performed by them. No such Facility Personnel shall be hired as employees of Owner, and the wages or other compensation of all Facility Personnel shall be controlled and disbursed by the Operator. At the request of Owner, Operator shall provide a report identifying the hours and days that each such employee worked at the Facility. Operator may engage employees of its affiliated entities on a full- or part-time basis to provide services on behalf of the Operator.

(i) Procure, receive, store and preserve an inventory of spare and replacement parts sufficient to meet the respective manufacturer's or Subcontractor's recommended replacement term on each piece of equipment, materials and supplies necessary, in accordance with the Annual Operating Budget and Plan, for normal operation of the Facility. Operator shall keep accurate records showing the dates and part numbers of any items removed from inventory. Operator shall report to Owner each month any parts that have been removed from inventory in the previous month.

(j) Repair or replace, as may be required by operations and maintenance manuals, manufacturer's directions or by Good Refinery Industry Operating Practices, any Facility equipment that fails or malfunctions. If any such failure or malfunction is covered by a warranty, Operator shall submit a timely warranty claim on behalf of Owner. Operator shall document any changes to the Facility equipment resulting from repairs or maintenance and shall maintain a complete set of systems drawings for the Facility equipment. The Operator shall keep current and update regularly all manufacturers' operation and maintenance manuals for each major equipment item in the Facility.

(k) Engage Subcontractors necessary for making repairs to, or performing maintenance on, or installing improvements to the Facility in the event Operator is unable to make or perform such repairs, maintenance or installations. The Operator shall maintain and keep current a list of all Subcontractors that have worked on the Facility and shall maintain and keep current a file containing the original copies of all Subcontracts. Every Subcontract requiring aggregate expenditures of two hundred and fifty thousand dollars ($250,000) or greater shall be subject to Owner's written approval and shall be made only after solicitation and consideration of competitive bids except as may otherwise be agreed to by Owner.

(l) Arrange for scheduled testing and recalibration of any scales, meters, gauges or other measuring devices associated with the Facility equipment and record data from instruments provided with the Facility equipment to determine the type and amount of fuel consumed, biofuels and related products produced, pollutants emitted and water used by the Facility equipment.

(m) Maintain regular communication with Owner regarding the operation and maintenance of the Facility, including but not limited to providing monthly performance reports, safety reports, and other reports requested by Owner describing in such detail as Owner may request all operations at the Facility during such period, including but not limited to the amount of production, fuel consumption, inventory of spare parts and bulk chemicals, Procurement, capital improvements, outages, and labor relations, and noting any other material occurrences or operational results, and provide prompt and timely notice, by appropriate means under the circumstances, of material changes in the anticipated operation of the Facility, maintenance problems related to the Facility, breach of, or receipt of notice of default or dispute regarding any Project Contract, and any receipt of notice or knowledge of violation or variance of any Applicable Law or Applicable Permit.

(n) Provide security for the Facility, in a manner acceptable to Owner and Owner's insurance carriers.

(o) Obtain and maintain insurance pursuant to Article 12 hereunder.

(p) Contract for janitorial, water, electricity, telephone and other applicable services, or such of them as the Operator shall deem advisable, and place orders for such equipment, tools, appliances, materials and supplies as are necessary to properly maintain and operate the Facility, all in accordance with the Annual Operating Budget and Plan. No such contract shall be made or entered into unless it shall be subject to Owner's subsequent written approval, such approval not to be unreasonably withheld or otherwise unreasonably burden the performance of Operator's obligations under this Agreement, or unless such contract is an order for equipment, tools, appliances, materials and supplies made pursuant to the Annual Operating Budget and Plan and is not in excess of two hundred and fifty thousand dollars ($250,000); provided, however, that Owner may, from time to time by written notice to Operator, require the Operator to obtain the prior written approval of Owner before it contracts for or orders those services or items specified in such written notice. Every contract or order requiring aggregate expenditures of fifty thousand dollars ($50,000) or greater shall be made only after solicitation and consideration of competitive bids except as may otherwise be agreed to by Owner.

(q) Request and obtain materials and services, in performance of Operator's obligations under this Agreement, on terms advantageous to Owner; secure and credit to Owner all discounts, rebates or commissions obtainable with respect to purchases, service contracts and other transactions, including but not limited to Owner's share of any discounts based on purchases made in common with other parties.

(r) Maintain a system of office records, books, and accounts with respect to the Facility in a manner satisfactory to Owner, which records, books and accounts shall be subject to examination by Owner or authorized agents or designees of Owner during all regular business hours. Such records, books, and accounts shall be kept by Operator for a minimum of five (5) years. Thereafter, prior to any proposed disposal of any such records, books or accounts Operator shall give Owner ninety (90) days prior written notice of such proposed disposal. Such notice shall include a list of each record, book and account that Operator is proposing to dispose described in reasonable detail such that its contents are identifiable. Owner shall have the opportunity, at its cost and expense, to copy or remove, within such ninety (90) day period, all or any part of such records, books, or accounts.

(s) Qualify and remain qualified to do business in the State of California, and possess all licenses and other qualifications required by each Governmental Instrumentality to exercise all of the Operator's functions set forth herein.

(t) Adhere to all requirements set forth in Applicable Laws and Applicable Permits as they relate to Facility operations and maintenance.

(u) Supply to Owner, and if required the Lender, monthly financial or other written reports relating to the operation of the Facility, and provide Owner and the Owner Project Manager (and if required, the Lender's representatives) reasonable access to the Facility for the purpose of observing and auditing the performance by Operator of Operator's responsibilities and duties pursuant to this Agreement.

(v) Review all Applicable Laws establishing compliance requirements in connection with the operation and maintenance of the Facility. Advise Owner on the need to secure or renew, as necessary, Applicable Permits relating to the operation and maintenance of the Facility and assist Owner in securing, as appropriate, such applicable permits, as required.

(w) Keep the Facility free of all mechanics' and other liens for materials or services furnished at Operator's direction and for which the Owner has made payment.

(x) Efficiently and economically manage, supervise and perform all of the Major Maintenance activities, scheduled or forced, in accordance with operations and maintenance manuals, manufacturer's directions or by Good Refinery Industry Operating Practices. As determined by Operator, secure Subcontractors as necessary to perform the Major Maintenance.

(y) Manage, supervise and perform all daily activities and interactions required pursuant to Owner third party agreements including, but not limited to, Offtake Agreements, Fuel Supply Agreements, and Fuel Transportation Agreements.

(z) Generally perform any and all other acts as may reasonably be necessary or appropriate to carry out the duties and responsibilities of the Operator contemplated hereunder.

Section 3.2 Discontinuation of Responsibilities and Duties. Notwithstanding any other provision of this Agreement, Owner may request Operator to discontinue performance of any enumerated responsibility upon (i) 45 days written notice and (ii) payment to Operator all amounts due under this Agreement in respect of the performance of (x) that portion of discontinued Services completed by the Operator, and (y) items procured by Operator for completion of discontinued Services, up to the date of such termination.

Section 3.3 Limitations on Authority. Notwithstanding any provision of this Agreement to the contrary, unless provided in, or contemplated by the Annual Operating Budget and Plan, or otherwise approved in writing by Owner, neither Operator nor any Subcontractor, nor any of its respective agents or representatives, shall:

(a) Sell, lease, pledge or mortgage, convey, or make any license, exchange or other transfer of the Facility or of any other property or assets of Owner, including any property or assets acquired by Operator hereunder.

(b) Make, enter into, execute, amend, modify or supplement any contract or agreement on behalf of or in the name of Owner.

(c) Make any recoverable expenditure or acquire on a recoverable cost basis any equipment, materials, assets or other items, or make without Owner's prior written consent any expenditure or acquisition which would individually or when added to previous expenditures and acquisitions, either: (i) exceed the major subcategories budgeted of the Annual Operating Budget and Plan by fifty thousand dollars ($50,000) or ten percent (10%), whichever is less; or (ii) is expected to exceed the Annual Operating Budget and Plan, on a projected annual basis, of

each major subcategory by two hundred and fifty thousand dollars($250,000) or ten percent (10%), whichever is less.

(d) Take or agree to take any action that materially varies from the applicable Annual Operating Budget and Plan or is reasonably likely to result in a breach of this Agreement or a violation of any Applicable Permit or Applicable Law.

(e) Settle, compromise, assign, pledge, transfer, release or consent to the settlement, compromise, assignment, pledge, transfer or release of any claim, suit, debt, demand or judgment against or due by Owner or Operator, the cost for which, in the case of Operator, Operator would be entitled to reimbursement, or submit any such claim, dispute or controversy to arbitration or judicial process, or stipulate in respect thereof to a judgment, or consent to do the same.

(f) Engage in any other transaction on behalf of Owner or any other person that violates this Agreement, any Applicable Permit, or any Applicable Law.

(g) Modify or alter the Facility or any component thereof in a manner that materially alters the function, output or efficiency of the Facility or any component thereof.

Section 3.4 Emergencies. Notwithstanding any other provision of this Agreement, if Operator believes in good faith that an Emergency exists at the Facility and changes or modifications in the Services for the Facility are required to avoid or mitigate losses from such Emergency, Operator may make such changes or modifications to the extent required by such Emergency. Operator shall promptly notify Owner of the Emergency, the remedial and preventive measures taken, the costs incurred, and, if appropriate, proposals to modify procedures or services in light of the circumstances resulting in the Emergency.

Section 3.5 Risk of Loss. Except as otherwise provided herein, risk of loss for the Facility shall remain with Owner.

ARTICLE 4

RESPONSIBILITIES AND DUTIES OF OWNER

Section 4.1 Enumeration of Responsibilities and Duties. Owner covenants to provide the following in support of the operation and maintenance of the Facility. Owner shall:

(a) Enter into and maintain such Fuel Supply Agreements and Fuel Transportation Agreements to provide for the supply and delivery of Fuel of suitable quality and in sufficient quantities to operate the Facility.

(b) Make Owner Project Manager available to Operator twenty-four (24) hours per day, and authorize Owner Project Manager to make certain operational decisions on the part of Owner.

(c) Pay for all reasonable, properly documented costs of tools, equipment, consumable materials, services, Facility design changes and modifications, and spare and

replacement parts reasonably recommended by Operator and required for the efficient operation and maintenance of the Facility in accordance with Operator's obligations and authorizations under this Agreement.

(d) Pay all proper and necessary expenses of the Facility, including property taxes, special assessments, user fees, and Operating Expenses, and timely fund the Labor/Overhead Account.

(e) Diligently pursue any claim Owner may have under insurance policies, equipment guarantees, and warranties pertaining to the Facility.

(f) Review and approve or dispute each Annual Operating Budget and Plan as provided in Article 5.

(g) Procure, obtain, and maintain all permits, licenses, approvals, certificates, consents, concessions, acknowledgments, agreements, decisions, and other forms of authorizations from, or filing with, or notice to, any Government Instrumentality required to be obtained in the name of Owner for the operation and maintenance of the Facility. Operator shall provide Owner with such assistance and cooperation as may reasonably be required by Owner to obtain and maintain all such Government Instrumentality permits, approvals, licenses, etc.

Section 4.2 Procurement of Materials and Services. On behalf of Owner, Operator shall directly pay from funds held in Owner's bank accounts all Operating Expenses. Operator shall not be obligated to advance its own funds for the payment of Operating Expenses. Operator shall nominate individuals, to be approved by Owner, who shall have the written authority to sign checks against Owner's bank account within limits to be agreed between Owner and Operator. Operator is specifically authorized, as provided in a relevant Annual Operating Budget and Plan, to procure materials and services as agent for and in the name of Owner, for which Owner shall directly pay the vendors of such materials and services or reimburse Operator for such materials and services. All invoices for materials and services procured under this Section 4.2 shall designate Owner as the purchaser of such materials and services.

Section 4.3 Billing Reports; Invoices. As soon as practicable after the end of each calendar quarter, but in any case within thirty (30) days after the end of each calendar quarter, Operator shall provide Owner with a billing report for the Facility setting forth the Services provided to the Facility, the actual operating expenses incurred during such calendar quarter (including GCEH Overhead and Facility Personnel costs that were incurred), and a comparison between the actual operating expenses incurred during such calendar quarter (including and the amount set forth in the estimate provided by Operator for such calendar quarter. Each Billing Report shall be accompanied by appropriate time records, receipts, cost accounting coding, and other information as Owner may reasonably request to verify that the Operating Expenses and Facility Personnel costs were properly incurred. Operator shall also provide Owner with an invoice, payable by Owner within thirty (30) days of receipt, reflecting the Operating Expenses in that quarter for the Facility to the extent not paid directly by Owner.

Section 4.4 Budget Reconciliation. As soon as practicable following the end of each calendar quarter and each Fiscal Year, but in any case within thirty (30) days after the end of

each calendar quarter and Fiscal Year, Operator shall provide Owner with a detailed reconciliation report which shall set forth (a) the difference between the total amount of all actual operating expenses (including Operating Expenses and Facility Personnel costs) incurred during such Fiscal Year for the Facility and the Annual Operating Budget and Plan for that Fiscal Year, (b) the actual amount incurred for each line item in, and the amount of each line item in the Annual Operating Budget and Plan in that Fiscal Year, and (c) the reasons for such deviations. In Operator's final Billing Report submitted after the end of the term of this Agreement, Operator shall set forth a final reconciliation of the Operating Expenses and Facility Personnel costs due or payable to Operator under this Agreement.

ARTICLE 5

ANNUAL OPERATING BUDGET AND PLAN

Section 5.1 Annual Operating Budget and Plan.

(a) The Parties acknowledge and agree that the ability of Owner to realize the benefits of the Facility will be materially dependent upon the terms of each Annual Operating Budget and Plan prepared in accordance with this Section 5.1. To that end, the Parties agree that each Annual Operating Budget and Plan shall, to the fullest extent practicable, promote the safe and efficient operation of the Facility consistent with all Applicable Permits.

(b) Not later than one hundred and twenty (120) days before the end of each Fiscal Year, Operator shall prepare and submit to Owner for approval by Owner's Board of Directors a preliminary proposed Annual Operating Budget and Plan for the ensuing Fiscal Year. Owner shall promptly review the proposed Annual Operating Budget and Plan and will notify Operator within sixty (60) days after its receipt of the proposed Annual Operating Budget and Plan of any questions or disagreements. The Parties agree to use their respective best efforts, and shall meet as often as is necessary at either the Facility site or Owner's offices, to resolve any questions or disputes by a date that is not more than thirty (30) days prior to the effective date of such Annual Operating Budget and Plan. If the Owner does not request any amendments within said sixty (60) day period, the Annual Operating Budget and Plan shall be deemed approved. During such period, Operator shall promptly provide to Owner all supplemental information as may be reasonably requested by Owner and, at the request of Owner, shall meet with Owner to explain and discuss the proposed Annual Operating Budget and Plan.

(c) In the event that the Parties are unable to resolve a dispute with respect to an Annual Operating Budget and Plan before the first day of the Fiscal Year for which the Annual Operating Budget and Plan is to become effective, then the undisputed portions of such Annual Operating Budget and Plan shall take effect for the next Fiscal Year and, in lieu of the disputed portions of the Annual Operating Budget and Plan becoming effective, the comparable provisions of the Annual Operating Budget and Plan for the immediately preceding Fiscal Year shall continue in effect for the ensuing Fiscal Year, adjusted by the Index. The Parties agree to continue to use their best efforts to resolve any such dispute. In the event that the dispute(s) cannot be resolved within sixty (60) days after the Fiscal Year begins, disputes will be settled by the arbitration guidelines set forth in Article 26.

(d) If at any time during any Fiscal Year, Owner or Operator becomes aware that the actual operations of the Facility are not in compliance (or are in danger of becoming out of compliance) with the Annual Operating Budget and Plan, the such Party shall give immediate notice to the other Party specifying such noncompliance and, if possible, the reason(s) for it. The Operator shall institute all corrective actions as may be necessary on its part to bring Facility operations into compliance with the Annual Operating Budget and Plan. The Parties shall use their best efforts to negotiate any necessary amendments to the Annual Operating Budget and Plan, but no amendment to the Annual Operating Budget and Plan shall take effect without the final written approval of Owner, which approval may be withheld by Owner in its sole discretion.

(e) If, during any Fiscal Year, Owner requests an amendment to that year's Annual Operating Budget and Plan, the Parties shall seek to incorporate such requests through the following procedure: (i) Operator shall, within a reasonable time after its receipt of such request, submit to Owner a revised Annual Operating Budget and Plan incorporating the amendments requested by Owner, other than any such amendments which, in the reasonable and professional opinion of Operator, will prevent its ability to perform the Services in accordance with Article 3. (ii) Within a reasonable time after its receipt of any revised Annual Operating Budget and Plan, Owner shall either provide its written approval of the same or notify Operator of the amendments which it wishes to make together with its reasons therefor. If Owner requests amendments, Owner and Operator shall use their good faith best efforts to resolve all outstanding issues within thirty (30) Days after receipt by Operator of Owner's notification of amendments to the revised Annual Operating Budget and Plan.

ARTICLE 6

ACCESS TO FACILITY

Section 6.1 Operator Access. Operator and its employees shall have full, free, and unrestricted access to the Facility during the term of this Agreement.

Section 6.2 Subcontractor Access. To the extent necessary, as required by Applicable Law, Operator shall be empowered to grant, at its discretion, Facility access to the extent necessary, to its Subcontractors and other third parties.

Section 6.3 Third Party Access. Operator may bring visitors, trainees, prospective employees of Operator and prospective customers to view the Facility during the term of this Agreement at Operator's cost. Operator shall require such visitors to conduct themselves in a manner so as not to interfere with the operation of the Facility and to abide by any and all of Operator's established rules and regulations for safety and security.

Section 6.4 Owner Access. Owner, Owner Project Manager, and their designees shall have reasonable access to the Facility at all times, subject to minor restrictions that are required due to safety and operational concerns. Notwithstanding the above, Owner, Owner Project Manager, and their designees shall not, without prior written notice to and approval of Operator, interrupt the Facility's normal operation and maintenance procedures and shall at all times abide by all of Operator's safety and security rules and regulations.

ARTICLE 7

COMPENSATION AND PAYMENT TO OPERATOR

Section 7.1 Compensation. Operator's compensation shall be calculated as follows:

(a) Owner shall reimburse Operator for any Operating Expenses that Operator may have incurred in the performance of Operator's obligations under this Agreement, but which expenses were not paid from Owner's accounts. Such reimbursement shall be payable only to the extent the payments made by Operator are reasonable, properly documented, and incurred in accordance with this Agreement. Such reimbursements include fees, costs and other expenses that Operator may have incurred as a result of an Emergency. Other than expense reimbursement, no fees shall be paid in connection with this Agreement.

Section 7.2 Payments and Inspection of Books and Records. Owner shall pay the following in immediately available funds.

(a) Reimbursement by Owner of Operating Expenses (excluding GCEH Overhead) as described in 7.1(a) shall be prepaid monthly based on the approved Annual Operating Budget and Plan. On occasion Operator may also request advances for emergencies and Operating Expenses that require expedited payment terms. The actual Operating Expenses for each month shall be determined by Operator, and the difference between the prepayment and advances and actual will be reimbursed or invoiced to Owner on and as of the fifteenth (15th) day of the following month. Each invoice shall constitute a representation and warranty by the Operator that the amounts shown thereon are reasonable and proper items of Operating Expenses incurred in the operation and maintenance of the Facility that are then properly due and payable by Owner hereunder. Such reimbursements of actual Operating Expenses (excluding GCEH Overhead) shall be paid to Operator by Owner fifteen days following the receipt of the invoice.

(b) Operator shall have established the Labor/Overhead account for payment of Operator's GCEH Overhead obligations and all amounts payable to Facility Personnel. Owner shall fund the Labor/Overhead Account in accordance with Section 7.2(c). The Operator shall draw funds from the Labor/Overhead Account from time to time in the ordinary course of operations. Interest earned on the Labor/Overhead Account shall accrue for the benefit of Owner and shall be used by Operator only for the payment of the expenses incurred in accordance with the terms hereof.

(c) On or promptly following the Closing Date, Operator shall submit to Owner an estimate of the amount of GCEH Overhead and Facility Personnel costs to be incurred (on a cash basis) during the current and immediately succeeding calendar month. Thereafter, not later than the tenth (10th) day prior to the expiration of each calendar month, Operator shall prepare and submit to Owner an estimate of the total amount of GCEH Overhead and Facility Personnel costs to be incurred (on a cash basis) during the immediately succeeding calendar month. On or before the first day of each calendar quarter, Owner shall deposit sufficient funds into the Labor/Overhead Account to meet the estimated GCEH Overhead and Facility Personnel costs for that month. If in any month it is determined that such monthly estimate was less than or greater than the actual expenses for such calendar month, the difference shall be taken into

account when Operator submits its estimate for Operating Expenses in respect of the next month. Operator shall document all reconciliations in writing and shall provide Owner with copies thereof.

Payments received subsequent to the due date shall be subject to a late payment charge as charged by MUFG Union Bank, N.A.

(d) , or its successor. Said late payment charge shall be applied to late payments on a daily basis of 365 days per year.

(e) Information necessary to accomplish electronic transfer of payment due shall be provided in writing by each of the Owner and Operator to the other Party pursuant to Article 19.

ARTICLE 8

TERM AND TERMINATION

Section 8.1 Agreement Term and Renewal. The term of this Agreement shall commence on the date hereof and shall remain in effect until terminated pursuant to this Article 8 .

Section 8.2 Termination by Operator. This Agreement may be terminated upon ten (10) days' notice by Operator, if Owner has been in continuous default for a period of thirty (30) days after notice and demand from Operator as to the payment of any obligation pursuant to this Agreement. Default in payment shall not include any disputed amounts submitted to arbitration pursuant to Article 26 hereof.

Section 8.3 Termination by Owner for Cause. Owner shall have the right upon written notice to Operator, to terminate this Agreement upon or after the occurrence of any of the following events or conditions, notwithstanding the pendency of any arbitration initiated with respect to the subject matter of such termination or any other matter or dispute, provided that if any such termination shall be determined to have been wrongful, such termination shall be deemed a termination for convenience pursuant to Section 8.4:

(a) Operator shall make a general assignment for the benefit of creditors or file a voluntary petition in bankruptcy or a petition seeking its reorganization or the readjustment of its indebtedness under the federal bankruptcy laws or any other or statute of the United States or any state or government, or consent to the appointment of a receiver, trustee, or liquidator of all or substantially all of the property of Operator;

(b) Operator shall be adjudged bankrupt or an order shall be made approving a petition seeking its reorganization, or the readjustment of its indebtedness under federal bankruptcy laws or any law or statute of the United States or any state, territory or possession thereof, or under the law of any other state, nation or government, and such order or decree is not vacated or stayed within one hundred twenty (120) days following its entry;

(c) Operator or its supervisory employees shall commit gross negligence, misconduct or fraud with respect to any material obligation or duty under this Agreement;

(d) Operator or any Subcontractor shall fail to perform any of its material duties under this Agreement or shall otherwise be in violation of its terms, and such failure to perform or violation shall not have been remedied for a period of thirty (30) days following notice thereof from Owner to Operator or within such longer period of time as is reasonably necessary to accomplish such cure if such cure cannot be reasonably accomplished within such thirty (30) day period and Operator diligently commences and continues such cure in such period.

Upon termination, Owner shall pay Operator only those amounts owed through the date of termination pursuant to Section 7.1 and Section 8.6, and amounts advanced by Operator that are properly reimbursable to Operator hereunder.

Section 8.4 Termination for Convenience. At the convenience and sole discretion of Owner, this Agreement may be terminated upon sixty (60) days' written notice by Owner to the Operator and payment by Owner of all amounts due to Operator through the effective date of such termination.

Section 8.5 Closing of the Plant or Facility. In the event that (a) Owner elects in its sole discretion to permanently or indefinitely close or cease operations at the Facility; or (b) the Facility is closed or operations ceased as a result of order of any Governmental Instrumentality, Owner shall give written notice thereof to Operator, which notice shall designate a date for the closing of the Facility and which shall be delivered not less than thirty (30) days in advance of the designated closing date or, in the case of a closure by governmental order, as soon as reasonably practicable. Effective on the date of such closing, this Agreement shall terminate.

Section 8.6 Payment of Expenses After Termination. Except for Operator's obligations under Article 9 (Warranties) and Article 17 (Indemnification), on the effective date of a termination Operator shall be relieved of all obligations to Owner. Notwithstanding termination, neither Party shall be relieved from any obligations or liabilities accruing prior to the effective date of termination, including in the case of Owner, its obligation to pay Operator all amounts due under this Agreement in respect of the performance of (a) that portion of the Services completed by the Operator, and items procured by Operator, up to the date of such termination, and (b) any cost not included in (a) above that was reasonably incurred by Operator at the date of such termination in contemplation of Agreement performance, or that reasonably resulted from termination of this Agreement. Operator shall use commercially reasonable efforts to mitigate such costs of termination where possible and shall provide Owner with evidence of all such costs and shall deliver to Owner all items in Operator's possession so procured by Operator.

Section 8.7 Operating Manuals. At least ninety (90) days prior to expiration of this Agreement, and as soon as practicable following notice of any termination other than termination pursuant to Section 8.4 hereof, Operator shall, as an Operating Expense, provide Owner with four (4) complete operating manuals for the Facility.

ARTICLE 9

WARRANTIES

Section 9.1 Operator Warranties. Operator hereby warrants that the Services, including and each component thereof shall: (i) be performed consistent with generally accepted industry standards, (ii) in accordance with all requirements of this Agreement and (iii) in accordance with the terms of the financing arrangement and material contracts of the Owner.

Section 9.2 Subcontractor Warranties. Operator shall obtain from Subcontractors and vendors all usual and customary warranties given by such Subcontractors and vendors, and shall include in its contractual arrangements with its Subcontractors and vendors provisions that such warranties are for the benefit of Owner as well as Operator and are directly enforceable by Owner and its assignees. Operator shall administer and enforce all warranties for the benefit of Owner and as Owner's agent for this limited purpose; provided however, that Operator may not compromise or settle any such warranty claims without the written approval of Owner, and Operator shall have no power or authority with respect to any such compromise or settlement.

ARTICLE 10

REPRESENTATIONS AND WARRANTIES

Section 10.1 Representations of Operator. Operator represents and warrants to Owner that as of the date hereof:

(a) it is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Delaware, and has all power and authority necessary to enter into and perform its obligations under this Agreement;

(b) it is qualified as a foreign limited liability company in the State where Facility is located;

(c) it has personnel available to it with the expertise in connection with the management of a refinery sufficient for it to perform its obligations under this Agreement in a manner consistent with Good Refinery Industry Operating Practices;

(d) this Agreement has been duly authorized, executed and delivered by Operator and, subject to due execution and delivery by Owner, this Agreement will be enforceable against Operator in accordance with its terms, and does not constitute an default under any other agreement to which Operator is a party, nor does it violate any provision of any law, rule, regulation, order, judgment, decree, determination, or award presently in effect having applicability to Operator;

(e) it has all necessary Applicable Permits required to perform its obligations hereunder, except for applicable permits Owner or the Facility is required to obtain or Applicable Permits that Operator, would in the ordinary course, not be expected or required to obtain until a later date; and

(f) there are no actions, suits, or proceedings pending or, to its knowledge, threatened against it in any court or before any Governmental Instrumentality, or any arbitrator, in which there is a reasonable possibility of an adverse decision which could materially and adversely affect its ability to perform Operator's obligations under this Agreement.

Section 10.2 Representations of Owner. Owner represents and warrants to Operator that as of the date hereof:

(a) Owner is a limited liability company duly organized and existing under the laws of the State of California and has all power and authority necessary to enter into and perform its obligations under this Agreement;

(b) this Agreement has been duly authorized, executed and delivered by Owner and, subject to due execution and delivery by Operator, this Agreement will be enforceable against Owner in accordance with its terms, and does not constitute a default under any other agreement to which it is a party, nor does it violate any provision of any law, rule, regulation, order, judgment, decree, determination, or award presently in effect having applicability to Owner;

(c) there are no actions, suits, or proceedings pending or, to its knowledge, threatened against it in any court or before any Governmental Instrumentality, or any arbitrator, in which there is a reasonable possibility of an adverse decision which could materially and adversely affect its ability to perform its obligations under this Agreement; and

(d) it and the Facility have all necessary Applicable Permits required to for Owner to perform its obligations hereunder, except for applicable permits Operator is required to obtain, or Applicable Permits that Owner and the Facility would, in the ordinary course, not be expected or required to obtain until a later date.

ARTICLE 11

FORCE MAJEURE

Force Majeure means any act or event that (i) presents delay or otherwise adversely affects the ability of the affected Party to perform its obligations under this Agreement, and (ii) is beyond the reasonable control of the affected Party and not due to its fault or negligence. Force Majeure may include catastrophic storms or floods, lightning, earthquakes, and other acts of God, acts of public enemies, war, terrorism, civil disturbances, revolts, insurrections, sabotage, pandemics, epidemics, commercial embargoes, fires, explosions, actions of a Governmental Instrumentality that were not requested, promoted, or caused by the affected Party, and changes in Applicable Laws. Force Majeure shall not include any of the following: (i) economic hardship, or (ii) nonperformance or delay by Subcontractors, unless otherwise caused by Force Majeure. In the event that either Party is rendered unable, wholly or in part, by an event of Force Majeure, to perform any obligation it has under this Agreement, the claiming Party shall give notice not later than five (5) Business Days after the occurrence of the applicable event to the other Party. Such notice shall state the particulars of the event of Force Majeure and shall specify the estimated effect of such event of Force Majeure on the Annual Operating Budget and Plan. The non-claiming Party may object in writing within five Business Days to any such of notice of Force

Majeure. The obligations of the Party claiming Force Majeure, so far as such obligations are affected by the event of Force Majeure, shall be suspended during the continuance of any inability or incapacity so caused, but for no longer. Neither Party shall be relieved from any obligation to make payment to the other for expenses or liabilities already incurred. Owner shall not be relieved of its obligation to make payments pursuant to Article 7 (Compensation) of this Agreement provided, however, that if the event of Force Majeure does not end or materially abate within six (6) months, the Parties shall meet and negotiate in good faith for the continuation of the Services during the period of Force Majeure.

The Parties shall use reasonable efforts to remedy and mitigate the effects of the Force Majeure. The Party claiming the Force Majeure shall report in writing weekly to the other Party providing detailed information of the steps being taken to overcome the Force Majeure and the estimated time such Force Majeure is expected to continue. An event of Force Majeure which, continues for one hundred eighty (180) days may at Owner's option be deemed a termination for convenience as contemplated by Section 8.4.

ARTICLE 12

INSURANCE

Section 12.1 Insurance Required of Operator. Operator shall, and shall require its Subcontractors to, obtain insurance as provided below from reliable insurance companies acceptable to Owner and authorized to do business in California. Such insurance shall be in force at the time Operator's Services are commenced and shall remain in force throughout the term of this Agreement.

(a) Workers' Compensation Insurance. Workers' Compensation insurance, including Occupational Disease coverage as required by applicable law, as well as Employers' Liability insurance for all Facility Personnel in the amount required by Applicable Law. Such insurance shall provide coverage in state of Facility location, the location in which the Operator's employees reside, and the location in which the Operator is domiciled.

(b) General Liability Insurance. Operator will provide coverage for the following general liability exposures on an occurrence basis with limits of not less than [$1,000,000 each occurrence and $2,000,000 in the annual aggregate except $1,000,000 annual aggregate for products and completed operations. Such coverage shall also include:

(i) premises and operations;

(ii) products and completed operations;

(iii) contractual liability;

(iv) explosion (X), collapse (C) and underground hazards (U); including XCU coverage under both premises/operations and contractual liability;

(v) personal injury liability (with deletion of the exclusion for liability assumed under contract); and

(vi) sudden and accidental pollution.

The aggregate limits, if any, shall apply separately to each annual policy period.

(c) Automobile Liability Insurance. Automobile liability insurance against claims of personal injury (including bodily injury and death) and property damage covering all owned, leased, non-owned, and hired, vehicles used in the performance of the Services, with a minimum limit of $1,000,000 per accident for bodily injury and property damage combined and containing appropriate no-fault insurance provision wherever applicable.

(d) Excess Insurance. Excess liability insurance on a claims-made and reported basis covering claims in excess of the underlying insurances described in the foregoing subsections (a) with regards to employer's liability and (c), with a minimum limit of $10,000,000.

(e) Supplemental Insurance. Operator shall procure additional insurance to the extent required by, and subject to the limits and qualifications contained in, Schedule 5.06 of the Credit Agreement.

The amounts of insurance required above may be satisfied by Operator purchasing coverage in the amounts specified or by any combination thereof, so long as the total amount of insurance meets the requirements specified above. Operator may, with Owner's approval, participate in the insurance programs arranged on behalf of Owner.

Section 12.2 Endorsements on Operator's and Subcontractors Insurance.

(a) All insurance policies to be maintained by Operator and Subcontractors shall provide for a waiver of subrogation in favor of Owner.

(b) All insurance policies, except workers' compensation and professional liability, to be maintained by Operator and Subcontractors shall:

(i) provide a severability of interests or cross liability clause;

(ii) provide that the insurance shall be primary and not excess to or contributing with any insurance or self-insurance maintained by Owner.

(iii) name Owner as an additional insured.

Section 12.3 Certificates and Notice. Certificates of insurance evidencing that satisfactory coverage of the types and limits set forth above shall be furnished to Owner. Such certificates shall be in a form acceptable to Owner.

Section 12.4 Proof of Insurance. Within thirty (30) days after execution of this Agreement, Operator shall provide Owner with a certificate of insurance evidencing that the coverage required under this Article 12 is in full force and effect. Updated certificates shall be provided on an annual or, if applicable, more frequent basis, showing proof that the required insurance coverage is in place.

Section 12.5 Insurance Required of Owner. During the term of this Agreement, Owner shall secure and maintain, or caused to be maintained, at its own expense, subject to Applicable Laws and with terms, conditions, limits, self-insured retentions and deductibles in accordance with the requirements set forth in the Project Contracts, the following insurance:

(a) Workers' Compensation insurance covering all of Owner's employees, if any;

(b) Employer's Liability insurance covering all of Owners' employees, if any; and

(c) Property all risk insurance and machinery breakdown coverage (excluding equipment moved/rented/leased by Operator or its Subcontractors).

Section 12.6 Endorsements on Owner and Subcontractors Insurance.

(a) All insurance policies to be maintained by Owner and Subcontractors shall provide for a waiver of subrogation in favor of the Operator.

(b) All insurance policies, except workers' compensation and professional liability, to be maintained by Owner and Subcontractors shall:

(i) provide a severability of interests or cross liability clause;

(ii) provide that the insurance shall be primary and not excess to or contributing with any insurance or self-insurance maintained by the Operator; and

(iii) name the Operator agents as an additional insured.

Section 12.7 Budget. The cost of obtaining and maintaining the insurance policies required by Section 12.1 are Operating Expenses and shall be included in the Annual Operating Budget and Plan for each Fiscal Year

ARTICLE 13

APPLICABLE PERMITS

Section 13.1 Applicable Permits. All Applicable Permits shall be obtained and maintained by Owner in its name. Operator shall cooperate in the securing of such Applicable Permits and shall advise Owner of the need to secure or renew permits as contemplated by Section 3.1(t). Owner shall pay all costs of obtaining and maintaining the Applicable Permits.

ARTICLE 14

APPLICABLE LAWS

Section 14.1 Applicable Laws. Operator shall operate and maintain the Facility in conformance with all Applicable Laws and Applicable Permits, including without limitation the disposing of any Hazardous Substances generated by the Facility.

Section 14.2 Changes in Laws. Operator shall comply with applicable changes in the Applicable Laws and shall inform Owner of such changes. To the extent that such changes require alterations in the Facility configuration, operation, maintenance procedures or other aspects of Facility operation and maintenance, the cost thereof shall be paid, or reimbursable by Owner.

ARTICLE 15

INTERPRETATION

Section 15.1 Applicable Law. The construction and interpretation of the terms and conditions of this Agreement shall be in accordance with the laws of the State of California.

Section 15.2 Conflicts. In the event of conflicts between the Articles of this Agreement and attachments hereto, the Articles of this Agreement shall prevail.

ARTICLE 16

WAIVER

Section 16.1 Waiver. The waiver of any breach of any term or condition hereof shall not be deemed a waiver of any other or subsequent breach, whether of like or different nature. The failure of Owner or Operator at any time to insist upon the strict observance of any of the provisions of this Agreement or to exercise any rights in respect thereto, or to exercise any election herein provided, shall not be construed as a waiver of such provision, right, or election, or in any way affect the validity of this Agreement. The exercise by either Owner or Operator of any of its rights of election herein shall not preclude or prejudice either Owner or Operator from exercising any other rights either may have under this Agreement. No waiver shall be valid unless given in writing and signed by the Party waiving the provision, right or election under this Agreement.

ARTICLE 17

INDEMNIFICATION

Section 17.1 Operator's Indemnification. Operator shall defend, indemnify and save Owner, its agents, employees, officers, directors, and representatives harmless from claims of third parties for physical damage to property and personal injury, including death, occurring on the Facility premises, as well as to invitees as such are permitted under Section 6.3, in each case, to the extent arising out of the Operator's obligations under this Agreement, unless such loss, liability or damage results from such indemnified person's fraud, gross negligence or willful misconduct (as finally determined by a court of competent jurisdiction). Any indemnification payable by Operator to Owner hereunder shall be net of any insurance proceeds received by Owner under Owner's insurance policies with respect to the circumstances giving rise to Operator's indemnification of Owner hereunder.

Section 17.2 Owner's Indemnification. Owner shall defend, indemnify and save Operator, its agents, employees, officers, directors and representatives harmless from claims of

third parties for physical damage to property and personal injury, including death, occurring on the Facility premises, as well as to invitees as such are permitted under Section 6.3, in each case, to the extent arising out of Owner's obligations under this Agreement, unless such loss, liability or damage results from such indemnified person's fraud, gross negligence or willful misconduct (as finally determined by a court of competent jurisdiction). Any indemnification payable by Owner to Operator hereunder shall be net of any insurance proceeds received by Operator under Operator's or Owner's insurance policies with respect to the circumstances giving rise to Owner's indemnification of Operator hereunder.

Section 17.3 Prompt Indemnification Payment. Except for attorneys' fees and disbursements, which shall be paid as incurred, any indemnification required herein to be made by Owner or Operator shall be made promptly following the determination of the loss, liability or damage incurred or suffered by final judgment of any court, settlement, contract or otherwise.

ARTICLE 18

OPERATOR AS INDEPENDENT CONTRACTOR; SUBCONTRACTORS

Section 18.1 Independent Contractor. Operator shall be an independent contractor in the performance of this Agreement and shall have complete charge of the Services and personnel engaged in the performance of the Services. Nothing contained herein shall be deemed to create a relationship of employer-employee, master-servant, partnership or joint venture between Owner and Operator.

Section 18.2 Subcontractors. Operator's Services may be performed by Operator acting in its own name, or by Operator subcontracting portions of such services to Subcontractors or other suppliers as such subcontracting is described in the Annual Operating Budget and Plan.

(a) For its Services, Operator shall assume the responsibility for negotiating with, and performance by, its Subcontractors; provided, however, that, except as set forth in Section 3.l(n), all Subcontractors and subcontracts shall be approved by Owner.

(b) Operator shall have authority and control over the Subcontractors' work, including overtime and, any special methods required, in the judgment of Operator, to complete the Subcontractors' work in a correct and timely manner.

(c) All subcontracts shall be assignable to Owner.

(d) All subcontracts shall be consistent with the terms and conditions of this Agreement.

(e) Subcontractors are not intended to be, shall not be deemed to be, and are not third-party beneficiaries of this Agreement.

(f) Operator hereby indemnifies Owner against any and all claims, mechanics' or materialmen's' liens made or filed against the Facility by Subcontractors.

(g) Operator shall be solely responsible to Owner for the acts and omissions of all Subcontractors and of persons directly or indirectly employed by such Subcontractors to the extent that Owner has paid to Operator Operating Expenses due to Subcontractors.

ARTICLE 19

NOTICES

Section 19.1 Notices. All notices and other communications hereunder shall be in writing (including facsimile and email) and shall be delivered in written form by certified mail, overnight delivery service, facsimile, email or hand delivery. All notices or other communications shall be deemed to be received upon actual receipt by the addressee. Any Party may change its addresses by providing notice of same in accordance herewith. Notices and other written communications shall be addressed, and invoices and payments (including all invoices and payment requests pursuant to Article 7) shall be directed, as follows:

Notices/Communications

To Owner	To Operator
BKRF OCB, LLC 6451 Rosedale Highway, Bakersfield, California 90505	GCE Operating Company, LLC c/o Global Clean Energy Holdings Inc. 2790 Skypark Drive, Suite 105 Torrance, California 90505
Attention: Facility Manager	Attention: President
Attention: General Counsel	Attention: VP Finance and Administration

Payments/Invoices:

To Owner	To Operator
Attention: Finance Department	Attention: Controller

ARTICLE 20

ASSIGNMENT

Section 20.1 Assignment. Operator shall not assign this Agreement or any part thereof without the prior written consent of Owner. Owner shall not assign this Agreement or any part thereof without the prior written consent of the Operator, which consent shall not be unreasonably withheld. It is agreed that Owner may assign its rights or delegate its duties to any subsidiary or affiliate of Owner without consent of the Operator.

Notwithstanding the foregoing, Owner may pledge or assign this Agreement and any of its rights hereunder without the consent of the Operator in connection with Owner's financing of the costs of the Facility. In connection with the foregoing, Operator will enter with Owner's lenders into a customary consent to the assignment in form and substance reasonable to lenders. The corporate trustee appointed under Owner's financing arrangements may, upon the occurrence of a default by Owner under such financing arrangements, assume and perform all of Owner's obligations hereunder.

Any attempted assignment or delegation not m accordance with the terms of this Article 20 shall be null and void.

ARTICLE 21

TRANSFER

Section 21.1 Transfer. No transfer of any equipment or material furnished, or for which Services are furnished, hereunder from the Facility (except temporarily for repair work), shall be effected without the prior written agreement of both Parties, if such transfer may materially affect the ability of the Operator to perform the Services contemplated under the terms of this Agreement.

ARTICLE 22

NO THIRD PARTY BENEFICIARIES

Section 22.1 No Third-Party Beneficiaries. Except as specifically provided herein, no person or party shall have any rights or interest, direct or indirect, in this Agreement or the Services to be provided hereunder, or both, except Operator and Owner. The Parties specifically disclaim any intent to create any rights in any person or party, as a third-party beneficiary of this Agreement or the Services to be provided hereunder.

ARTICLE 23

TITLES

Section 23.1 Titles. The titles and section headings employed in this Agreement are for convenience only and are not to be construed as defining, modifying, limiting or expanding in any way the scope or extent of the Articles of this Agreement.

ARTICLE 24

SEVERABILITY

Section 24.1 Severability. If any provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be held invalid, illegal or unenforceable in any respect, the remainder of this Agreement, or the application of such provision to persons or circumstances other than those as to which it is held to be invalid, illegal or unenforceable, shall not be affected thereby, and this Agreement shall be legal and valid and be enforced to the full

extent permitted by law as if such invalid, illegal or unenforceable provision had never been included herein. Any provision of this Agreement, which is prohibited or unenforceable in any jurisdiction, shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

ARTICLE 25

SURVIVAL

Section 25.1 Survival. The provisions of Articles 15 (Interpretation), 17 (Indemnification) and 26 (Arbitration) shall survive termination, cancellation or expiration of this Agreement.

ARTICLE 26

ARBITRATION

Section 26.1 Arbitration. All claims, disputes and other matters in question arising between the Parties hereto arising out of, or relating to, this Agreement or the interpretation or breach thereof, shall be decided by arbitration in accordance with the Arbitration Rules of the American Arbitration Association then in effect unless the Parties otherwise mutually agree. Said arbitration shall be before a panel of three arbitrators and shall be held in Los Angeles, California. This agreement to arbitrate shall be specifically enforceable under Applicable Law in any court of competent jurisdiction. Notice of the demand for arbitration shall be given by a Party in writing to the other Party to this Agreement and to the American Arbitration Association. The demand for arbitration shall be made within a reasonable time after the claim, dispute or other matter in question has arisen, and in no event shall it be made after the date when institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable contractual or other statute of limitations. The award rendered by the arbitrators shall be final and judgment may be entered in accordance with applicable law and in any court having jurisdiction thereof. Attorney fees and expenses shall be payable to the prevailing Party by the other Party in such arbitration, the allocation of such fees and expenses to be determined in the discretion of the arbitrators consistent with its determination of the rights and liabilities of the Parties on the merits.

ARTICLE 27

COUNTERPARTS

Section 27.1 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

ARTICLE 28

AMENDMENT

Section 28.1 Amendment. No modification or amendment of this Agreement shall be valid unless in writing and executed by both Parties.

ARTICLE 29

ENTIRE AGREEMENT

Section 29.1 Entire Agreement. This Agreement contains the entire agreement and understanding between Owner and Operator as to the subject matter hereof, and merges and supersedes all prior agreements, commitments, representations, writing, and discussions between them. Owner or Operator will not be bound by any prior obligations, conditions, warranties, or representations with respect to the subject matter of this Agreement. This Agreement may not be modified, changed or supplemented in any way except by an instrument executed by Owner and Operator.

ARTICLE 30

LIMITATION OF LIABILITIES

Section 30.1 Limitation of Liability. Operator's only liability under this Agreement shall be for damages resulting from Operator's fraud, gross negligence or willful misconduct. The Parties agree that, except for such liability, Owner's only remedy for breach of this Agreement by Operator or for the failure of Operator to perform the Services in accordance with the terms and conditions hereof shall be to terminate this Agreement pursuant to Section 8.3.

Section 30.2 No Consequential Damages. Notwithstanding any provision in this Agreement to the contrary, neither Party shall be liable hereunder for consequential, incidental, special or indirect loss or damage, including loss of project revenues, cost of capital, loss of goodwill, increased operating costs, or any other special, incidental or punitive damages; provided, however, that nothing in this sentence shall limit the obligations of Owner and Operator under Article 17 to indemnify the other Party with respect to claims by third parties otherwise covered by the provisions of Article 17. The Parties further agree that the waivers and disclaimers of liability, indemnities, releases from liability, and limitations on liability expressed in this Agreement shall survive termination or expiration of this Agreement, and shall apply (unless otherwise expressly indicated), whether in contract, equity, tort or otherwise, even, to the extent permitted by Applicable Law, in the event of the fault, negligence, including sole negligence, strict liability, or breach of warranty of the Party indemnified, released or whose liabilities are limited, and shall extend to the partners, principals, directors, officers and employees, agents and related or affiliated entities of such Party, and their partners, principals, directors, officers and employees.

ARTICLE 31

CONFIDENTIALITY

Section 31.1 Confidentiality. During the Term, and for three (3) years after the termination of this Agreement, each Party will hold in confidence any Confidential Information supplied by the other Party, provided that any such information may be supplied to Owner's lenders, Owner's potential investors, and all of their agents, representatives, and consultants so long as such persons agree to hold such information in confidence. The term "Confidential Information" means with respect to each Party, all written or oral information of a proprietary, intellectual or similar nature, relating to such Party's business, projects, operations activities or affairs whether of a technical or financial nature or otherwise (including environmental assessment reports, financial information, business plans and proposals, ideas, concepts, trade secrets, know-how, processes, pricing of services or products, and other technical or business information, whether concerning the Agreement, each Party's respective businesses or otherwise) that has not been publicly disclosed and that the receiving Party acquires directly or indirectly from the disclosing Party. Each receiving Party further agrees, to the extent requested by the disclosing Party, to require its contractors, vendors, suppliers and employees, agents or prospective purchasers to enter into appropriate nondisclosure agreements relative to any Confidential Information, prior to the receipt thereof; provided, however, that the receiving Party may make necessary disclosures to third parties directly engaged in the operation, ownership or financing of the Facility if such third parties agree to receive and hold such Confidential Information in confidence.

IN WITNESS WHEREOF, this Agreement has been executed by the Parties hereto on the day and year first above written

OWNER:

BKRF OCB, LLC
a Delaware limited liability company

By: /s/ RICHARD PALMER
Name: Richard Palmer
Title: President

OPERATOR:

GCE OPERATING COMPANY, LLC, a
Delaware limited liability company

By: /s/ RICHARD PALMER
Name: Richard Palmer
Title: President

ATTACHMENT A

ANNUAL OPERATING BUDGET AND PLAN

Annual Operating Budget and Plan, including a forecast of Operating Expenses for the period from _____ through _____.

Exhibit 10.23
Execution Version

CALL OPTION AGREEMENT

This Call Option Agreement (this "Agreement"), is made and entered into as of May 7, 2020 (the "Effective Date"), by and among Global Clean Energy Holdings, Inc., a Delaware corporation ("GCEH"), Alon Paramount Holdings, Inc., a Delaware corporation ("Alon Paramount"), and GCE Holdings Acquisitions, LLC, a Delaware limited liability company (the "Company"). GCEH, Alon Paramount, and the Company are from time to time referred to herein individually as a "Party" and collectively as the "Parties."

WHEREAS, GCEH is the sole member and manager of the Company, pursuant to that certain Fourth Amended and Restated Limited Liability Company Agreement of the Company dated as of the date hereof (the "Operating Agreement");

WHEREAS, GCEH currently owns all of the outstanding limited liability company interests in the Company, which are represented by 100,000 Units of the Company (the "GCEH Interest");

WHEREAS, Alon Paramount and the Company are parties to that certain Share Purchase Agreement dated April 29, 2019 (as amended by that certain First Amendment to Share Purchase Agreement, dated September 27, 2019, that certain Second Amendment to Share Purchase Agreement, dated October 4, 2019, that certain Third Amendment to Share Purchase Agreement, dated October 11, 2019, that certain Fourth Amendment to Share Purchase Agreement, dated October 28, 2019, that certain Fifth Amendment to Share Purchase Agreement, dated March 23, 2020, and that certain Sixth Amendment to Share Purchase Agreement, dated May 4, 2020, and as may be further amended from time to time collectively, the "Share Purchase Agreement");

WHEREAS, Alon Paramount (i) currently owns all of the outstanding limited liability company interests (the "Alon Shares") of Bakersfield Renewable Fuels, LLC, a Delaware limited liability company formerly incorporated as Alon Bakersfield Property, Inc., a Delaware corporation ("Alon Bakersfield"), and (ii) has agreed, pursuant the terms and conditions of the Share Purchase Agreement, among other things, to sell all of the Alon Shares to the Company or a direct or indirect wholly owned subsidiary of the Company;

WHEREAS, simultaneously with the execution of this Agreement, Alon Paramount and the Company are closing on the Contemplated Transactions;

WHEREAS, as part of the consideration paid by the Company under the Share Purchase Agreement, GCEH has agreed to grant Alon Paramount the right to purchase up to 33,333 Units of the Company (the "Option Units") currently owned by GCEH, and representing up to 33.33% of the outstanding Units (as defined in the Operating Agreement) of the Company.

NOW, THEREFORE, on the basis of the foregoing recitals, which form an integral and essential part of this Agreement, the Parties, intending to be legally bound, hereby agree as follows:

1. Grant of Call Option.

(a) Right to Purchase. Subject to the terms and conditions of this Agreement, GCEH hereby irrevocably grants to Alon Paramount the right (the "Call Right"), but not the

obligation, to purchase all or such portion of the Option Units at the Unit Purchase Price (as defined below) as Alon Paramount may designate in the Call Exercise Notice (as defined below) during the 90 day period (the "Option Exercise Period") commencing on the date on which the Company (x) certifies in writing to Alon Paramount that the Refinery has reached Certified Operations, (y) notifies Alon Paramount in writing of the Unit Purchase Price in the event the Unit Purchase Price has been adjusted as provided for in Sections 4(c) and 4(d), and (z) provides Alon Paramount with the information required pursuant to Section 2. "Certified Operations" means that (i) the recommissioning of the Refinery has been completed and (ii) the Refinery has commercially operated for 90 continuous days at 80% or greater of its designed/nameplate refining capacity for each of such 90 days. Without limiting the preceding, Alon Paramount may exercise the Call Right at any time prior to the commencement of the Option Exercise Period by providing the Call Exercise Notice to GCEH.

(b) Procedures.

(i) If Alon Paramount elects to purchase the Option Units pursuant to Section 1, Alon Paramount shall deliver to GCEH on or before the last day of the Option Exercise Period a written irrevocable notice (the "Call Exercise Notice") exercising the Call Right and specifying the number of whole Option Units that Alon Paramount elects to purchase pursuant to the Call Right (the Call Right may not be exercised for fractional Option Units).

(ii) Subject to Section 1(c) below, the closing of any sale of Option Units pursuant to this Section 1 (the "Call Right Closing") shall take place no later than 30 days following receipt by GCEH of the Call Exercise Notice. Alon Paramount shall give GCEH at least five days written notice of the date of closing (the "Call Right Closing Date").

(iii) GCEH shall, at the Call Right Closing, represent and warrant to Alon Paramount in writing that (A) GCEH has full right, title and interest in and to the Option Units, (B) GCEH has all the necessary power and authority and has taken all necessary action to sell such Option Units as contemplated by this Section 1, (C) no more than 100,000 Units of the Company are outstanding and will be outstanding on the Call Right Closing Date, (D) the GCEH Interest is the sole Equity Security of the Company outstanding on the Call Right Closing Date, (E) the Option Units are free and clear of any and all Liens or other mortgages, pledges, security interests, options, rights of first offer, encumbrances or other restrictions or limitations of any nature whatsoever other than those arising as a result of or under the terms of this Agreement or the Operating Agreement, and (F) there are no bankruptcy, reorganization or receivership Proceedings pending, being contemplated by or, to GCEH's knowledge, threatened in writing against GCEH, the Company, or any Affiliate of the Company. Such representations and warranties shall survive the Call Right Closing without expiration.

(c) Consummation of Sale. Alon Paramount shall pay the aggregate Unit Purchase Price for the Option Units that Alon Paramount elects to purchase (such aggregate amount being the "Call Purchase Price") by wire transfer of immediately available funds on the Call Right Closing Date.

(d) Cooperation. GCEH shall take all actions as may be reasonably necessary to consummate the sale contemplated by this Section 1, including, without limitation, entering into

agreements and delivering certificates and instruments and consents as may be deemed necessary or appropriate.

(e) Closing. At the Call Right Closing, GCEH shall deliver to Alon Paramount a certificate or certificates representing the Option Units to be transferred and sold, against receipt of the Call Purchase Price, and Alon Paramount shall execute and deliver a joinder to the Operating Agreement pursuant to which Alon Paramount shall become a party to the Operating Agreement and become a member of the Company.

(f) Consent by the Company. The Company hereby consents to (a) GCEH's entry into this Agreement and the transactions contemplated hereby, (b) the transfer and sale of the Option Units by GCEH to Alon Paramount upon exercise of the Call Right pursuant to this Agreement, and (c) the admission of Alon Paramount as a member of the Company upon a valid and effective exercise of the Call Right in accordance with this Agreement.

2. Unit Purchase Price. In the event Alon Paramount exercises the Call Right hereunder, the purchase price per unit at which GCEH shall be required to transfer and sell each Option Unit (the "Unit Purchase Price") shall be equal to $400 (subject to adjustment as provided for in Sections 4(c) and 4(d)).

3. No Fractional Units or Scrip. No fractional Units or scrip representing fractional Units shall be issued upon the exercise of the Call Right. The Call Right shall be rounded up to the next whole Unit in the event of any adjustments to the Company's Units as provided for in Sections 4(c) and 4(d).

4. Covenants. Without Alon Paramount's prior written consent, during the term hereof (including until the Call Right Closing):

(a) Liens. GCEH shall not create, incur, permit, assume or suffer to exist any Lien or other mortgage, deed of trust, pledge, security interest, assignment, judgment, lien or charge of any kind, including any conditional sale or other title retention agreement, any lease in the nature thereof (including the lien of an attachment, judgment or execution) on the GCEH Interest.

(b) Issuances of Equity Securities; Transfers of Equity Securities. Except as permitted in Sections 4(c) and 4(d), the Company shall not, nor shall the Company permit any of its subsidiaries that directly or indirectly hold any outstanding Equity Securities of Alon Bakersfield or permit Alon Bakersfield to, issue, sell or exchange, agree to issue, sell or exchange, or reserve or set aside for issuance, (i) any Equity Securities that are not outstanding as of the Effective Date (regardless of how designated), whether voting or nonvoting, (ii) any security of any such entity that is a combination of a debt and equity security (including any convertible security) or (iii) any option, warrant or other right to subscribe for, purchase or otherwise acquire any security of any such entity. In addition, the Company shall not permit any issuance or transfer of Equity Securities by its direct or indirect subsidiaries that directly or indirectly hold any Equity Securities of Alon Bakersfield that would or could result in a Change of Ownership. For purposes of this Section 4(b), a "Change of Ownership" shall mean that the Company ceases to own and control, of record and beneficially, directly or indirectly, the same percentage of Equity Securities

of each of its direct and indirectly owned subsidiaries (including Alon Bakersfield) on a fully diluted basis as the Company owns as of the Effective Date. Attached hereto as Schedule 4(b)(i) is a list of all of the Equity Securities issued and outstanding of each of the Company's direct and indirect subsidiaries (including Alon Bakersfield) as of the Effective Date. For the avoidance of doubt, in addition to the transfer of the Option Units to Alon Paramount contemplated by this Agreement, GCEH may transfer or agree to transfer a portion of the GCEH Interest (other than the Option Units) to one or more other Persons, including 7,500 Units to Castleton Commodities International, Ltd. or one of its affiliates. Additionally, attached hereto as Schedule 4(b)(ii) is a summary that describes the senior debt and the mezzanine debt of the Company's direct and indirect subsidiaries (including Alon Bakersfield) as of the Effective Date (collectively, the "Senior/Mezz Debt"). The Company shall not (and shall not permit any of its direct or indirect subsidiaries to) modify, exchange, expand or amend the material terms of the Senior/Mezz Debt as set forth in Schedule 4(b)(ii).

(c) Subdivisions, Combinations and Other Issuances. Without limiting the provisions of Section 4(h), if the Company shall at any time before the expiration of the Option Exercise Period subdivide its Units, by split-up or otherwise, or combine its Units, or issue additional Units as a dividend, the number of Units issuable on the exercise of the Call Right shall forthwith be proportionately increased in the case of a subdivision or unit dividend, or proportionately decreased in the case of a combination. Appropriate adjustments shall also be made to the Unit Purchase Price payable per Unit, but the Call Purchase Price payable for the total percentage of outstanding Units purchasable under the Call Right (as adjusted) shall remain the same. Any adjustment under this Section 4(c) shall become effective at the close of business on the date the subdivision or combination becomes effective, or as of the record date of such dividend, or in the event that no record date is fixed, upon the making of such dividend.

(d) Reclassification, Reorganization and Consolidation. Without limiting the provisions of Section 4(h), in case of any reclassification, capital reorganization, or change in the Equity Securities (including because of a change of control) of the Company (other than as a result of a subdivision, combination, or unit dividend provided for in Section 4(c) above), then the Company shall make appropriate provision so that Alon Paramount shall have the right at any time before the expiration of the Option Exercise Period to purchase, at a total price equal to that payable upon the exercise of the Call Right, the kind and amount of Units and other securities and property receivable in connection with such reclassification, reorganization, or change by Alon Paramount of the same number of Units as were purchasable by Alon Paramount immediately before such reclassification, reorganization, or change. In any such case appropriate provisions shall be made with respect to the rights and interest of Alon Paramount so that the provisions hereof shall thereafter be applicable with respect to any Units or other securities and property deliverable upon exercise hereof, and appropriate adjustments shall be made to the purchase price per Unit payable hereunder, provided the aggregate Call Purchase Price shall remain the same.

(e) Notice of Adjustment. When any adjustment is required to be made in the number or kind of Units purchasable upon exercise of the Call Right or in the Unit Purchase Price, the Company shall promptly notify Alon Paramount of such event and of the number of Units or other securities or property thereafter purchasable upon exercise of the Call Right.

(f) Notice of Proceedings. Promptly after the commencement thereof, the Company shall notify Alon Paramount in writing of any Proceeding pending or threatened in writing against the Company or any of its subsidiaries. Additionally, GCEH shall provide Alon Paramount at least 10 days advance written notice of any bankruptcy, reorganization or receivership Proceedings to be commenced by GCEH, the Company, or any Affiliate of the Company.

(g) Taxes. The Company and GCEH shall duly and timely make payment or deposit of all federal, state and local taxes, assessments or contributions required of the Company, as applicable, except for such taxes, assessments or contributions being contested in good faith in appropriate proceedings.

(h) Operating Agreement. Neither GCEH nor the Company shall modify, amend, replace, or make any changes to the Operating Agreement or adopt a plan of complete or partial liquidation or resolutions providing for or authorizing a liquidation, dissolution, merger, consolidation, or sale of the Company. Attached hereto as Exhibit A is a true, correct, and complete copy of the Operating Agreement, in effect as of the Effective Date.

(i) Existence; Compliance with Law. The Company shall: (A) preserve and maintain its existence and good standing in the state of its organization; (B) qualify and remain qualified as a foreign business entity in every jurisdiction where the failure to be so qualified would reasonably be expected to have a material adverse effect on the Company and its subsidiaries, taken as a whole; (C) comply with the provisions of the Operating Agreement. GCEH and the Company will comply with the requirements of all rules, regulations, orders of any Governmental Authorities having authority or jurisdiction over it.

(j) Information Rights.

(i) *Accuracy*. The Company will maintain true books and records of account in which full and correct entries will be made of all its business transactions pursuant to a system of accounting established and administered in accordance with U.S. generally accepted accounting principles consistently applied (except as noted therein) and will set aside on its books all such proper accruals and reserves as required under GAAP consistently applied.

(ii) *Financial Information*. During the term of this Agreement the Company will furnish to Alon Paramount (A) within 90 days following the end of each fiscal year, annual unaudited consolidated financial statements for each fiscal year of the Company and its subsidiaries, including an unaudited consolidated balance sheet as of the end of such fiscal year, an unaudited consolidated income statement, and an unaudited consolidated statement of cash flows, all prepared in accordance with GAAP; and (B) within 45 days following the end of each fiscal quarter, quarterly unaudited consolidated financial statements for each fiscal quarter of the Company (except the last quarter of the Company's fiscal year), including an unaudited consolidated balance sheet as of the end of such fiscal quarter, an unaudited consolidated income statement, and an unaudited consolidated statement of cash flows, all prepared in accordance with GAAP, subject to changes resulting from normal year-end audit adjustments. If the Company has audited records of any of the foregoing, it will provide those in lieu of the unaudited versions.

(iii) *Status Reports/Site Visits*. During the term of this Agreement the Company will (A) furnish to Alon Paramount quarterly summary reports on the status of the recommissioning of the Refinery and (B) permit Alon Paramount and its representatives access to the Refinery on a quarterly basis during normal working hours to visit the site and discuss with appropriate personnel the recommissioning of the Refinery; provided, however, that the Company shall not be obligated pursuant to this Section 4(j)(iii) to provide access to any information or facilities that it reasonably and in good faith considers to be a trade secret or confidential information (unless covered by an enforceable confidentiality agreement, in form reasonably acceptable to the Company). Alon Paramount shall provide the Company with at least 10 days advance notice of such site visits and such site visits shall not interfere with the recommissioning activities occurring at the Refinery.

(k) Further Assurances. GCEH and the Company shall execute and deliver, or cause to be executed and delivered, upon the request of Alon Paramount, such additional documents, instruments, and agreements as Alon Paramount may reasonably determine to be necessary or advisable to carry out the provisions of this Agreement.

(l) Adequate Assurance of Performance. If, following the granting of relief under 11 U.S.C. § 101 *et seq*. (the "Bankruptcy Code") to a Party as debtor thereunder, this Agreement should be held to be an executory contract under the Bankruptcy Code, then the other Parties shall be entitled to a determination by debtor or any trustee for debtor within 90 days from the date an order for relief is entered under the Bankruptcy Code as to the rejection or assumption of this Agreement in its entirety. In the event of an assumption, the Party seeking determination shall be entitled to adequate assurances as to the future performance of debtor's obligation hereunder and the protection of the interest of the non-debtor Parties.

5. Notices. All notices, requests, consents, claims, demands, waivers and other communications hereunder shall be in writing and shall be deemed to have been given (a) when delivered by hand (with written confirmation of receipt); (b) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent by facsimile or e-mail of a PDF document (with confirmation of transmission) if sent during normal business hours of the recipient, and on the next Business Day if sent after normal business hours of the recipient; or (d) on the third day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Such communications must be sent to the respective Parties at the addresses indicated below (or at such other address for a Party as shall be specified in a notice given in accordance with this Section 5).

If to Alon Paramount:

Alon Paramount Holdings, Inc.
c/o Delek US Holdings, Inc.
7102 Commerce Way
Brentwood, Tennessee 37027
Attention: General Counsel
Fax: (615) 334-8562
Email: legalnotices@delekus.com

If to GCEH or the Company: Global Clean Energy Holdings Inc.
2790 Skypark Drive, Suite 105
Torrance, CA 90505
Attention: Richard Palmer
Fax: (310) 929-1139
Email: rpalmer@gceholdings.com

6. Entire Agreement. This Agreement and the Share Purchase Agreement constitute the sole and entire agreement of the Parties with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings and agreements, both written and oral, with respect to such subject matter.

7. Successor and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective successors and permitted assigns. Alon Paramount shall have the right to assign or transfer this Agreement and its rights hereunder to an Affiliate of Alon Paramount, and such assignee, transferee or recipient shall have, to the extent of such assignment, or transfer, the same rights, benefits and obligations of Alon Paramount. Except as set forth herein, neither this Agreement nor any of the rights of the Parties may otherwise be transferred or assigned by any Party. Any attempted transfer or assignment in violation of this Section 7 shall be void.

8. No Third-Party Beneficiaries. This Agreement is for the sole benefit of the Parties and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person any legal or equitable right, benefit or remedy of any nature whatsoever, under or by reason of this Agreement.

9. Headings. The headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement.

10. Amendment and Modification; Waiver. This Agreement may only be amended, modified or supplemented by an agreement in writing signed by each Party. No waiver by any Party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the Party so waiving. Except as otherwise set forth in this Agreement, no failure to exercise, or delay in exercising, any rights, remedy, power or privilege arising from this Agreement shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

11. Severability. If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal or unenforceable, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

12. Incorporation of Share Purchase Agreement Provisions. Sections 10.8, 10.9, 10.10, 11.14, and 11.15 of the Share Purchase Agreement shall be incorporated into and apply *mutatis mutandis* to this Agreement.

13. Definitions. All capitalized terms used and not defined in this Agreement shall have the meanings ascribed thereto in the Share Purchase Agreement unless expressly provided otherwise in this Agreement, and all rules as to interpretation and usage set forth in the Share Purchase Agreement shall apply hereto.

14. Term of Agreement. This Agreement shall terminate or expire upon the earlier of the Call Right Closing or the expiration of the Option Exercise Period in the event that Alon Paramount fails to provide a Call Exercise Notice prior to the expiration of the Option Exercise Period.

15. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which shall together be deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

16. No Strict Construction. The Parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, 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 of the provisions of this Agreement.

[Signature page follows.]

IN WITNESS WHEREOF, the Parties have executed this Call Option Agreement on the date first written above.

ALON PARAMOUNT HOLDINGS, INC.

By:	/s/ FREDEREC GREEN
Name:	Frederec Green
Title:	EVP

By:	/s/ MARK PAGE
Name:	Mark Page
Title:	EVP

[*Signature Page to Call Option Agreement*]

GLOBAL CLEAN ENERGY HOLDINGS, INC.

By:	/s/ RICHARD PALMER
Name:	Richard Palmer
Title:	President and CEO

GCE HOLDINGS ACQUISITIONS, LLC

By:	/s/ RICHARD PALMER
Name:	Richard Palmer
Title:	President

[*Signature Page to Call Option Agreement*]

Exhibit A

Operating Agreement

[see attached]

Schedule 4(b)(i)

Ownership Equity Securities in Subsidiaries

GCE Holdings Acquisitions, LLC. (the "Company"): 100% of the limited liability company interests are owned by Global Clean Energy Holdings, Inc.

(i) BKRF HCP, LLC, a Delaware limited liability company ("Holdco Pledgor"): 100% of the limited liability company interests are owned by the Company;

(ii) BKRF HCB, LLC, a Delaware limited liability company ("Holdco Borrower"): (a) 100% of the Class A limited liability company interests are owned by Holdco Pledgor; (b) 100% of the Class B limited liability company interests are owned by the senior lenders under that certain Credit Agreement, dated as of May 4, 2020 among the lenders, Opco Pledgor, Opco Borrower, and Orion Energy Partners Investment Agent, LLC, as administrative agent; and (c) 100% of the Class C limited liability company interests, when issued, will be owned by the mezzanine lenders under that certain Credit Agreement, dated as of May 4, 2020 among the lenders, Holdco Pledgor, Holdco Borrower, and Orion Energy Partners Investment Agent, LLC, as administrative agent;

(iii) BKRF OCP, LLC, a Delaware limited liability company ("Opco Pledgor"): 100% of the limited liability company interests are owned by Holdco Borrower;

(iv) BKRF OCB, LLC, a Delaware limited liability company ("Opco Borrower"): 100% of the limited liability company interests are owned by Holdco Pledgor; and

(v) Bakersfield Renewable Fuels, LLC, f/k/a Alon Bakersfield Property, Inc.: 100% of the limited liability company interests are owned by Opco Borrower.

Schedule 4(b)(ii)

Senior/Mezz Debt

Financial Terms.

Senior Debt

Debt	The Borrower will incur up to $300.0MM of senior secured indebtedness under a construction and term loan facility (the "Senior Debt").
Interest Rate:	All amounts outstanding under the Senior Debt will bear interest at a fixed rate per annum of 12.50%, to be payable quarterly in cash at the end of such quarter.
Term:	6.5 years after the closing date.
Financial Covenants	None.
Senior Upside Sharing:	As additional compensation for providing the Senior Debt, the Senior Lenders will be entitled to a Senior Upside Sharing. During the period beginning on the effective date of the term loan facility and ending on the later of (a) the date that is 5 years after the commercial operations date of the project and (b) the date on which the Senior Lenders receive 2.0x Multiple of Invested Capital ("MOIC"), all available free cash flow shall be distributed on a quarterly basis in the following order: · First, 75.0% to Mezzanine Borrower and Common Equity, and 25.0% to Senior Lenders until Senior Lenders receives 2.0x MOIC on a cumulative basis, or a total of $600.0MM, inclusive of principal and interest, and · Thereafter, 95.0% to Mezzanine Borrower and Common Equity, and 5.0% to Senior Lender.
Mezzanine Debt	
Mezz Debt	Up to $65.0MM of secured Mezz Debt shall be made available to the Borrower by the Mezzanine Lenders.
Interest Rate	All amounts outstanding under the Mezz Debt will bear interest at a fixed rate per annum of 15.0%, to be payable quarterly in cash at the end of such quarter.
Maturity	7.5 years after the closing date.
Financial Covenants	None.

Mezz Upside Sharing	All distributions after the Senior Debt payments will be paid to the Mezz Lenders pursuant to customary excess cashflow sweep mechanics until the principal plus interest have been repaid, unless the Mezz Lenders elect to by-pass such cashflow sweep mechanics and instead push the excess cash through the distribution waterfall below. After repayment of the Mezz Debt principal plus interest in full or the Mezz Lenders elect to by-pass the excess cashflow sweep mechanics, any further distributions will be made in the following order and priority: · First, 80.0% to the Mezzanine Lenders and 20.0% to the Common Equity until the Mezzanine Lenders have received cumulative distributions (including interest and principal payments) equal to a 2.0x MOIC; · Second, 65.0% to the Mezzanine Lenders and 35.0% to the Common Equity until the Mezzanine Lenders have received cumulative distributions equal to a 3.0x MOIC; · Third, 50.0% to the Mezzanine Lenders and 50.0% to the Common Equity until the Mezzanine Lenders have received cumulative distributions equal to a 4.0x MOIC; · Fourth, 30.0% to the Mezzanine Lenders and 70.0% to the Common Equity until the Mezzanine Lenders have received cumulative distributions equal to a 99.00x MOIC; and · Thereafter, 100.0% percent to the Common Equity.

Other Terms.

Overview. It is anticipated that the limited liability company agreement of the mezz debt borrower (currently, BKRF HCB, LLC) will contain some or all of the following provisions:

1. No Board seats; however, each group of affiliated Class B members and each group of affiliated Class C members will have Board observer rights – no voting rights.

2. None of the loans will be convertible into equity.

3. The Senior Lenders and Mezz Lenders, as holders of limited liability company units, may be given the right to approve the following actions taken by BKRF HCB, LLC:

   (a) any affiliate transactions on non-arm's length terms;
   (b) any issuance of equity securities of the BKRF HCB, LLC or any of its subsidiaries senior to, or pari passu with the Mezz Lenders Units or Senior Lenders Units, as applicable;
   (c) any change in the form of entity, jurisdiction or tax treatment of BKRF HCB, LLC or any of its subsidiaries;

(d) any significant tax decision;
(e) any reclassification, recapitalization, reorganization or other transaction that would adversely affect the rights of the Senior Lenders or Mezz Lenders with respect to their respective Units; or
(f) any public offering of equity interests of the BKRF HCB, LLC or any of its subsidiaries.

Schedule 4(b)(ii) to Call Option Agreement

Exhibit 10.24
Execution Version

CREDIT AGREEMENT

dated as of

May 4, 2020

among

BKRF OCB, LLC,
as Borrower,

BKRF OCP, LLC,
as Holdings,

THE LENDERS FROM TIME TO TIME PARTY HERETO,

and

ORION ENERGY PARTNERS TP AGENT, LLC,
as Administrative Agent and Collateral Agent

$300,000,000 Senior Secured Term Loan Facility

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Schedule 5.25(e)	-	Environmental and Permitting Milestones

This CREDIT AGREEMENT (this "Agreement") is dated as of May 4, 2020, among BKRF OCB, LLC, a Delaware limited liability company ("Borrower"), BKRF OCP, LLC, a Delaware limited liability company ("Holdings"), each TRANCHE A LENDER (as defined herein) and TRANCHE B LENDER (as defined herein) from time to time party hereto (collectively, the "Lenders" and individually, a "Lender") and ORION ENERGY PARTNERS TP AGENT, LLC , as the Administrative Agent (as defined herein) and the Collateral Agent (as defined herein).

WHEREAS, GCE Holdings Acquisitions, LLC, a Delaware limited liability company ("GCE Holdings"), entered into that certain Share Purchase Agreement, dated as of April 29, 2019 (as amended, amended and restated, supplemented or otherwise modified from time to time, the "SPA"), with Alon Paramount Holdings, Inc., as seller (the "Seller");

WHEREAS, GCE Holdings will assign, and Borrower will assume, the SPA pursuant to an assignment and assumption agreement, whereby Borrower will acquire all of the equity interests of Bakersfield Renewable Fuels, LLC, a Delaware limited liability company (the "Project Company", and such acquisition, the "Acquisition"), as successor to (and formerly known as) Alon Bakersfield Property, Inc., a Delaware corporation;

WHEREAS, each of GCE Holdings and Borrower will assign, and Project Company will assume, all of the Initial Material Project Documents (as defined herein) on or prior to the Tranche A Funding Date (as defined herein) in connection with the Acquisition;

WHEREAS, following the consummation of the Acquisition, Borrower desires Project Company to install, develop, construct, finance and operate a 150 million gallons per year renewable diesel refinery to be located in Bakersfield, California (the "Project");

WHEREAS, in order to finance a portion of the costs of the Acquisition and the development, construction, completion, ownership and operation of the Project and certain other costs, fees and expenses associated therewith and with the financing contemplated herein, as more fully described herein, Borrower has requested Lenders to extend, and Lenders have agreed to extend, on the terms and conditions set forth in this Agreement and the other Financing Documents, a credit facility to Borrower in an aggregate principal amount of $300,000,000, as more fully described herein;

WHEREAS, the credit facility provided hereunder will be secured by the grant to the Collateral Agent, for the benefit of the Secured Parties, of a first priority Lien on the Collateral (subject to Permitted Liens); and

WHEREAS, the Lenders are willing to provide the credit facility described herein upon the terms and subject to the conditions set forth herein and in the other Financing Documents.

NOW, THEREFORE, the parties hereto agree as follows:

ARTICLE I

DEFINITIONS

Section 1.01 Certain Defined Terms. As used in this Agreement, the following terms shall have the following meanings:

"ABL Intercreditor Agreement" means an intercreditor agreement to be entered into among the providers of Indebtedness under any Permitted Working Capital Facility, Borrower, Holdings, Project Company, the Administrative Agent and the Collateral Agent, which shall be in form and substance reasonably satisfactory to the Loan Parties and the Required Lenders.

"Accrued Interest" means the payment-in-kind of interest in respect of the Loans by increasing the outstanding principal amount of the Loans.

"Acquisition" has the meaning assigned to such term in the recitals.

"Additional Material Project Document" means any contract, or series of related contracts, entered into by Borrower or Project Company with respect to the Project that provides for the payment by Borrower or Project Company of, or the provision to Borrower or Project Company of, goods or services with a value in excess of $1,000,000 in the aggregate over its term.

"Administrative Agent" means Orion Energy Partners TP Agent, LLC, in its capacity as administrative agent for the Lenders hereunder, and any successor thereto pursuant to Article VIII.

"Administrative Questionnaire" means a questionnaire, in a form supplied by the Administrative Agent, completed by a Lender.

"Affected Property" means any property of Borrower or Project Company that suffers an Event of Loss.

"Affiliate" means, with respect to a specified Person, another Person that at such time directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified.

"Agents" means, collectively, the Administrative Agent and the Collateral Agent.

"Agent Reimbursement Letter" means that certain Agent Reimbursement Letter, dated as of the Closing Date, among Borrower, the Administrative Agent and the Collateral Agent.

"Agreement" has the meaning assigned to such term in the preamble.

"Anti-Corruption Laws" means any law of any jurisdiction relating to corruption in which any Loan Party performs business, including the FCPA, the U.K. Bribery Act, and where applicable, legislation relating to corruption enacted by member states and signatories implementing the OECD Convention Combating Bribery of Foreign Officials.

"Anti-Corruption Prohibited Activity" means the offering, payment, promise to pay, authorization or the payment of any money or the offer, promise to give, given, or authorized giving of anything of value, to any Government Official or to any person under the circumstances where the Person, such Person's Affiliate's or such Person's representative knew or had reason to know that all or a portion of such money or thing of value would be offered, given or promised, directly or indirectly, to any Government Official, for the purpose of (a) influencing any act or decision of such Government Official in his or her official capacity, (b) inducing such Government Official to do or omit to do any act in relation to his or her lawful duty, (c) securing any improper advantage, or (d) inducing such Government Official to influence or affect any act or decision of any Governmental Authority, in each case, in order to assist such Person in obtaining or retaining business for or with, or in directing business to, any Person.

"Anti-Money Laundering Laws" means the U.S. Currency and Foreign Transaction Reporting Act of 1970, as amended, and all money laundering-related laws of the United States and other jurisdictions where such Person conducts business or owns assets, and any related or similar law issued, administered or enforced by any government authority.

"Applicable Law" means with respect to any Person, property or matter, any of the following applicable thereto: any constitution, writ, injunction, statute, law, regulation, ordinance, rule, judgment, rule of common law, order, decree, court decision, Authorization, approval, concession, grant, franchise, license, agreement, directive, guideline, policy, requirement, or other governmental restriction or any similar form of decision of, or determination by, or any interpretation or administration of any of the foregoing, by any Governmental Authority, whether in effect as of the date hereof or thereafter and in each case as amended including Environmental Laws.

"ARB" means ARB, Inc., a California corporation.

"ARB EPC Agreement" means that certain Cost Plus Fixed-Fee Turnkey Agreement with a Guaranteed Maximum Price for the Engineering, Procurement and Construction of the Bakersfield Renewable Fuels Project, dated as of April 30, 2020, by and between GCE Holdings and ARB, as required to be assigned pursuant to Section 4.02(r)(i) by GCE Holdings to, and assumed by, Project Company on the Tranche A Funding Date.

"ARB Parent Guarantee" means that certain Parent Guarantee, dated as of April 30, 2020, issued by Primoris Services Corporation, a Delaware corporation, in favor of GCE Holdings, as required to be assigned pursuant to Section 4.02(r)(i) by GCE Holdings to, and assumed by, Project Company on the Tranche A Funding Date.

"Assignment and Assumption" means an assignment and assumption entered into by a Lender and an assignee (with the consent of any party whose consent is required by Section 10.04), in the form of Exhibit A or any other form approved by the Administrative Agent.

"Authorization" means any consent, waiver, variance, registration, filing, declaration, agreement, notarization, certificate, license, tariff, approval, permit, orders, authorization, exception or exemption from, by or with any Governmental Authority, whether given by express

action or deemed given by failure to act within any specified period, and all corporate, creditors', shareholders' and partners' approvals or consents.

"Authorized Representative" means, with respect to any Person, the chief executive officer, the chief financial officer or any other appointed officer of such Person as may be designated from time to time by such Person in writing. Any document or certificate delivered under the Financing Documents that is signed by an Authorized Representative may be conclusively presumed by the Administrative Agent and Lenders to have been authorized by all necessary corporate, limited liability company or other action on the part of the relevant Person.

"Availability Period" means the period from the Closing Date to and including the earliest to occur of (a) the date that is twenty (20) months following the Closing Date, (b) the Term Conversion Date and (c) the Maturity Date.

"Bail-In Action" means the exercise of any Write-Down and Conversion Powers by the applicable EEA Resolution Authority in respect of any liability of an EEA Financial Institution.

"Bankruptcy" means with respect to any Person (i) commencement by such Person of any case or other proceeding (x) under any existing or future law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, reorganization or relief of debtors, seeking to have an order for relief entered with respect to it, or seeking to adjudicate it a bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to it or its debts, or (y) seeking appointment of a receiver, trustee, custodian or other similar official for it or for all or any substantial part of its assets; or (ii) commencement against such Person of any case or other proceeding of a nature referred to in clause (x) or (y) above which (a) results in the entry of an order for relief or any such adjudication or appointment or (b) remains undismissed, undischarged or unbonded for a period of sixty (60) days; or (iii) commencement against such Person of any case or other proceeding seeking issuance of a warrant of attachment, execution or similar process against all or any substantial part of its assets which results in the entry of an order for any such relief which shall not have been vacated, discharged, or stayed or bonded pending appeal within 60 days from the entry thereof; or (iv) such Person shall take any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the acts set forth in clause (i), (ii) or (iii) above; or (v) such Person shall admit in writing its inability to pay its debts as they become due or shall make a general assignment for the benefit of its creditors.

"Beneficial Ownership Certification" means a certification regarding beneficial ownership as required by the Beneficial Ownership Regulation.

"Beneficial Ownership Regulation" means 31 C.F.R. § 1010.230.

"Board" means the Board of Governors of the Federal Reserve System of the United States of America.

"Borrower" has the meaning assigned to such term in the preamble.

"Borrowing Request" means a request by Borrower for a Loan in accordance with Section 2.01 and substantially in the form of Exhibit C.

"Business Day" means a day other than a Saturday, Sunday or other day on which commercial banks in New York City, New York are authorized or required by law to close.

"CA Foreign Qualification" means, collectively, a Foreign Limited Liability Company Application for Registration and such other documents as are necessary for Project Company to be qualified to do business in the State of California.

"CA Secretary of State" means the Secretary of State of the State of California.

"Called Principal" means the aggregate principal amount of the Loans that are to be prepaid pursuant to Section 2.06(a), Section 2.06(b) (other than Section 2.06(b)(i), 2.06(b)(ii) and 2.06(b)(v)) or has become or is declared to be immediately due and payable pursuant to the last paragraph of Section 7.01, as the context requires (it being acknowledged that, for purposes of this definition, Loans will be repaid in each such Section on a "first-in, first-out" basis).

"Capital Expenditures" means with respect to any Person, the aggregate of all expenditures and costs (whether paid in cash or accrued as liabilities and including that portion of payments under Capital Lease Obligations that are capitalized on the balance sheet of such Person) by such Person and its Subsidiaries which are required to be capitalized under GAAP on a balance sheet of such Person.

"Capital Lease Obligations" means, with respect to any Person, the obligations of such Person to pay rent or any other amounts under any lease of (or other arrangements conveying the right to use) real or personal property, which obligations are required to be classified and accounted for as capital leases on a balance sheet of such Person in accordance with GAAP.

"Capital Stock" means, with respect to any Person, any and all shares, interests, participations and/or rights in or other equivalents (however designated, whether voting or nonvoting, ordinary or preferred) in the equity or capital of such Person, now or hereafter outstanding, and any and all rights, warrants or options exchangeable for or convertible into any of the foregoing.

"Cash Equivalents" means:

(a) direct obligations of the United States of America or any agency thereof or obligations guaranteed by the United States of America or any agency thereof, in each case with maturities not exceeding two years;

(b) time deposit accounts, certificates of deposit and money market deposits maturing within 180 days of the date of acquisition thereof issued by a bank or trust company that is organized under the laws of the United States of America, or any state thereof having capital, surplus and undivided profits in excess of $250,000,000 and whose long-term debt, or whose parent holding company's long-term debt, is rated A (or such similar equivalent rating or higher) by at least one nationally recognized statistical rating organization (as defined in Rule 436 under the Securities Act);

(c) repurchase obligations with a term of not more than 180 days for underlying securities of the types described in clause (a) above entered into with a bank meeting the qualifications described in clause (b) above;

(d) commercial paper, maturing not more than one year after the date of acquisition, issued by a corporation (other than an Affiliate of Borrower) organized and in existence under the laws of the United States of America or any foreign country recognized by the United States of America with a rating at the time as of which any investment therein is made of P-1 (or higher) according to Moody's or A-1 (or higher) according to S&P;

(e) securities with maturities of two years or less from the date of acquisition issued or fully guaranteed by any state, commonwealth or territory of the United States of America, or by any political subdivision or taxing authority thereof, and rated at least A by S&P or A-2 by Moody's;

(f) shares of mutual funds whose investment guidelines restrict 95% of such funds' investments to those satisfying the provisions of clauses (a) through (e) above;

(g) taxable and tax-exempt auction rate securities rated AAA by S&P and Aaa by Moody's and with a reset of less than 90 days;

(h) money market funds that (i) comply with the criteria set forth in Rule 2a-7 under the Investment Company Act of 1940, (ii) are rated A or higher by S&P and A-2 or higher by Moody's and (iii) have portfolio assets of at least $500,000,000;

(i) funds/cash uninvested in a trust or deposit account of the Depositary Bank; and

(j) cash.

"Castleton Commodities" means Castleton Commodities Merchant Trading L.P., a Delaware limited partnership.

"CCI Hedging Amendment" has the meaning given to such term in the definition of CCI Hedging Documentation.

"CCI Hedging Documentation" means, collectively, (a) that certain ISDA Master Agreement, dated as of October 15, 2018, by and between GCE Holdings and Castleton Commodities, (b) that certain Schedule to the ISDA Master Agreement, dated as of October 15, 2018, by and between GCE Holdings and Castleton Commodities, (c) that certain Credit Support Annex to the Schedule to the ISDA Master Agreement, dated as of October 15, 2018, by and between GCE Holdings and Castleton Commodities, (d) that certain Transaction Confirmation, dated as of October 16, 2018, by and between GCE Holdings and Castleton Commodities, (e) that certain Transaction Confirmation, dated as of October 29, 2019, by and between GCE Holdings and Castleton Commodities and (f) the Revised Confirmation, dated as of April 28, 2020 (the "CCI Hedging Amendment"), by and between GCE Holdings and Castleton Commodities.

"Change in Law" means (a) the adoption of any law, rule or regulation after the date of this Agreement, (b) any change in any law, rule or regulation or in the interpretation or application

thereof (including any change in the reserve percentage under, or other change in, Regulation D) by any Governmental Authority after the date of this Agreement or (c) compliance by any Lender (or, for purposes of Section 2.09(b), by any Lending Office of such Lender or by such Lender's holding company, if any) with any request, guideline or directive (whether or not having the force of law) of any Governmental Authority made or issued after the date of this Agreement. Notwithstanding anything herein to the contrary, (x) the Dodd Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (y) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case be deemed to be a "Change in Law", regardless of the date enacted, adopted or issued.

"Change of Control" means:

(a) Sponsor shall cease to own, directly or indirectly, beneficially or of record, Capital Stock representing 100% in the aggregate of the economic and voting interests in Holdings (other than (i) the Capital Stock in one or more parent companies of Holdings owned by the Equity Shareholders, (ii) without duplication of the foregoing, the Class B Units and the Class C Units (as defined in the HoldCo Borrower LLC Agreement) in the HoldCo Borrower (which, as of the Tranche A Funding Date, will be held by the Lender Equity Owners and the HoldCo Lender Equity Owners, respectively) and (iii) the Capital Stock in HoldCo Pledgor Disposed directly or indirectly by Sponsor to one or more non-Affiliated Persons, so long as, in the case of this clause (iii), the Net Available Amount of any Disposition thereof are contributed to the Loan Parties and so long as Sponsor maintains Capital Stock representing 50.1% in the aggregate of the economic and voting interests in Holdings);

(b) Holdings shall cease to beneficially and directly own 100% (on a fully diluted basis) of the aggregate voting and economic interests in the Capital Stock of Borrower; or

(c) On the Tranche A Funding Date (after the consummation of the Acquisition) and thereafter, Borrower shall cease to beneficially and directly own 100% (on a fully diluted basis) of the aggregate voting and economic interests in the Capital Stock of Project Company.

"Change Order" has the meaning assigned to such term in Section 6.09(b).

"Class B Units" has the meaning assigned to such term in the HoldCo Borrower LLC Agreement.

"Closing Date" means the date on or following the date of execution of this Agreement on which all conditions precedent specified in Section 4.01 are satisfied (or waived by the Administrative Agent and the Lenders in their sole discretion in accordance with Section 10.02).

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

"Collateral" means (i) all Property of Borrower, (ii) all Property of Project Company, (iii) the Capital Stock of Borrower owned by Holdings and (iv) the Capital Stock of Project Company

owned by Borrower, in each case, now owned or hereafter acquired, and which is intended to be subject to the security interests or Liens granted pursuant to any of the Security Documents.

"Collateral Accounts" means (i) the Revenue Account, (ii) the Operating Account, (iii) the Construction Account, (iv) the Debt Service Reserve Account, (v) the Liquidity and Capex Project Account, (vi) the Distribution Suspense Account and (vii) the Extraordinary Receipts Account.

"Collateral Agent" means Orion Energy Partners TP Agent, LLC, in its capacity as collateral agent for the Secured Parties under the Security Documents, and any successor thereto pursuant Article VIII.

"COMA" means that certain Control, Operations and Maintenance Agreement, dated as of the Closing Date, between Borrower and GCE Operating, as required to be assigned pursuant to Section 4.02(r)(i) by Borrower to, and assumed by, Project Company, on the Tranche A Funding Date.

"Commitment" means, with respect to each Lender at any time, the Tranche A Commitments or the Tranche B Commitments, individually or collectively, as the context may require.

"Commodity Hedging Documentation" means the definitive documentation to be entered into between the applicable Loan Party and the applicable commodity hedging counterparties under and in accordance with the Commodity Hedging Program.

"Commodity Hedging Manager" means a Person selected by Borrower and approved by the Administrative Agent, acting in its sole discretion, to develop the Commodity Hedging Program and, following the Commodity Hedging Program Date, implement the Commodity Hedging Program.

"Commodity Hedging Program" means a commodity hedging program related to the Project and developed by the Commodity Hedging Manager, which program, and any modifications thereto, must be approved by the Administrative Agent (i) with respect to the approval of the program and any material modifications thereto, in its sole discretion and (ii) with respect to the approval of any immaterial modifications thereto, such approval not to be unreasonably withheld, conditioned or delayed.

"Commodity Hedging Program Date" means the date on which the Administrative Agent shall have approved the Commodity Hedging Program, acting in its sole discretion.

"Completion Date" means the date that Substantial Completion is achieved, as certified by an Authorized Representative of Borrower and confirmed by the Independent Engineer pursuant to Section 4.05(b).

"Condemnation" means any taking, seizure, confiscation, requisition, exercise of rights of eminent domain, public improvement, inverse condemnation, condemnation, expropriation, nationalization or similar action of or proceeding by any Governmental Authority affecting the Project.

"Consent to Assignment" means each Consent to Assignment contemplated hereby to be executed by a Material Project Counterparty substantially in the form of Exhibit D (with such changes as the Administrative Agent may reasonably agree).

"Construction Account" means, subject to any Permitted Account Transfer, an account in the name of Borrower or Project Company and established with a Depositary Bank that is designated by Borrower to be the "Construction Account".

"Construction Budget" means a budget setting forth all expected Project Costs through Final Completion delivered to the Lenders on the Closing Date pursuant to Section 4.01(f) of this Agreement.

"Construction Requisition" means a certificate, signed by an Authorized Representative of Borrower, substantially in the form of Exhibit M.

"Construction Schedule" means a schedule setting forth the expected schedule and milestones for construction of the Project through Final Completion delivered to the Lenders on the Closing Date pursuant to Section 4.01(f) of this Agreement.

"Consultant" has the meaning assigned to such term in Section 10.03(a)(ii).

"Control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise. "Controlling" and "Controlled" have meanings correlative thereto.

"Control Agreement" means a blocked account control agreement in form and substance reasonably satisfactory to the Administrative Agent and the Collateral Agent which provides for Collateral Agent to have "control" (as defined in Section 8-106 of the UCC, as such term relates to investment property (other than certificated securities or commodity contracts), or as used in Section 9-106 of the UCC, as such term relates to commodity contracts, or as used in Section 9-104(a) of the UCC, as such term relates to deposit accounts).

"Date Certain" means March 31, 2022.

"Debt Payment Deficiency" has the meaning assigned to such term in Section 5.29(e)(ii)(A).

"Debt Prepayment Offer" has the meaning assigned to such term in Section 2.06(b)(iv).

"Debt Service Reserve Account" means, subject to any Permitted Account Transfer, an account in the name of Borrower or Project Company and established with a Depositary Bank that is designated by Borrower to be the "Debt Service Reserve Account".

"Debt Service Reserve Funding Amount" means, in respect of Loans funded on each Funding Date, interest that is payable on such Loans in accordance with Section 2.08 for the 20-month period after such Funding Date (excluding any interest that may be paid in kind (in lieu of payment in cash) in accordance with Section 2.08(c)).

"Default" means any event, condition or circumstance that, with notice or lapse of time or both, would (unless cured or waived) become an Event of Default.

"Depositary Bank" means an account bank at which Borrower maintains any Collateral Account.

"Disbursement Date" has the meaning assigned to such term in Section 4.04.

"Disposition" has the meaning assigned to such term in Section 2.06(b)(iii).

"Disposition Proceeds Prepayment Offer" has the meaning assigned to such term in Section 2.06(b)(iii).

"Distribution Suspense Account" means, subject to any Permitted Account Transfer, an account in the name of Borrower or Project Company and established with a Depositary Bank that is designated by Borrower to be the "Distribution Suspense Account".

"Dollars" or "$" refers to the lawful currency of the United States of America.

"ECF Prepayment Offer" has the meaning assigned to such term in Section 2.06(b)(v).

"ECF Sweep Amount" means, for any Quarterly Date, (i) if the amount of Net Cash Flow as of such Quarterly Date is at least equal to the ECF Target Amount as of such Quarterly Date, such ECF Target Amount or (ii) if the amount of Net Cash Flow as of such Quarterly Date is less than the ECF Target Amount as of such Quarterly Date, such amount of Net Cash Flow.

"ECF Target Amount" means, for any Quarterly Date, the amount of Net Cash Flow that will cause the remaining outstanding principal amount of the Loans, after giving effect to the application of such amount as a prepayment, to be equal to the Target Debt Balance applicable to such Quarterly Date at such time.

"EEA Financial Institution" means (a) any credit institution or investment firm established in any EEA Member Country which is subject to the supervision of an EEA Resolution Authority, (b) any entity established in an EEA Member Country which is a parent of an institution described in clause (a) of this definition, or (c) any financial institution established in an EEA Member Country which is a subsidiary of an institution described in clause (a) or (b) of this definition and is subject to consolidated supervision with its parent.

"EEA Member Country" means any of the member states of the European Union, Iceland, Liechtenstein, and Norway.

"EEA Resolution Authority" means any public administrative authority or any person entrusted with public administrative authority of any EEA Member Country (including any delegee) having responsibility for the resolution of any EEA Financial Institution.

"Environment" means soil, surface water and groundwater (including potable water, groundwater and wetlands), the land, surface or subsurface strata or sediment, indoor and ambient air, and natural resources such as flora and fauna or otherwise defined in any Environmental Law.

"Environmental Claim" means any administrative or judicial action, suit, proceeding, notice, claim or demand by any Person seeking to enforce any obligation or responsibility arising under or relating to Environmental Law or alleging or asserting liability for investigatory costs, cleanup or other remedial costs, legal costs, environmental consulting costs, governmental response costs, damages to natural resources or other property, personal injuries, fines or penalties related to (a) the presence, or Release into the Environment, of any Hazardous Material at any location, whether or not owned by the Person against whom such claim is made, or (b) any violation of, or alleged violation of, or liability arising under any Environmental Law. The term "Environmental Claim" shall include, without limitation any claim by any Person for damages, contribution, indemnification, cost recovery, compensation or injunctive relief or costs associated with any remediation plan, in each case, under any Environmental Law.

"Environmental Consultant" means WZI, Inc. or another similarly qualified consultant approved by the Administrative Agent in its sole discretion.

"Environmental Laws" means any Applicable Laws regulating or imposing liability or standards of conduct concerning or relating to pollution or the protection of human health and safety, the environment, natural resources or special status species and their habitat, including all Applicable Laws concerning the presence, use, manufacture, generation, transportation, Release, threatened Release, disposal, arrangement for disposal, dumping, discharge, treatment, storage or handling of Hazardous Materials.

"Environmental and Permitting Milestones" means the environmental and permitting milestones set forth on Schedule 5.26(e).

"EPC Agreements" means the ARB EPC Agreement, the Gas Pipeline EPC Agreement, the Haldor Engineering Agreement and the H&H EPC Agreement.

"EPC Contractors" means each Material Project Counterparty party to an EPC Agreement.

"Equity Contributions" shall mean contributions of capital in the form of equity, which the Sponsor provides pursuant to an equity contribution agreement or otherwise, directly or indirectly, to the Borrower.

"Equity Contribution Requirement" has the meaning assigned to such term in Section 5.25(n).

"Equity Kicker" has the meaning assigned to such term in Section 4.02(u).

"Equity Shareholders" means the ultimate shareholders and/or other equity owners of Holdings as of the Closing Date, as set forth on Schedule 1.01(b).

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended from time to time.

"ERISA Affiliate" means any trade or business (whether or not incorporated) that, together with Borrower, is treated as a single employer under Sections 414(b), (c), (m) or (o) of the Code.

"ERISA Event" means (a) a Reportable Event with respect to any Pension Plan, (b) the failure by any Pension Plan to satisfy the minimum funding standard (within the meaning of Section 412 of the Code or Section 302 of ERISA) applicable to such plan, whether or not waived, (c) the filing of a notice of intent to terminate a Pension Plan in a distress termination (as described in Section 4041(c) of ERISA), (d) a complete or partial withdrawal by Borrower or any ERISA Affiliate from a Multiemployer Plan or notification that a Multiemployer Plan is in reorganization or insolvent (within the meaning of Title IV of ERISA), (e) the imposition or incurrence of any liability under Title IV of ERISA, other than PBGC premiums due but not delinquent under Section 4007 of ERISA, upon Borrower or any ERISA Affiliate, (f) the institution by the PBGC of proceedings to terminate a Pension Plan or Multiemployer Plan, (g) the appointment of a trustee to administer any Pension Plan under Section 4042 of ERISA, or (h) the imposition of a Lien upon Borrower pursuant to Section 430(k) of the Code or Section 303(k) of ERISA.

"EU Bail-In Legislation Schedule" means the EU Bail-In Legislation Schedule published by the Loan Market Association (or any successor person), as in effect from time to time.

"Event of Abandonment" means (a) the abandonment by Project Company of all or a material portion of the Site or its activities to operate or maintain the Project, which abandonment shall be deemed to have occurred if Borrower or Project Company fails to operate the Project for a period of thirty (30) or more consecutive days; provided that any suspension or delay in development, construction, completion or operation of the Project caused by a force majeure event or a forced or scheduled outage of the Project shall not constitute an "Event of Abandonment" for a period of up to one hundred eighty (180) days, so long as, to the extent feasible during such force majeure event or outage, Borrower is diligently attempting to restart the development, construction, operation or completion, as the case may be, of the Project during such period; or (b) the written announcement by Borrower or, after the Tranche A Funding Date, Project Company of its intention to do any of the foregoing in clause(a).

"Event of Default" has the meaning assigned to such term in Section 7.01.

"Event of Loss" means any loss of, destruction of or damage to, or any Condemnation or other taking of any property of Borrower.

"Event of Loss Prepayment Offer" has the meaning assigned to such term in Section 2.06(b)(ii).

"Excluded Property" has the meaning assigned to such term in the Security Agreement.

"Excluded Taxes" means, with respect to any Agent, any Lender or any other recipient of any payment to be made by or on account of any obligation of any Loan Party hereunder, (a) Taxes imposed on or measured by net income and franchise Taxes (imposed in lieu of net income tax), in each case, imposed by the jurisdiction under the laws of which such recipient is organized, in which its principal office (or other fixed place of business) is located or, in the case of any Lender in which its applicable Lending Office is located or in which such recipient has a present or former connection (other than a connection arising from such recipient having executed, delivered, become a party to, this Agreement, or received payments, received or perfected a security interest under or performed its obligations under any Financing Document, engaged in any other

transaction pursuant to or enforced any Financing Document or sold or assigned an interest in any Loan or any Financing Document), (b) any branch profits Taxes imposed by the jurisdictions listed in clause (a) of this definition, (c) any Taxes imposed as a result of the failure of any Agent, any Lender or any such other recipient to comply with Section 2.11(e)(i), (d) in the case of an Agent or a Lender (other than an assignee pursuant to a request by Borrower under Section 2.13), any United States federal withholding Tax that is imposed on amounts payable to such Agent or Lender under the laws effective at the time such Agent or Lender becomes a party hereto (or designates a new Lending Office), except to the extent that such Agent or Lender (or its assignor, if any) was entitled, at the time of designation of a new Lending Office (or assignment), to receive additional amounts from Borrower with respect to such withholding Tax pursuant to Section 2.11(a), and (e) any United States federal withholding Taxes imposed under FATCA.

"Executive Hiring Plan" means the executive hiring plan set forth on Schedule 5.26(b).

"Extraordinary MPD Proceeds" has the meaning assigned to such term in Section 2.06(b)(i).

"Extraordinary Receipts" has the meaning assigned to such term in Section 5.29(f)(i)(A).

"Extraordinary Receipts Account" means, subject to any Permitted Account Transfer, an account in the name of Borrower or Project Company and established with a Depositary Bank that is designated by Borrower to be the "Extraordinary Receipts Account".

"ExxonMobil" means ExxonMobil Oil Corporation, a New York corporation.

"ExxonMobil Offtake Agreement" means that certain Product Offtake Agreement, dated as of April 10, 2019, by and between GCE Holdings and ExxonMobil, as amended by that certain Amendment and Waiver Letter Agreement, dated as of March 31, 2020, by and between GCE Holdings and Exxon Mobile and as assigned by GCE Holdings to, and as assumed by, Project Company on the Tranche A Funding Date.

"FATCA" means Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with) and any current or future regulations or official interpretations thereof.

"FCPA" means the United States Foreign Corrupt Practices Act of 1977, as amended.

"Federal Funds Effective Rate" means, for any day, the weighted average (rounded upwards, if necessary, to the next 1/100 of 1%) of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers, as published on the next succeeding Business Day by the Federal Reserve Bank of New York, or, if such rate is not so published for any day that is a Business Day, the average (rounded upwards, if necessary, to the next 1/100 of 1%) of the quotations for such day for such transactions received by the Administrative Agent from three Federal funds brokers of recognized standing selected by it.

"Feedstock Execution Plan" means the plan focused on feedstock supply, detailed on Schedule 5.26(a).

"Final Completion" means the satisfaction of each of the following conditions:

(a) Substantial Completion shall have been achieved;

(b) all Punch List items shall have been completed;

(c) Administrative Agent and the Lenders shall have received duly executed acknowledgments of payments and final releases of mechanics' and materialmen's liens, in the form attached to the applicable Material Construction Contract or otherwise in form and substance reasonably acceptable to the Title Company, from each Material Project Counterparty party to such Material Construction Contract;

(d) the Project has produced at least 19,392,961 total gallons of Renewable Diesel over a period of sixty (60) consecutive days (as verified in writing by the Independent Engineer to Agent and the Lenders pursuant to Section 5.27);

(e) the achievement of "Final Completion" (howsoever defined) under each of the EPC Agreements; and

(f) Borrower shall have delivered to Administrative Agent and the Lenders a certificate of an Authorized Representative of Borrower certifying the satisfaction of each of the above conditions.

"Final Completion Date" means date on which Final Completion has been achieved.

"Financial Model" means the projections of the Loan Parties' operating results (on a quarterly basis over a period ending on the Maturity Date) delivered to the Lenders on or prior to the Closing Date pursuant to Section 4.01(f).

"Financing Documents" means this Agreement, each Note (if requested by a Lender), the Agent Reimbursement Letter, the Security Documents, the HoldCo Lender Backstop Agreement and each certificate, agreement, instrument, waiver, consent or document executed by a Loan Party, identified by its terms as a "Financing Document" and delivered by or on behalf of a Loan Party to Agent or any Lender in connection with or pursuant to any of the foregoing.

"Flood Certificate" means a "Standard Flood Hazard Determination Form" of the Federal Emergency Management Agency and any successor Governmental Authority performing a similar function.

"Flood Program" means the National Flood Insurance Program created by the U.S. Congress pursuant to the National Flood Insurance Act of 1968, the Flood Disaster Protection Act of 1973, the National Flood Insurance Reform Act of 1994 and the Flood Insurance Reform Act of 2004.

"Flood Zone" means areas having special flood hazards as described in the National Flood Insurance Act of 1968.

"Foreign Plan" means any employee pension benefit plan, program, policy, arrangement or agreement maintained or contributed to by any Loan Party or with respect to which any Loan Party could reasonably be expected to have any liability, in each case with respect to employees employed outside the United States (as such term is defined in Section 3(10) of ERISA) (other than any arrangement with the applicable Governmental Authority).

"Funding Date" has the meaning assigned to such term in Section 2.01(d).

"Funding Office" means the office specified from time to time by the Administrative Agent as its funding office by notice to Borrower and the Lenders.

"Funds Flow Memorandum" means the memorandum, in form and substance satisfactory to the Administrative Agent detailing the proposed flow, and use, of the Loan proceeds on the Closing Date or the Tranche A Funding Date, as applicable.

"GAAP" means generally accepted accounting principles in effect from time to time in the United States of America, applied on a consistent basis.

"Gas Pipeline EPC Agreement" means that certain Engineering, Procurement and Construction Services Agreement, dated as of April 30, 2020, by and between GCE Holdings and Underground, as required to be assigned pursuant to Section 4.02(r)(i) by GCE Holdings to, and as assumed by, Project Company on the Tranche A Funding Date.

"Gas Supply Commercial Milestones" means the gas supply commercial milestones set forth on Schedule 5.26(d).

"GCE Holdings" has the meaning assigned to such term in the recitals.

"GCE Operating" means GCE Operating Company, LLC, a Delaware limited liability company.

"Government Official" means an official of a Governmental Authority.

"Governmental Authority" means any federal, regional, state or local government, or political subdivision thereof or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative functions of or pertaining to government and having jurisdiction over the Person or matters in question, including all agencies and instrumentalities of such governments and political subdivisions.

"Governmental Rule" means, with respect to any Person, any law, rule, regulation, ordinance, order, code, treaty, judgment, decree, directive, guideline, policy or similar form of decision of any Governmental Authority binding on such Person.

"Guarantee" means as to any Person (the "*guaranteeing person*"), any obligation of (a) the guaranteeing person or (b) another Person (including any bank under any letter of credit), if to induce the creation of such obligation of such other Person, the guaranteeing person has issued a reimbursement, counterindemnity or similar obligation, in either case guaranteeing or in effect guaranteeing any Indebtedness, leases, dividends or other obligations (the "*primary obligations*")

of any other third Person (the "*primary obligor*") in any manner, whether directly or indirectly, including any obligation of the guaranteeing person, whether or not contingent, (w) to purchase any such primary obligation or any Property constituting direct or indirect security therefor, (x) to advance or supply funds (i) for the purchase or payment of any such primary obligation or (ii) to maintain working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency of the primary obligor, (y) to purchase Property, securities or services, in each case, primarily for the purpose of assuring the owner of any such primary obligation of the ability of the primary obligor to make payment of such primary obligation or (z) otherwise to assure or hold harmless the owner of any such primary obligation against loss in respect thereof; provided that the term Guarantee shall not include endorsements of instruments for deposit or collection in the ordinary course of business. The amount of any Guarantee of any guaranteeing person shall be deemed to be the lower of (A) an amount equal to the stated or determinable amount of the primary obligation in respect of which such Guarantee is made and (B) the maximum amount for which such guaranteeing person may be liable pursuant to the terms of the instrument embodying such Guarantee, unless such primary obligation and the maximum amount for which such guaranteeing person may be liable are not stated or determinable, in which case the amount of such Guarantee shall be such guaranteeing person's maximum reasonably anticipated liability in respect thereof as determined by Borrower in good faith.

"Guaranteed Obligations" means, with respect to Holdings or Project Company, the Obligations whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest and fees that accrue after the commencement by or against any Loan Party or any Affiliate thereof of any proceeding under any debtor relief law naming such Person as the debtor in such proceeding, regardless of whether such interest and fees are allowed claims in such proceeding.

"Guarantors" has the meaning assigned to such term in Section 9.01(a).

"H&H EPC Agreement" means that certain Lump Sum Engineering, Procurement and Construction Contract, dated as of April 30, 2020, by and between GCE Holdings and H&H Engineering Construction, Inc., a California corporation, as required to be assigned pursuant to Section 4.02(r)(i) by GCE Holdings to, and as assumed by, Project Company on the Tranche A Funding Date.

"Haldor Catalyst Supply Agreement" means that certain Catalyst Supply Agreement, dated as of April 30, 2020, by and between GCE Holdings and Haldor Topsoe, Inc., a Texas corporation, as required to be assigned pursuant to Section 4.02(r)(i) by GCE Holdings to, and as assumed by, Project Company on the Tranche A Funding Date.

"Haldor Engineering Agreement" means that certain Engineering Agreement, dated as of October 24, 2018, by and between GCE Holdings and Haldor Topsoe, Inc., a Texas corporation, as amended by that certain Amendment No. 1 to Engineering Agreement, dated as of June 28, 2019 and the Amendment and Consent to Assignment, dated as of May 1, 2020, by and between GCE Holdings and Haldor Topsoe, Inc. and as required to be assigned pursuant to Section 4.02(r)(i) by GCE Holdings to, and as assumed by, Project Company on the Tranche A Funding Date.

"Haldor Guarantee Agreement" means that certain Guarantee Agreement, dated as of October 24, 2018, by and between GCE Holdings and Haldor Topsøe A/S, a company organized and existing under the laws of Denmark, as required to be assigned pursuant to Section 4.02(r)(i) by GCE Holdings to, and as assumed by, Project Company on the Tranche A Funding Date.

"Haldor License Agreement" means that certain License Agreement, dated as of October 24, 2018, as amended by that certain Amendment and Consent to Assignment, dated as of May 1, 2020, by and between GCE Holdings and Haldor Topsøe A/S, a company organized and existing under the laws of Denmark, as required to be assigned pursuant to Section 4.02(r)(i) by GCE Holdings to, and as assumed by, Project Company on the Tranche A Funding Date.

"Haldor Purchase Agreement" means that certain Purchase Order No. 20200504-002, dated as of May 1, 2020, by and between GCE Holdings and Haldor Topsoe, Inc., a Texas corporation, as required to be assigned pursuant to Section 4.02(r)(i) by GCE Holdings to, and as assumed by, Project Company on the Tranche A Funding Date.

"Hazardous Material" means, but is not limited to, any solid, liquid, gas, odor, radiation or other substance or emission which is a contaminant, pollutant, dangerous substance, toxic substance, regulated substance, hazardous waste, subject waste, hazardous material or hazardous substance which is or becomes regulated by applicable Environmental Laws or which is classified as hazardous or toxic under applicable Environmental Laws (including gasoline, diesel fuel or other petroleum hydrocarbons, polychlorinated biphenyls, asbestos and urea formaldehyde foam insulation) or with respect to which liability or standards of conduct are imposed under any Environmental Laws.

"HoldCo Administrative Agent" has the meaning assigned to the term "Administrative Agent" under the HoldCo Credit Agreement.

"HoldCo Borrower" means BKRF HCB, LLC, a Delaware limited liability company.

"HoldCo Borrower LLC Agreement" means that certain Amended and Restated Limited Liability Company Agreement of BKRF HCB, LLC, to be entered into on the Closing Date, among HoldCo Borrower and Holdco Pledgor as of the Closing Date, substantially in the form of Exhibit L.

"HoldCo Collateral Agent" has the meaning assigned to the term "Collateral Agent" under the HoldCo Credit Agreement.

"HoldCo Credit Agreement" means that certain HoldCo Credit Agreement, dated as of May 4, 2020, among HoldCo Borrower, HoldCo Pledgor, the HoldCo Lenders from time to time party thereto, the HoldCo Administrative Agent and the HoldCo Collateral Agent.

"HoldCo Lender Backstop Agreement" means that certain HoldCo Lender Backstop Agreement, dated as of the date hereof, among Borrower, HoldCo Borrower, the HoldCo Lenders, the Administrative Agent and the Collateral Agent.

"HoldCo Lenders" has the meaning assigned to the term "Lenders" under the HoldCo Credit Agreement.

"HoldCo Lender Equity Owners" has the meaning assigned to the term "HoldCo Lender Equity Owners" under the HoldCo Credit Agreement.

"HoldCo Pledgor" has the meaning assigned to the term "Pledgor" under the HoldCo Credit Agreement.

"Holdings" has the meaning assigned to such term in the preamble.

"IE Requisition Certificate" means a certificate delivered by the Independent Engineer substantially in the form of Exhibit N.

"Indebtedness" of any Person means, without duplication, all (a) indebtedness for borrowed money and every reimbursement obligation with respect to letters of credit, bankers' acceptances or similar facilities, (b) obligations evidenced by bonds, debentures, notes or other similar instruments, (c) obligations to pay the deferred purchase price of property or services, except accounts payable and accrued expenses arising in the ordinary course of business and payable within ninety (90) days past the original invoice or billing date thereof, (d) liabilities under interest rate or currency swap agreements, interest rate or currency collar agreements and all other agreements or arrangements designed to protect against fluctuations in interest rates and currency exchange rates, (e) the capitalized amount (determined in accordance with GAAP) of all payments due or to become due under all leases and agreements to enter into leases required to be classified and accounted for as a capital lease in accordance with GAAP, (f) reimbursement obligations (contingent or otherwise) pursuant to any performance bonds or collateral security, (g) Indebtedness of others described in clauses (a) through (f) above secured by (or for which the holder thereof has an existing right, contingent or otherwise, to be secured by) a Lien on the property of such Person, whether or not the respective Indebtedness so secured has been assumed by such Person and (h) Indebtedness of others described in clauses (a) through (g) above guaranteed by such Person. The Indebtedness of any Person shall include the Indebtedness of any partnership in which such Person is a general partner to the extent such Person is liable therefor as a result of such Person's general partner interest in such partnership, except to the extent the terms of such Indebtedness provide that such Person is not liable therefor.

"Indemnified Party" has the meaning assigned to such term in Section 10.03(b).

"Indemnified Taxes" means Taxes imposed on or with respect to any payment made by or on account of any obligation of any Loan Party under this Agreement or any Financing Document other than Excluded Taxes and Other Taxes.

"Independent Auditor" means any "big four" accounting firm as selected by Borrower and notified to the Administrative Agent, or such other firm of independent public accountants of recognized national standing in the United States selected by Borrower and acceptable to the Administrative Agent, acting reasonably.

"Independent Engineer" means Spearman Energy Consulting, LLC or such other independent engineer of recognized national standing in the United States selected by Borrower and acceptable to the Administrative Agent, acting reasonably.

"Industrial Track Agreement" means that certain Industry Track Agreement, dated as of June 7, 2011, between BNSF Railway Company, a Delaware corporation, and Seller, as assigned by Seller to, and as assumed by, Project Company on or before the Tranche A Funding Date.

"Initial Material Project Documents" means:

(a) the Material Construction Contracts;

(b) the ARB Parent Guarantee;

(c) the ExxonMobil Offtake Agreement;

(d) the SusOils License Agreement;

(e) the Industrial Track Agreement;

(f) the Mojave Spur Pipeline Ownership Agreement;

(g) the Mojave Spur Pipeline Operating Agreement; and

(h) the COMA;

provided that (i) notwithstanding anything to the contrary herein or in any other Financing Document, the Pre-Acquisition Material Project Documents shall be "Material Project Documents" only following the Acquisition on the Tranche A Funding Date and (ii) notwithstanding anything to the contrary herein or in any other Financing Document (including the delivery obligation under Section 4.01(d)), no agreement shall be an "Initial Material Project Document" until the Tranche A Funding Date.

"Insurance Advisor" means Willis Towers Watson, or another nationally recognized insurance advisor selected by the Administrative Agent with the approval of the Administrative Agent, acting reasonably, and, so long as no Event of Default has occurred and is continuing, Borrower, acting reasonably.

"Intended Tax Treatment" has the meaning assigned to such term in Section 2.01(f).

"Intercreditor Agreements" means the ABL Intercreditor Agreement and the Term Intercreditor Agreement.

"Interest Rate" means at any time, a rate per annum equal to 12.50%.

"Investment" means for any Person (a) the acquisition (whether for cash, Property of such Person, services or securities or otherwise) of Capital Stock, bonds, notes, debentures, debt securities, partnership or other ownership interests or other securities of, or any Property constituting an ongoing business, line of business, division or business unit of or constituting all or substantially all the assets of, or the making of any capital contribution to, any other Person, (b) the making of any advance, loan or other extension of credit to, any other Person (including the purchase of Property from another Person subject to an understanding or agreement, contingent or

otherwise, to resell such Property to such Person, but excluding any such advance, loan or extension of credit having a term not exceeding ninety (90) days representing the purchase price of inventory or supplies sold in the ordinary course of business), (c) the entering into of any Guarantee with respect to Indebtedness or other liability of any other Person, and (d) any other investment that would be classified as such on a balance sheet of such Person in accordance with GAAP.

"Legal Requirements" means, as to any Person, any requirement under any Authorization by any Governmental Authority or under any Governmental Rule, in each case applicable to or binding upon such Person or any of its properties or to which such Person or any of its property is subject.

"Lender Equity Owners" means each of the Lenders (or their designees) listed on Annex I.

"Lenders" has the meaning assigned to such term in the recitals.

"Lender Target Project Capacity" means, with respect to the Project for any measurement period, the production of at least 373,358 gallons per day of Renewable Diesel on average over such measurement period.

"Lending Office" means the office designated as such beneath the name of a Lender set forth on Annex IV of this Agreement or such other office of such Lender as such Lender may specify in writing from time to time to the Administrative Agent and the Borrower.

"Lien" means any mortgage, charge, pledge, lien (statutory or other), privilege, security interest, hypothecation, collateral assignment or preference, priority or other security agreement, mandatory deposit arrangement, preferential arrangement or other encumbrance upon or with respect to any property of any kind, real or personal, movable or immovable, now owned or hereafter acquired (including any conditional sale or other title retention agreement, any financing lease having substantially the same economic effect as any of the foregoing and the filing of any financing statement under the Uniform Commercial Code or comparable law of the relevant jurisdiction).

"Liquidity and Capex Project Account" means, subject to any Permitted Account Transfer, an account in the name of Borrower or Project Company and established with a Depositary Bank that is designated by Borrower to be the "Liquidity and Capex Project Account".

"Loan" has the meaning assigned to such term in Section 2.01(b).

"Loan Parties" means, collectively, Holdings, Borrower and, following the Tranche A Funding Date, Project Company.

"Loss Proceeds" means insurance proceeds, condemnation awards or other similar compensation, awards, damages and payments or relief (exclusive, in each case, of proceeds of business interruption, workers' compensation, employees' liability, automobile liability, builders' all risk liability and general liability insurance) with respect to any Event of Loss.

"Majority Lenders" means, at any time, Lenders having Loans and Commitments outstanding that represent more than 50% of the sum of all Loans and Commitments then outstanding.

"Market Consultant (Feedstock)" means The Jacobsen Publishing Company or another similarly qualified consultant approved by the Administrative Agent in its sole discretion.

"Market Consultant (Renewable Diesel)" means ICF International, Inc. or another similarly qualified consultant approved by the Administrative Agent in its sole discretion.

"Material Adverse Effect" means, with respect to any Loan Party, a material adverse effect on: (a) the business, assets, properties (including the Site), operations or financial condition of the Loan Parties, taken as a whole; (b) the ability of the Loan Parties, taken as a whole, to perform their material obligations under the Financing Documents in accordance with the terms thereof; (c) the rights and remedies of the Secured Parties, taken as a whole, under the Financing Documents; or (d) the rights or remedies of such Loan Party under the Material Project Documents, taken as a whole.

"Material Construction Contracts" means:

(a) each EPC Agreement;

(b) the Haldor License Agreement;

(c) the Haldor Guarantee Agreement;

(d) the Haldor Catalyst Supply Agreement;

(e) the Haldor Purchase Agreement; and

(f) the Reactor Purchase Agreement;

provided that notwithstanding anything to the contrary herein or in any other Financing Document (including the delivery obligation under Section 4.01(d)), no agreement shall be a "Material Construction Contract" until the Tranche A Funding Date.

"Material Project Counterparty" means each Person (other than GCE Holdings, any Loan Party, any Agent or any Lender) from time to time party to any Material Project Document.

"Material Project Documents" means:

(a) the Initial Material Project Documents;

(b) any Additional Material Project Documents; and

(c) any Replacement Project Document in respect of any of the foregoing;

provided that (i) notwithstanding anything to the contrary herein or in another other Financing Document, the Pre-Acquisition Material Project Documents shall be "Material Project

Documents" only following the Acquisition on the Tranche A Funding Date and (ii) notwithstanding anything to the contrary herein or in any other Financing Document (including the delivery obligation under Section 4.01(d)), no agreement shall be an "Initial Material Project Document" until the Tranche A Funding Date.

"Material Project Documents Prepayment Offer" has the meaning assigned to such term in Section 2.06(b)(i).

"Maturity Date" means the earliest to occur of (a) November 4, 2026, and (b) the date upon which the entire outstanding principal amount of the Loans, together with all unpaid interest, fees, charges and costs, shall be accelerated in accordance with this Agreement.

"Maximum Liquidity and Capex Amount" has the meaning assigned to such term in Section 5.29(b)(ii)(A)(1)(z).

"Mojave Spur Pipeline Operating Agreement" means that certain Operating Agreement for the Mojave Spur Pipeline, dated as of January 29, 1997, by and between Kern River Cogeneration Company, a California general partnership, Sycamore Cogeneration Company, a California general partnership, Texaco Exploration and Production, Inc., a Delaware corporation, State Street Bank and Trust Company of California, N.A., and Texaco Refining and Marketing Inc., a Delaware corporation.

"Mojave Spur Pipeline Ownership Agreement" means that certain Ownership Agreement for the Mojave Spur Pipeline, dated as of January 29, 1997, by and among Texaco Exploration and Production, Inc., a Delaware corporation, Kern River Cogeneration Company, a California general partnership, Sycamore Cogeneration Company, a California general partnership, State Street Bank and Trust Company of California, N.A., and Texaco Refining and Marketing, Inc., a Delaware corporation.

"Monthly Date" means the last Business Day of any month.

"Moody's" means Moody's Investors Service, Inc., or any successor to the rating agency business thereof.

"Mortgage" means that certain Deed of Trust, Security Agreement, Assignment of Rents and Leases and Fixture Filing, to be entered into on the Tranche A Funding Date, from Project Company, as trustor, to the Title Company, as the trustee, for the benefit of the Collateral Agent, as beneficiary, which agreement shall be in the form attached hereto as Exhibit Q.

"Mortgaged Property" means any Property that is subject to a Mortgage.

"Multiemployer Plan" means a multiemployer plan as defined in Section 4001(a)(3) of ERISA that is subject to Title IV of ERISA to which any Loan Party contributes or is obligated to contribute, or with respect to which any Loan Party has or could reasonably be expected to have any liability.

"Net Available Amount" means:

(a) in respect of any Extraordinary MPD Proceeds, the aggregate amount of payments received by any Loan Party or their respective Affiliates in respect of such proceeds net of (i) all reasonable and documented out-of-pocket costs and expenses (if any) and, if applicable, reasonable transaction costs (including reasonable legal and accounting fees and expenses), incurred or reasonably anticipated to be incurred by the applicable Loan Party in connection with the collection of such proceeds; (ii) federal, state, provincial, foreign and local Taxes (other than any income taxes) reasonably estimated to be actually payable by the Loan Parties within the current or the immediately succeeding tax year in connection therewith to the extent such amounts were not deducted in determining the amount of such proceeds; and (iii) the Swap Portion Amount associated with unwinding any Senior Secured Swap Agreements;

(b) in the case of any Event of Loss, the aggregate amount of Loss Proceeds received by any Loan Party or any of their respective Affiliates in respect of such Event of Loss, net of (i) all reasonable and documented out-of-pocket costs and expenses (if any) and, if applicable, reasonable transaction costs (including reasonable legal and accounting fees and expenses), incurred or reasonably anticipated to be incurred by the applicable Loan Party in connection with the collection of such proceeds; (ii) federal, state, provincial, foreign and local Taxes (other than any income taxes) reasonably estimated to be actually payable by the Loan Parties within the current or the immediately succeeding tax year in connection therewith to the extent such amounts were not deducted in determining the amount of such proceeds; and (iii) the Swap Portion Amount associated with unwinding any Senior Secured Swap Agreements; and

(c) in the case of any Disposition, the aggregate amount received by any Loan Party or any of their respective Affiliates in respect of such Disposition, net of (i) all reasonable and documented out-of-pocket costs and expenses (if any) and, if applicable, reasonable transaction costs (including reasonable legal and accounting fees and expenses), incurred or reasonably anticipated to be incurred by the applicable Loan Party in connection with the collection of such proceeds; (ii) federal, state, provincial, foreign and local Taxes (other than any income taxes) reasonably estimated to be actually payable by the Loan Parties within the current or the immediately succeeding tax year in connection therewith to the extent such amounts were not deducted in determining the amount of such proceeds; (iii) the Swap Portion Amount associated with unwinding any Senior Secured Swap Agreements; and (iv) (x) the principal amount, premium or penalty, if any, and interest, breakage costs or other amounts of any Indebtedness (other than Indebtedness under the Financing Documents or other Indebtedness secured by a Lien on the Collateral) that is secured by the property subject to such Disposition and is required to be repaid in connection with such Disposition, to the extent such amounts were not deducted in determining the amount of such proceeds and (y) a reasonable reserve determined by a financial officer (or any other officer performing equivalent duties thereof) of Borrower in its reasonable business judgment and solely to the extent required under the applicable purchase agreement for any purchase price adjustments (including working capital adjustments or adjustments attributable to seller's indemnities and representations and warranties to purchaser in respect of such Disposition) expressly contemplated by the purchase agreement relating to such Disposition.

"Net Cash Flow" means, as of each Quarterly Date, the amount of funds available in the Revenue Account as of such date after giving effect to the withdrawals, transfers and payments specified in clauses (A) through (E) of Section 5.29(b)(ii) on or prior to such date.

"Non-Recourse Parties" has the meaning assigned to such term in Section 10.13.

"Note" has the meaning assigned to such term in Section 2.05(b)(ii).

"Obligations" means all advances to, and debts (including Accrued Interest, interest accruing after the maturity of the Loan and interest accruing after the filing of any Bankruptcy), liabilities, obligations, Prepayment Premium, covenants and duties of, any Loan Party arising under any Financing Document, or otherwise with respect to any Loan, in each case whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest and fees that accrue after the commencement by or against any Loan Party or any Affiliate thereof of any proceeding under any debtor relief law naming such Person as the debtor in such proceeding, regardless of whether such interest and fees are allowed claims in such proceeding.

"Officer's Certificate" means, with respect to any Loan Party, a certificate signed by an Authorized Representative of such Loan Party.

"Operating Account" means, subject to any Permitted Account Transfer, an account in the name of Borrower or Project Company and established with a Depositary Bank that is designated by Borrower to be the "Operating Account".

"Operating Budget" means a proposed annual operating plan and budget prepared by Borrower in accordance with Section 5.20(a), of (a) anticipated Project Revenues, (b) anticipated Operating Expenses, (c) anticipated Capital Expenditures and (d) anticipated payments in connection with any Permitted Indebtedness, in each case, detailed by quarter for the following calendar year, which annual operating plan and budget shall be in a form reasonably satisfactory to the Administrative Agent.

"Operating Expenses" means any and all of the expenses paid or payable by or on behalf of the Loan Parties in relation to the operation and maintenance (except as set forth below) of the Project, including consumables, payments under any operating lease, taxes (including franchise taxes, property taxes and sales taxes and excluding income taxes), insurance (including the costs of premiums and deductibles and brokers' expenses), Capital Lease Obligations and purchase money obligations (to the extent permitted under Section 6.02(b)), payments under the applicable Material Project Documents and the other applicable Project Documents which are contemplated by the then-current Operating Budget, costs and fees attendant to obtaining and maintaining in effect the Authorizations relating to the Project payable during such period, payments made to security, police services, legal, accounting and other professional fees attendant to any of the foregoing items payable during such period and other expenses set forth in the Operating Budget (including payments to Affiliates of the Loan Parties for the provision of administrative and management services (to the extent set forth in the Operating Budget)), but exclusive of Capital Expenditures and payments in respect of payments of principal and interest in respect of the Obligations or any other Indebtedness. Operating Expenses do not include non-cash charges, including depreciation, amortization, income taxes, non-cash taxes or other bookkeeping entries of a similar nature.

"Organizational Documents" means, with respect to any Person, (i) in the case of any corporation, the certificate of incorporation and by-laws (or similar documents) of such Person, (ii) in the case of any limited liability company, the certificate of formation and operating agreement (or similar documents) of such Person, (iii) in the case of any limited partnership, the certificate of formation and limited partnership agreement (or similar documents) of such Person, (iv) in the case of any general partnership, the partnership agreement (or similar document) of such Person and (v) in any other case, the functional equivalent of the foregoing.

"Other Taxes" means any and all present or future stamp, court or documentary, intangible, recording, filing or similar Taxes or any other excise or property Taxes, charges or similar levies arising from any payment made under any Financing Document or from the execution, delivery, performance, registration or enforcement of, from the receipt or perfection of a security interest under, or otherwise with respect to, any Financing Document. For the avoidance of doubt, "Other Taxes" shall not include any Excluded Taxes.

"Participant" has the meaning assigned to such term in Section 10.04(f).

"Participant Register" has the meaning assigned to such term in Section 10.04(f).

"PBGC" means the Pension Benefit Guaranty Corporation referred to and defined in ERISA and any successor entity performing similar functions.

"Pension Plan" means any employee pension benefit plan as defined in Section 3(2) of ERISA (other than a Multiemployer Plan) that is subject to the provisions of Title IV or Section 302 of ERISA, or Section 412 of the Code, and in respect of which any Loan Party is (or, if such plan were terminated, would under Section 4069 of ERISA be deemed to be) an "employer" as defined in Section 3(5) of ERISA or with respect to which any Loan Party has or could reasonably be expected to have any liability.

"Performance Tests" means (a) the "Performance Test" (howsoever defined) in the ARB EPC Agreement, (b) performance tests that are substantially equivalent to the "Performance Test" (howsoever defined) in each of the other EPC Agreements and satisfactory to the Required Lenders (in consultation with the Independent Engineer) or (c) "Commissioning Tests" (howsoever defined) in each of the EPC Agreements.

"Permitted Account Transfer" means, with respect to any Collateral Account, the opening of a new account in the Project Company's name substantially concurrently with the closing of the same account in the Borrower's name, in each case, following the Tranche A Funding Date and so long as such account is subject to Project Company's entry into a Control Agreement substantially similar to the Control Agreement in respect of such Collateral Account prior to such transfer and all other steps taken to perfect the security interests purported to be created by the Security Documents in such new account are taken.

"Permitted Contest Conditions" means, with respect to any Loan Party, a contest, pursued in good faith, challenging the enforceability, validity, interpretation, amount or application of any law, tax or other matter (legal, contractual or other) by appropriate proceedings timely instituted if (a) such Loan Party diligently pursues such contest, (b) such Loan Party establishes adequate reserves with respect to the contested claim if and to the extent required by GAAP and (c) such

contest (i) could not reasonably be expected to have a Material Adverse Effect and (ii) does not involve any material risk or danger of any criminal or unindemnified civil liability being incurred by the Administrative Agent or the Lenders.

"Permitted Hedging Activities" means a Swap Agreement entered into with a Permitted Hedging Counterparty that hedges the Loan Parties' exposure to fluctuations in the prices of renewable diesel, feedstock or environmental attributes.

"Permitted Hedging Counterparty" means a counterparty to a Swap Agreement, in its capacity as counterparty to such Swap Agreement, if and to the extent that such counterparty is or was a Lender or an Affiliate thereof that has, or whose obligations are guaranteed by an entity that has, a credit rating of at least BBB+ by S&P or Baa1 by Moody's with respect to its long term unsecured debt on the date such Swap Agreement was entered into.

"Permitted Indebtedness" has the meaning assigned to such term in Section 6.02.

"Permitted Lien" means, with respect to any Loan Party, any of the following:

(a) Liens arising by reason of:

(i) taxes, assessments or governmental charges either secured by a bond or which are not yet due or payable, or which are being contested pursuant to the Permitted Contest Conditions;

(ii) security, pledges or deposits in the ordinary course of business for payment of workmen's compensation or unemployment insurance or other types of social security benefits; and

(iii) good faith deposits or pledges incurred or created in connection with or to secure the performance of bids, tenders, contracts (other than contracts for the payment of money), leases, statutory obligations, surety bonds or appeal bonds entered into in the ordinary course of business or under Applicable Law.

(b) Liens of mechanics, carriers, landlords, warehousemen, materialmen, laborers, repairmen's, employees or suppliers or any similar Liens arising by operation of law incurred in the ordinary course of business with respect to obligations which are not due or, which are adequately bonded, and which are being contested pursuant to the Permitted Contest Conditions;

(c) Liens arising out of judgments, orders or awards that have been adequately bonded, are fully covered by insurance (subject to a customary deductible) or with respect to which a stay of execution has been obtained pending an appeal or proceeding for review pursuant to the Permitted Contest Conditions;

(d) Liens arising with respect to zoning restrictions, easements, licenses, reservations, covenants, rights-of-way, utility easements, building restrictions and other similar charges or encumbrances on the use of real property which, individually or in the aggregate, do not materially detract from the value of the affected property and do not materially interfere with the ordinary conduct of the business of such Loan Party;

(e) Liens or the interests of lessors to secure purchase money obligations permitted under Section 6.03(c); provided that such Lien encumbers only the specific goods or equipment so purchased and proceeds thereof;

(f) Liens arising under ERISA and Liens arising under the Code with respect to an employee benefit plan (as defined in Section 3(2) of ERISA) that do not constitute an Event of Default under Section 7.01(i);

(g) Liens created under the Security Documents;

(h) Liens securing obligations under any Permitted Working Capital Facility on the applicable Loan Party's accounts receivable or proceeds arising from the sale of the following categories of inventory: (x) feedstock, including soybean oil, camelina oil and other plant-based oil and animal fat and (y) finished products, including renewable diesel, jet fuel and gas and other similar output or products;

(i) (x) Liens on deposits of cash securing obligations under Swap Agreements constituting Permitted Hedging Activities approved by the Administrative Agent in accordance with Section 6.14 and (y) on and after the Commodity Hedging Program Date, Liens permitted under the Commodity Hedging Program (up to the amount approved by the Required Lenders pursuant to its approval right in the definition thereof) (so long as the terms and conditions of the Commodity Hedging Program related to such Liens shall have been satisfied and such Liens are subject to the Term Intercreditor Agreement);

(j) Liens or pledges of deposits of cash, in an amount not to exceed $600,000 in the aggregate, securing (i) bonds or other surety obligations entered into in the ordinary course of business or under Applicable Law and (ii) reimbursement obligations with respect to letters of credit to the extent permitted under Section 6.02(i)(ii);

(k) (i) Liens arising solely by virtue of any statutory or common law provision relating to banker's liens, rights of set-off or similar rights and remedies and burdening only deposit accounts or other funds maintained with a creditor depository institution, in each case, granted in the ordinary course of business in favor of such creditor depositary institution, provided that no such deposit account is a dedicated cash collateral account or is subject to restrictions against access by the depositor in excess of those set forth by regulations promulgated by the Board and no such deposit account is intended by Borrower to provide collateral to the depository institution and (ii) Liens in favor of a banking or other financial institution arising as a matter of law or in the ordinary course of business under customary general terms and conditions encumbering deposits or other funds maintained with a financial institution (including the right of setoff) and that are within the general parameters customary in the banking industry or arising pursuant to such banking institution's general terms and conditions, including any such Liens of each Depositary Bank over each applicable Collateral Account;

(l) [Reserved];

(m) all exceptions disclosed in the Title Policy;

(n) Liens or the interests of lessors to secure purchase money obligations permitted under Section 6.02(b); provided that such Lien encumbers only the specific goods, equipment or software so financed, any accessions thereto, proceeds thereof and related books and records;

(o) Liens or pledges of deposits of cash securing deductibles, self-insurance, co-payment, co-insurance, retentions or similar obligations to providers or property, casualty or liability insurance in the ordinary course of business;

(p) Liens not otherwise permitted hereunder so long as the aggregate outstanding principal amount of obligations of Borrower or its Subsidiaries secured thereby does not exceed $500,000 at any one time; and

(q) Liens that extend, renew or replace in whole or in part a Lien referred to above.

"Permitted Working Capital Facility" means one or more revolving credit facilities (which may also provide for the issuance of letters of credit thereunder) of the Loan Parties satisfying the following conditions: (a) such Indebtedness is incurred to finance the working capital requirements of the Loan Parties; (b) the aggregate principal amount of such Indebtedness does not exceed $25,000,000; (c) such Indebtedness has no make-whole or similar prepayment premium; (d) such Indebtedness has no lien and/or payment priorities among the holders of obligations (including any "first-out" or "last-out" tranches); (e) the rate per annum applicable to such Indebtedness does not exceed a customary London interbank (or replacement thereof) rate plus 6.00% or base rate plus 5.00% (or such greater rate per annum with the prior written consent of the Required Lenders, in their sole discretion); (f) such Indebtedness does not require the payment of aggregate fees in excess of 2.00% of the principal amount of such Indebtedness (or such greater fees with the prior written consent of the Required Lenders, in their sole discretion); and (g) the providers of such Indebtedness (or an agent on their behalf) shall have executed the ABL Intercreditor Agreement.

"Person" means any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, Governmental Authority or other entity.

"Post-Default Rate" means a rate per annum which is equal to the sum of 2.00% per annum *plus* the Interest Rate.

"Pre-Acquisition Material Project Documents" means, collectively, the Industrial Track Agreement, the Mojave Spur Pipeline Operating Agreement and the Mojave Spur Pipeline Ownership Agreement.

"Prepayment Offer Deadline" has the meaning assigned to such term in Section 2.06(c)(iii).

"Prepayment Premium" means, with respect to any Called Principal, an amount equal to the projected amount of interest that would be due on the Called Principal from the date of such prepayment to the 32-month anniversary of the applicable Funding Date (assuming the Called Principal was not prepaid or repaid during such period), as reasonably calculated by the Administrative Agent. An example of the Prepayment Premium calculation is set forth on Annex II.

"Prepayment Premium Event" has the meaning assigned to such term in Section 2.06(c)(iv).

"Project" has the meaning assigned to such term in the recitals.

"Project Company" has the meaning assigned to such term in the recitals.

"Project Company Joinder" means a joinder agreement, substantially in the form of Exhibit W attached hereto, to be entered into by Project Company on the Tranche A Funding Date.

"Project Costs" means the following costs and expenses incurred or to be incurred on or prior to the Term Conversion Date in accordance with the Construction Budget in connection with the ownership, acquisition, development, design, engineering, procurement, construction, installation, equipping, assembly, inspection, testing, completion, start-up, operation and financing of the Project:

(a) all amounts payable under the Material Construction Contracts and the other Project Documents (including any reserves established for the payment of Remaining Costs pursuant to this Agreement), any contractor bonuses, site leasing and preparation costs, costs related to acquisition, development and construction of facilities, including for the receipt of feedstock, catalyst and other inputs to, and to transport or deliver renewable diesel and other outputs from, the Project, and all other amounts payable under the Project Documents prior to Final Completion, including contingency provided for in the Construction Budget and amounts payable in order to complete the Punch Lists;

(b) financing, advisory, legal, accounting and other fees;

(c) all other Project-related costs, including feedstock and fuel-related costs and prepaid feedstock and fuel costs, any development costs (including funding any mitigation measures (such as community projects and the purchase of certain nearby residences) required in connection with the Project), management services fees and expenses and costs and expenses to complete the construction and financing of the Project;

(d) contingency funds, required reserves, start-up costs and initial working capital costs;

(e) property, sales, and other non-income Taxes due in respect of the Project;

(f) Operating Expenses incurred prior to the Term Conversion Date;

(g) costs and expenses incurred with the negotiation and preparation of the Financing Documents and the Project Documents;

(h) interest (including interest during construction), fees and other amounts payable under the Financing Documents; and

(i) funding requirements of the Debt Service Reserve Account as specified in the definition of "Debt Service Reserve Funding Amount".

"Project Documents" means, without duplication, the Material Project Documents and each other agreement related to the development, construction, operation, maintenance, management, administration, ownership or use of the Project, the sale of renewable diesel therefrom, the provision of feedstocks, catalyst and other services thereto and Real Property rights and interests relating to the Project, in each case, entered into by, or assigned to, Borrower or Project Company.

"Project Document Modification" has the meaning assigned to such term in Section 6.09(a)(i).

"Project Revenues" means, for any period (without duplication), all revenue received by or on behalf of the Loan Parties during such period, interest paid in respect of any Collateral Accounts including proceeds from any business interruption insurance and any other receipts otherwise arising or derived from or paid or payable to the Loan Parties under the Project Documents or otherwise in respect of the Project.

"Projections" has the meaning assigned to such term in Section 3.12(b).

"Property" means any right or interest in or to property of any kind whatsoever, whether real, personal or mixed and whether tangible or intangible.

"Prudent Industry Practices" means those practices, methods, equipment, specifications and standards of safety and performance, as the same may change from time to time, as are commonly used by renewable diesel refinery projects in the United States, as applicable, of a type and size similar to the Project as good, safe and prudent engineering practices in connection with the design, construction, operation, maintenance, repair and use of electrical and other equipment, facilities and improvements of such projects, with commensurate standards of safety, performance, dependability, efficiency and economy. "Prudent Industry Practices" does not necessarily mean one particular practice, method, equipment specification or standard in all cases and shall not be interpreted to require the adoption or implementation of any particular best or most optimal practice, but is instead intended to encompass a broad range of acceptable practices, methods, equipment specifications and standards.

"Punch List" has the meaning assigned to such term (howsoever defined) in each of the applicable EPC Agreements.

"Qualified CEO" means (i) Richard Palmer or (ii) any natural person in the position of chief executive officer of any Loan Party, its parent companies or Affiliates, who shall have been appointed in accordance with Section 5.28.

"Qualified Officer" means (a)(i) any Qualified President, (ii) each of Noah Verleun, Gary McDonald, Mariah Mandt and Mark Dennis and (iii) a chief financial officer and a senior vice president of commercial operations of any Loan Party, its parent companies or Affiliates, on and after their appointment in accordance with Section 5.28 or (b) any natural person in a position substantially similar to a position contemplated by clause (a) and who shall have been appointed in accordance with Section 5.28.

"Qualified Officer Event" has the meaning assigned to such term in Section 5.28.

"Qualified President" means (i) Tom Rizzo, (ii) any other Qualified Officer reasonably suitable for the position of president or (iii) any natural person in the position of president of any Loan Party, its parent companies or Affiliates, who shall have been appointed in accordance with Section 5.28.

"Quarterly Date" means the last Business Day of September, December, March and June in each fiscal year, the first of which shall be the first such day after the date hereof.

"Rail Consultant" means PLG Consulting or another similarly qualified consultant approved by the Administrative Agent in its sole discretion.

"Rail Development Milestones" means the rail development milestones set forth on Schedule 5.26(c).

"Reactor Purchase Agreement" means that certain Purchase Order No. 20200504-001, dated as of May _____, 2020, between Mangiarotti S.p.A., an Italian public limited company, and GCE Holdings, as required to be assigned pursuant to Section 4.02(r)(i) by GCE Holdings to, and assumed by, Project Company on the Tranche A Funding Date.

"Real Property" means all right, title and interest of Project Company in and to any and all parcels of real property (including the Site) owned, leased or operated by Project Company together with all of Project Company's interests in all improvements and appurtenant fixtures, equipment, personal property, easements and other property and rights incidental to the ownership, lease or operation thereof.

"Refinery Performance Test" means the performance test conducted by Borrower to determine the Project's achievement of clause (b) of the definition of "Substantial Completion" and clause (d) of "Final Completion".

"Refinery Performance Test Report" has the meaning assigned to such term in Section 5.26(b).

"Register" has the meaning assigned to such term in Section 10.04(c).

"Regulation D" means Regulation D of the Board.

"Regulation U" means Regulation U of the Board.

"Reinvestment Notice" means a written notice executed by a Qualified Officer of Borrower stating no Default or Event of Default has occurred and is continuing and that Borrower intends and expects to use all or a specified portion, as applicable, of the Net Available Amount of Extraordinary MPD Proceeds or the proceeds from an Event of Loss or the proceeds of a Disposition, as applicable, that will be used (a) with respect to any Event of Loss, to repair, restore or replace assets affected by such Event of Loss or (b) with respect to the receipt of Extraordinary MPD Proceeds or any Disposition, to acquire or repair assets useful in the business of Borrower and Project Company, in each case, which notice shall include (i) a certification that Borrower intends to complete the reinvestment or acquisition described therein the applicable time period required under Section 2.06(b) (or such longer period as may be described in the applicable

Reinvestment Plan (subject to the Administrative Agent's approval, acting at the direction of the Required Lenders, in accordance with Section 5.29(f)(i)(C)) and (ii) with respect to the use of the Net Available Amount of any Extraordinary MPD Proceeds or the proceeds of any Disposition to acquire assets useful in the business of Borrower and Project Company, a detailed description of the acquisition contemplated with such Net Available Amount, which description shall be acceptable to the Administrative Agent, acting at the reasonable direction of the Required Lenders.

"Reinvestment Plan" has the meaning assigned to such term in Section 5.29(f)(i)(C)(I).

"Related Fund" means with respect to any Lender, any fund that invests in loans and is managed or advised by the same investment advisor as such Lender, by such Lender or an Affiliate of such Lender.

"Related Parties" means, with respect to any specified Person, such Person's Affiliates and the respective directors, officers, employees, agents and advisors of such Person and such Person's Affiliates.

"Release" means any release, spill, emission, emanation, leaking, pumping, injection, deposit, disposal, discharge, dispersal, leaching or migration into the indoor or outdoor Environment, including, the movement through ambient air, soil, surface water, ground water, wetlands, land or subsurface strata.

"Remaining Costs" means an aggregate amount equal to the sum of (i) the amount reasonably anticipated to be necessary to fund the cost of any remaining Punch List items, (ii) the amount reasonably anticipated to be necessary to fund any other work that remains outstanding under any of the Material Construction Contracts and (iii) the amount reasonably anticipated to be necessary to fund any remaining Project Costs (other than those described in the foregoing clauses (i) and (ii)), in each case as reasonably determined by Borrower and verified in a writing to the Administrative Agent by the Independent Engineer.

"Renewable Diesel" has the meaning assigned to such term in the ExxonMobil Offtake Agreement (as in effect as of the date hereof).

"Replacement Project Document" means, in respect of any Material Project Document, one or more binding replacement Project Documents (i) that are Additional Material Project Documents entered into in accordance with Section 6.09(a)(iii), (ii) that, in the case of any Project Document replacing a Material Project Document (other than any Material Construction Contract or the ExxonMobil Offtake Agreement), are (A) on terms (take as a whole) that are substantially similar to, or more favorable to the applicable Loan Party than, the terms and conditions of the Material Project Document being replaced, (B) is with a counterparty that is as creditworthy (measured as of the date of such counterparty enters into such replacement Material Project Document) as the Material Project Counterparty under the Material Project Document being replaced (measured as of the date of such Material Project Counterparty entered into the Material Project Document being replaced) and (C) has pricing and economic terms consistent with, or better than, the Material Project Document being replaced or (iii) on otherwise terms and conditions acceptable, and with a counterparty of credit acceptable, to the Administrative Agent, acting at the reasonable direction of the Required Lenders.

"Reportable Event" means any of the events set forth in Section 4043(c) of ERISA, other than events for which the 30-day notice period has been waived.

"Required Lenders" means, at any time, Lenders having aggregate Commitments (or, if the Commitments are terminated, holding Loans) representing eighty percent (80%) or more of the sum of the total Commitments (or, if the Commitments are terminated, aggregate outstanding principal amount of Loans) at such time; provided that, for the avoidance of doubt, the term "Commitments" as used in this definition refers to the Lenders' aggregate Commitments, whether drawn or undrawn, as of the applicable date of determination.

"Restoration" means, with respect to any Affected Property, the rebuilding, repair, restoration or replacement of such Affected Property.

"Restricted Payment" means:

(a) any dividend paid by any Loan Party (in cash, Property or obligations) on, or other payments or distributions on account of, or the setting apart of money for a sinking or other analogous fund for, or the purchase, redemption, retirement or other acquisition by any Loan Party of, any portion of any membership interests in any Loan Party or any warrants, rights or options to acquire any such membership interests;

(b) any payment of development, management or other fees, or of any other amounts, by any Loan Party to any Affiliate thereof; and/or

(c) any other payment (in cash, Property or obligations to a parent company of the Loan Parties) to a parent company or Affiliate of the Loan Parties.

"Revenue Account" means, subject to any Permitted Account Transfer, an account in the name of Borrower or Project Company and established with a Depositary Bank that is designated by Borrower to be the "Revenue Account".

"Revenue Transfer Certificate" means a certificate, substantially in the form of Exhibit U, to be delivered by an authorized officer of Borrower.

"S&P" means Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies, Inc., or any successor to the rating agency business thereof.

"Sanctioned Country" means, at any time, a country or territory that is subject to comprehensive Sanctions. For the avoidance of doubt, as of the Closing Date, Sanctioned Countries are the Crimea region of Ukraine, Cuba, Iran, North Korea and Syria.

"Sanctioned Person" means, at any time, (a) any Person listed in any Sanctions-related list of designated Persons maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the U.S. Department of State, or by the United Nations Security Council, the European Union or any EU member state, (b) any Person operating, organized or resident in a Sanctioned Country, or (c) any Person owned or controlled by any such Person.

"Sanctions" means economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by (a) the U.S. government, including those administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the U.S. Department of State, or (b) the United Nations Security Council, the European Union or Her Majesty's Treasury of the United Kingdom.

"Secured Obligations" has the meaning assigned to such term in the Security Agreement.

"Secured Parties" means (a) the Agents, (b) the Lenders and (c) each Secured Commodity Hedge Counterparty (howsoever defined under the Term Intercreditor Agreement).

"Security Agreement" means that certain Pledge and Security Agreement, to be entered into on the Closing Date, among the Loan Parties and the Collateral Agent, substantially in the form attached hereto as Exhibit K.

"Security Documents" means the Security Agreement, the Mortgage, the Consents to Assignment, the Control Agreements, all Uniform Commercial Code financing statements required by any Security Document and any other security agreement or instrument to be executed or filed pursuant hereto or any Security Document.

"Seller" has the meaning assigned to such term in the recitals.

"Senior Secured Swap Agreement" means any Swap Agreement that has entered into the Term Intercreditor Agreement as a Secured Commodity Hedge Agreement (as defined in the Term Intercreditor Agreement) in accordance with the terms and conditions of this Agreement.

"Significant Milestone" means each milestone set forth in the Construction Schedule that is identified on Schedule 4.01(f).

"Site" means the parcels of land owned in fee simple by Project Company on which the Project is located, as more particularly described on Schedule 1.01(a).

"Solvent" means, with respect to any Person on a particular date that on such date (a) the fair value of the property of such Person is greater than the total amount of liabilities, including contingent liabilities of such Person, (b) the present fair salable value of the assets of such Person is not less than the amount that will be required to pay the probable liability of such Person on its debts as they become absolute and matured, (c) such Person does not intend to, and does not believe that it will, incur debts or liabilities beyond such Person's ability to pay such debts and liabilities as they mature, (d) such Person is not engaged in business or a transaction, and is not about to engage in business or a transaction, for which such Person's property would constitute an unreasonably small capital and (e) such Person is not insolvent as defined under applicable Bankruptcy or insolvency laws; provided that unless otherwise provided under Applicable Law, the amount of contingent liabilities at any time shall be computed as the amount that, in light of all the facts and circumstances existing at such date, represents the amount that can reasonably be expected to become an actual or matured liability.

"SPA" has the meaning assigned to such term in the recitals.

"SPA Execution Date" has the meaning assigned to the term "Execution Date" under the SPA.

"Sponsor" means Global Clean Energy Holdings, Inc., a Delaware corporation.

"Subsidiary" means, with respect to any Person (the "parent") at any date, any corporation, limited liability company, partnership, association or other entity the accounts of which would be consolidated with those of the parent in the parent's consolidated financial statements if such financial statements were prepared in accordance with GAAP as of such date, as well as any other corporation, limited liability company, partnership, association or other entity (a) of which securities or other ownership interests representing more than 50% of the equity or more than 50% of the ordinary voting power or, in the case of a partnership, more than 50% of the general partnership interests are, as of such date, owned, controlled or held, or (b) that is, as of such date, otherwise controlled, by the parent or one or more subsidiaries of the parent or by the parent and one or more subsidiaries of the parent.

"Substantial Completion" means the satisfaction of each of the following conditions:

(a) the achievement of:

(i) the "Commercial Operations Date" as defined in the ExxonMobil Offtake Agreement;

(ii) "Substantial Completion" as defined in the H&H EPC Agreement;

(iii) "Mechanical Completion" as defined in the Gas Pipeline EPC Agreement; and

(iv) "Substantial Completion" as defined in the ARB EPC Agreement; and

(b) the Project has produced at least 17,260,341 total gallons of Renewable Diesel over a period of sixty (60) consecutive days (as verified in writing by the Independent Engineer to Agent and the Lenders pursuant to Section 5.23);

(c) Borrower has demonstrated, to the reasonable satisfaction of the Required Lenders, the updated Financial Model results in the aggregate contracted cash flow under the ExxonMobil Offtake Agreement available for debt service in respect of the Loans (net of projected Operating Expenses and other expenses) as of the Completion Date is at least $300,000,000;

(d) all necessary and material facilities needed for the operation of the Project in accordance with the Financial Model and/or the ExxonMobil Offtake Agreement shall have been completed and shall be operational;

(e) (i) the first delivery of Renewable Diesel under the ExxonMobil Offtake Agreement has occurred; (ii) Borrower has received the first payment in accordance with Section 6.2 of the ExxonMobil Offtake Agreement; and (iii) the Project is able to satisfy all obligations arising under the ExxonMobil Offtake Agreement in accordance with the terms thereof;

(f) (i) Administrative Agent and the Lenders shall have received a copy of a punchlist from Borrower as to items required to achieve Final Completion and (ii) the Independent Engineer shall have verified such punchlist and the amount needed to pay all Project Costs remaining through Final Completion; and

(g) Borrower shall have delivered to Agent and the Lenders a certificate of an Authorized Representative certifying the satisfaction of each of the above conditions.

"SusOils" means Sustainable Oils, Inc., a Delaware corporation.

"SusOils License Agreement" means that certain Sustainable Oils License Agreement, dated as of the Closing Date, by and between Borrower and SusOils, as required to be assigned pursuant to Section 4.02(r)(i) by Borrower to, and assumed by, Project Company on the Tranche A Funding Date.

"SVO" means the Securities Valuation Office of the National Association of Insurance Commissioners.

"Swap Agreement" means any agreement or instrument (including a cap, swap, collar, option, forward purchase agreement or other similar derivative instrument) relating to the hedging of any interest under any Indebtedness or hedging of the prices of renewable diesel, feedstock or environmental attributes.

"Swap Portion Amount" means, in connection with calculating the Net Available Amount, a percentage equal to (a) the amount of any amounts owing under any Senior Secured Swap Agreement that required a prepayment in connection with the applicable event requiring a calculation of the Net Available Amount (up to the First Lien Cap Amount (as defined in the Term Intercreditor Agreement)) *divided by* (b) the sum of the then-current Obligations plus any amounts owing under any Senior Secured Swap Agreement (up to the First Lien Cap Amount (as defined in the Term Intercreditor Agreement)).

"Target Debt Balance" means, for each Quarterly Date, the amount set forth on Annex III for such Quarterly Date.

"Taxes" means any and all present or future taxes, levies, imposts, duties, deductions, charges or withholdings (including backup withholdings) with respect to the Loan now or hereafter imposed, levied, collected, withheld or assessed by any Governmental Authority, including any taxes, levies, imposts, duties, deductions, charges or withholdings on interest payments on the Loan and on any payments made by any Loan Party to an Agent or Lender pursuant to an obligation of such Loan Party under any of the Financing Documents, and all interest, additions to tax or penalties or similar liabilities with respect thereto.

"Term Conversion" means satisfaction or waiver in writing of the conditions set forth in Section 4.05. "Term Convert" has meanings correlative thereto.

"Term Conversion Date" means the date on which Term Conversion occurs.

"Term Intercreditor Agreement" means an intercreditor agreement to be entered into among, Borrower, Holdings, Project Company, the Secured Commodity Hedge Providers (howsoever defined therein), the Administrative Agent and the Collateral Agent, which shall be in form and substance reasonably satisfactory to the Loan Parties and the Required Lenders.

"Title Company" has the meaning assigned to such term in Section 4.01(n).

"Title Policy" has the meaning assigned to such term in Section 4.01(n).

"Tranche A Commitment" means, with respect to any Lender at any time, the amount set forth opposite such Lender's name on Annex I under the caption "Tranche A Commitment" or, if such Lender has entered into one or more Assignment and Assumptions following the Closing Date, the amount set forth for such Lender in the Register maintained by the Administrative Agent as such Lender's "Tranche A Commitment".

"Tranche A Funding Date" means the date on which the conditions precedent specified in Sections 4.02 and 4.03 have been satisfied (or waived in accordance with Section 10.02) and Tranche A Loans are first required to be funded pursuant to Section 2.01(a).

"Tranche A Lender" means (a) a lender that holds Tranche A Loans and/or Tranche A Commitments and (b) each Person that shall become a Tranche A Lender hereunder pursuant to an Assignment and Assumption that assumes Tranche A Loans and/or Tranche A Commitments, in each case, so long as such lender continues to hold such Tranche A Loans and/or Tranche A Commitments.

"Tranche A Loan" has the meaning assigned to such term in Section 2.01(a).

"Tranche B Commitment" means, with respect to any Lender at any time, the amount set forth opposite such Lender's name on Annex I under the caption "Tranche B Commitment" or, if such Lender has entered into one or more Assignment and Assumptions following the Closing Date, the amount set forth for such Lender in the Register maintained by the Administrative Agent as such Lender's "Tranche B Commitment".

"Tranche B Lender" means (a) a lender that holds Tranche B Loans and/or Tranche B Commitments and (b) each Person that shall become a Tranche B Lender hereunder pursuant to an Assignment and Assumption that assumes Tranche B Loans and/or Tranche B Commitments, in each case, so long as such lender continues to hold such Tranche B Loans and/or Tranche B Commitments.

"Tranche B Lender Joinder" means a joinder agreement, substantially in the form attached hereto as Exhibit V, to be entered into by each Tranche B Lender that joins this Agreement as a Tranche B Lender after the Closing Date.

"Tranche B Loan" has the meaning assigned to such term in Section 2.01(b).

"Transaction Documents" means each of the Financing Documents, the HoldCo Borrower LLC Agreement and the Material Project Documents.

"UCC" means the Uniform Commercial Code as in effect from time to time in the State of New York; provided that if, with respect to any filing statement or by reason of any mandatory provisions of law, the perfection or the effect of perfection or non-perfection of the security interests granted to the Collateral Agent pursuant to the applicable Security Document is governed by the Uniform Commercial Code as in effect in a jurisdiction of the United States other than New York, UCC means the Uniform Commercial Code as in effect from time to time in such other jurisdiction for purposes of the provisions of each applicable Financing Document and any filing statement relating to such perfection or effect of perfection or non-perfection.

"Underground" means Underground Construction Company, a California corporation.

"Uniform Commercial Code" means the Uniform Commercial Code as in effect from time to time in the applicable jurisdiction.

"Updated Construction Budget" has the meaning assigned to such term in Section 5.25(n).

"US Person" means any Person that is a "United States Person" as defined in Section 7701(a)(30) of the Code.

"USA PATRIOT Act" has the meaning assigned to such term in Section 10.16.

"Voting Stock" means, with respect to any Person, Capital Stock the holders of which are ordinarily, in the absence of contingencies, entitled to vote for the election of directors (or persons performing similar functions) of such Person, even if the right so to vote has been suspended by the happening of a contingency.

"Write-Down and Conversion Powers" means, with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule.

Section 1.02 Terms Generally. Except as otherwise expressly provided, the following rules of interpretation shall apply to this Agreement and the other Financing Documents:

(a) the definitions of terms herein shall apply equally to the singular and plural forms of the terms defined;

(b) whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms;

(c) the words "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation";

(d) the word "will" shall be construed to have the same meaning and effect as the word "shall";

(e) unless the context requires otherwise, any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement,

instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein or therein) and shall include any appendices, schedules, exhibits, clarification letters, side letters and disclosure letters executed in connection therewith;

(f) any reference herein to any Person shall be construed to include such Person's successors and assigns to the extent permitted under the Financing Documents and, in the case of any Governmental Authority, any Person succeeding to its functions and capacities;

(g) the words "herein", "hereof" and "hereunder", and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision;

(h) all references herein to Articles, Sections, Appendices, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Appendices, Exhibits and Schedules to, this Agreement; and

(i) the words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights.

Section 1.03 Accounting Terms. Except as otherwise expressly provided herein, all terms of an accounting or financial nature shall be construed in accordance with GAAP. If Borrower notifies the Administrative Agent that Borrower wishes to amend any provision hereof to eliminate the effect of any change occurring after the date hereof in GAAP or in the application thereof on the operation of such provision, regardless of whether any such notice is given before or after such change in GAAP or in the application thereof, then Borrower's compliance with such provision shall be determined on the basis of GAAP as in effect and applied immediately before such change shall have become effective until such notice shall have been withdrawn or such provision amended in a manner satisfactory to Borrower and the Administrative Agent.

Section 1.04 Divisions. Any reference herein or in any other Financing Document to a merger, transfer, consolidation, amalgamation, assignment, sale, disposition or transfer, or similar term, shall be deemed to apply to a division of or by a Person, or an allocation of assets to a series of a Person (or the unwinding of such a division or allocation), as if it were a merger, transfer, consolidation, amalgamation, assignment, sale or transfer or similar term, as applicable to, of or with a separate Person. Any division of a limited liability company shall constitute a separate Person hereunder and under any other Financing Document (and each division of any limited liability company that is a Subsidiary, Affiliate, joint venture or any other like term shall also constitute such a separate Person or entity hereunder or any other Financing Document).

ARTICLE II

THE CREDITS

Section 2.01 Loan.

(a) Tranche A Loans. Subject to the terms and conditions set forth in this Agreement (including Sections 4.01, 4.02 and 4.03) and in reliance upon the representations and warranties of

the Loan Parties set forth herein, each Tranche A Lender severally, but not jointly, agrees to advance to the Borrower (x) on the date that is three (3) Business Days after the delivery of the Borrowing Request delivered on the Closing Date, loans in an amount equal to $68,800,000 and (y) on the date that is twelve (12) Business Days after the delivery of the Borrowing Request delivered on the Closing Date, the remaining amount of such Tranche A Lender's unfunded Tranche A Commitments (individually, a "Tranche A Loan" and, collectively, the "Tranche A Loans").

(b) Tranche B Loans. Subject to the terms and conditions set forth in this Agreement (including Sections 4.01 and 4.03) and in reliance upon the representations and warranties of the Loan Parties set forth herein, each Tranche B Lender severally, but not jointly, agrees to advance to Borrower from time to time during the Availability Period such loans as Borrower may request pursuant to this Section 2.01 (exclusive of the Tranche A Loan, individually, a " Tranche B Loan" and, collectively, the "Tranche B Loans" and, together with the Tranche A Loans, the " Loans") in an aggregate principal amount which, when added to the aggregate principal amount of all prior Loans made by such Lender under this Agreement, does not exceed such Tranche B Lender's Tranche B Commitment; provided, that Borrower may only request Tranche B Loans (i) once every 90 days and (ii) two additional times in any calendar year (without reliance on the foregoing clause (i)), so long as, in the case of this clause (ii), each such request occurs at least 30 days following the immediately prior request for Tranche B Loans made by Borrower.

(c) No Reborrowing. Amounts prepaid or repaid in respect of any Loan may not be reborrowed.

(d) Notice of Loan Borrowing. To request a borrowing of Loans, Borrower shall deliver to the Administrative Agent and the Lenders, on a Business Day, a Borrowing Request. The date of the proposed borrowing (each such date, subject to the immediately succeeding sentence below, a "Funding Date") specified in a Borrowing Request shall be no earlier than:

(i) in the case of the Tranche A Funding Date, (x) for an amount up to $68,800,000, (3) Business Days after the delivery of such Borrowing Request and (y) for the remainder of the unfunded Tranche A Commitments requested upon twelve (12) Business Days after the delivery of such Borrowing Request; and

(ii) for each other Funding Date, twelve (12) Business Days after the delivery of such Borrowing Request.

The conditions specified in Section 4.02 and 4.03 of the Credit Agreement as conditions to the Tranche A Funding Date may be satisfied by the Borrower on the first date Tranche A Loans are required to be funded pursuant to Section 2.01(a), and shall not be required to be satisfied on the second date Tranche A Loans are required to be funded pursuant to Section 2.01(a).

Each Borrowing Request shall specify the amount to be borrowed and the proposed Funding Date (which shall be a Business Day). Upon receipt of such Borrowing Request, the Administrative Agent shall promptly notify each Lender thereof.

(e) Notice by the Administrative Agent to the Lenders . Promptly following receipt of a Borrowing Request in accordance with this Section 2.01, the Administrative Agent shall advise

each Lender of the details thereof and of the amount of such Lender's Loan requested to be made as part of the Loan.

(f) Tax Considerations. For U.S. federal income tax purposes, each of Borrower, Holdings, Project Company and the Lenders agree that it is their intention that, for U.S. federal, state and local income tax purposes, (1) the Loan, together with the corresponding Equity Kicker, shall be treated as an investment unit, (2) the purchase price of such investment unit shall equal the total purchase price paid by the Lenders for the Loan on each Funding Date, (3) a portion of the purchase price of the investment unit shall, for U.S. federal income tax purposes, be allocated to the purchase of the corresponding Equity Kicker as mutually agreed by the parties, and (4) the Loan shall be treated as a debt instrument, and not as a "contingent payment debt instrument," (within the meaning of Treasury Regulations Section 1.1275-4) for U.S. federal, state, and local income tax purposes (together, the "Intended Tax Treatment"). Borrower will provide any information reasonably requested in writing from time to time by any Lender regarding the original issue discount associated with the Loan for U.S. federal income tax purposes. Each of Borrower, Holdings and the Lenders agrees to file income tax returns consistent with the Intended Tax Treatment, including the allocation set forth in this Section 2.01(f), and shall not take any position inconsistent with the Intended Tax Treatment in any judicial, administrative, or other proceeding, unless otherwise required as a result of a change in applicable tax law (including any regulations issued by any taxing authorities, any rulings or similar guidance by any taxing authority) or a determination (within the meaning of section 1313(a) of the Code or similar provision of state or local law). Notwithstanding the foregoing, for all purposes (except for the purpose of this Section 2.01(f)), each Lender shall be treated as having lent the full amount of its *pro rata* portion of the principal amount of the Loan. In addition, notwithstanding the foregoing, the Intended Tax Treatment of the Loan shall apply only for U.S. federal, state and local income tax purposes.

Section 2.02 [Reserved].

Section 2.03 Funding of the Loan. Subject to the satisfaction or waiver of the conditions set forth in Section 4.02, each Lender shall, no later than 12:00 Noon, New York City time, on the Funding Date specified in the respective Borrowing Request, make available to the Administrative Agent at the Funding Office an amount in Dollars and in immediately available funds equal to the Loan to be made by such Lender. Administrative Agent shall make available to Borrower the aggregate of the amounts made available to Administrative Agent by the Lenders, in like funds as received by the Administrative Agent.

Section 2.04 Termination and Reduction of the Commitments. At the close of business on the last Business Day of the Availability Period, the Commitments shall automatically and without notice be reduced to zero, and once borrowed or repaid, the Loan may not be reborrowed.

Section 2.05 Repayment of Loan; Evidence of Debt.

(a) Promise to Repay at Maturity. Borrower hereby unconditionally promises to pay to the Administrative Agent for the account of the Lenders, the unpaid principal amount of the Loan then outstanding on the Maturity Date.

(b) Evidence of Debt.

(i) Each Lender may maintain in accordance with its usual practice an account or accounts evidencing the Indebtedness of Borrower to such Lender resulting from the Loan made by such Lender, including the amounts of principal and interest payable and paid to such Lender from time to time hereunder. In the case of a Lender that does not request execution and delivery of a Note evidencing the Loan made by such Lender to Borrower, such account or accounts shall, to the extent not inconsistent with the notations made by the Administrative Agent in the Register, be conclusive and binding on Borrower absent manifest error; provided that the failure of any Lender to maintain such account or accounts or any error in any such account shall not limit or otherwise affect any obligations of Borrower.

(ii) Borrower agrees that, upon the request to the Administrative Agent by any Lender, Borrower will execute and deliver to such Lender, as applicable, a promissory note (a "Note") substantially in the form of Exhibit B payable to such Lender in an amount equal to such Lender's Loan evidencing the Loan made by such Lender. Borrower hereby irrevocably authorizes each Lender to make (or cause to be made) appropriate notations on the grid attached to such Lender's Notes (or on any continuation of such grid), which notations, if made, shall evidence, inter alia, the date of, the outstanding principal amount of, and the interest rate applicable to the Loan evidenced thereby. Such notations shall, to the extent not inconsistent with any Borrowing Request (or, in the absence of which, the notations made by the Administrative Agent in the Register), be conclusive and binding on Borrower absent manifest error; provided that the failure of any Lender to make any such notations or any error in any such notations shall not limit or otherwise affect any obligations of Borrower. A Note and the obligation evidenced thereby may be assigned or otherwise transferred in whole or in part only in accordance with Section 10.04(b).

Section 2.06 Prepayment of the Loan.

(a) Optional Prepayments. Borrower shall have the right at any time and from time to time, upon at least ten (10) Business Days' prior written notice to the Administrative Agent stating the prepayment date and aggregate principal amount of the prepayment, to prepay any Loan in whole or in part, subject to the requirements of this Section 2.06. Each prepayment pursuant to this Section 2.06(a) shall be accompanied by the Prepayment Premium (if any) with respect to the principal amount of the Loan being prepaid. Each partial prepayment of any Loan under this Section 2.06(a) shall be in an aggregate amount at least equal to $1,000,000 and an integral multiple of $500,000 in excess thereof (or such lesser amount as may be necessary to prepay the aggregate principal amount then outstanding with respect to such Loan). No prepayment under Section 2.06(b) shall constitute a voluntary prepayment under this Section 2.06(a).

(b) Mandatory Prepayments and Offers to Prepay.

(i) Material Project Document. If any Loan Party receives any termination payments, liquidated damages or other similar payments under the Material Project Documents or the SPA (in each case, other than delay liquidated damages or other damages or payments of the type meant to substitute, replace or compensate the applicable Loan Party for lost or otherwise forgone revenue) ("Extraordinary MPD Proceeds"), then the Loan Parties shall, within five (5) Business Days of the receipt of the Net Available

Amount of such Extraordinary MPD Proceeds, offer to prepay the Loan with an amount equal to 100% of the Net Available Amount of such Extraordinary MPD Proceeds, pursuant to a written notice sent to the Administrative Agent and the Lenders describing in reasonable detail the event giving rise to the obligation under this Section 2.06(b)(i) to make such offer (each such offer to prepay referred to in this clause 2.06(b)(i), a "Material Project Documents Prepayment Offer"); provided that, such Net Available Amount of the Extraordinary MPD Proceeds shall be excluded from the prepayment requirements of this clause if (A) within five (5) Business Days following receipt of the Net Available Amount of Extraordinary MPD Proceeds, Borrower submits a Reinvestment Notice to Administrative Agent, (B) within fifteen (15) Business Days following the receipt of such Reinvestment Notice, the Administrative Agent, acting at the reasonable direction of the Required Lenders, approves in writing the transaction(s) described in such Reinvestment Notice in accordance Section 5.29(f)(ii)(A) and (C) within one hundred eighty (180) days from the date of receipt of such Net Available Amount of Extraordinary MPD Proceeds, such Net Available Amount are applied (or committed to be applied) to the transaction(s) described in such Reinvestment Notice; provided further, that the amount of such Net Available Amount (i) not so used or committed after one hundred eighty (180) days or (ii) in respect of which the Administrative Agent, acting at the reasonable direction of the Required Lenders, does not approve the transaction(s) described in the proposed Reinvestment Notice submitted by Borrower shall be, in each case, applied to a mandatory prepayment of the Loan pursuant to this clause (i).

(ii) Event of Loss. With respect to any Event of Loss, if the proceeds received by the Loan Parties in respect of such Event of Loss shall be in excess of $1,000,000 per individual Event of Loss or $2,000,000 in the aggregate per annum across all Events of Loss, in any such case, are not applied to the Restoration of the related Affected Property as permitted by, and as expended in accordance with, this Agreement and the Reinvestment Plan approved by the Administrative Agent in accordance Section 5.29(f)(ii)(A), then the Loan Parties shall, within five (5) Business Days of the receipt of such proceeds, offer to prepay the Loan with an amount equal to 100% of the Net Available Amount of such proceeds, pursuant to a written notice sent to the Administrative Agent and the Lenders describing in reasonable detail the event giving rise to the obligation under this Section 2.06(b)(ii) to make such offer (each such offer to prepay referred to in this clause 2.06(b)(ii), a "Event of Loss Prepayment Offer").

(iii) Disposition of Assets. Without limiting the obligation of Borrower to obtain the consent of the Administrative Agent to any sale, transfer or other disposition of any assets or property (herein, the "Disposition") not otherwise permitted hereunder, in the event that the Net Available Amount of the proceeds of any Disposition of Borrower shall exceed $1,000,000 per individual Disposition or $2,000,000 in the aggregate per annum in the aggregate per annum for all such Dispositions, then Borrower shall, within five (5) Business Days of the receipt of such proceeds, offer to prepay the Loan ratably in an amount equal to 100% of the Net Available Amount of such proceeds on the Quarterly Date immediately following receipt by Borrower of the relevant proceeds; provided that, such Net Available Amount of the Disposition shall be excluded from the prepayment requirements of this clause if (A) Borrower submits a Reinvestment Notice to Administrative Agent and the Lenders in accordance with Section 5.29(f)(i)(C)(I), (B) the

Administrative Agent, acting at the direction of the Required Lenders, approves the proposed Reinvestment Plan in accordance with Section 5.29(f)(ii)(A) and (C) within one hundred eighty (180) days from the date of receipt of such Net Available Amount of the Disposition, such Net Available Amount are applied (or committed to be applied) to such acquisition; provided further, that the amount of such Net Available Amount (i) not so used or committed after one hundred eighty (180) days or (ii) in respect of which the Administrative Agent, acting at the direction of the Required Lenders, does not approve the acquisition(s) described in the proposed Reinvestment Notice submitted by Borrower shall be, in each case, applied to a mandatory prepayment of the Loan pursuant to this clause (iii). Any such offer to prepay shall be made pursuant to a written notice sent to the Administrative Agent and the Lenders describing in reasonable detail the event giving rise to the obligation under this Section 2.06(b)(iii) to make such offer (each such offer to prepay referred to in this clause 2.06(b)(iii), a "Disposition Proceeds Prepayment Offer").

(iv) Incurrence of Debt. If any Loan Party issues or incurs any Indebtedness (other than Permitted Indebtedness), then Borrower shall, within one (1) Business Day of the receipt of the proceeds therefrom, offer to prepay the Loan with an amount equal to 100% of the Net Available Amount of such proceeds, pursuant to a written notice sent to the Administrative Agent and the Lenders describing in reasonable detail the event giving rise to the obligation under this Section 2.06(b)(iv) to make such offer (each such offer to prepay referred to in this clause 2.06(b)(iv), a "Debt Prepayment Offer").

(v) Excess Cash Flow Sweep. Beginning with the Quarterly Date occurring after the Term Conversion Date and each Quarterly Date thereafter, Borrower shall offer to prepay the Loans of each Lender in an amount equal to such Lender's *pro rata* share of the ECF Sweep Amount within three (3) Business Days of each such Quarterly Date, accompanied by payment of all accrued interest on the amount prepaid and a calculation as to the ECF Sweep Amount (which calculation shall be in form and substance reasonably satisfactory to the Administrative Agent) (each such offer to prepay referred to in this clause (b)(v), an "ECF Prepayment Offer").

(c) Terms of All Prepayments.

(i) All partial prepayments of the Loans shall be applied on a *pro rata* basis to the Loan of all Lenders, provided that such pro rata allocation shall, in the case of Section 2.06(b)(v), only occur in respect of the Lenders who have accepted their respective applicable ECF Prepayment Offers.

(ii) Each prepayment of Loans shall be accompanied by payment of all accrued interest on the amount prepaid, the Prepayment Premium (other than in the case of Sections 2.06(b)(i), 2.06(b)(ii) and 2.06(b)(v) above) and any additional amounts required pursuant to Section 2.11.

(iii) No later than ten (10) Business Days after receiving a Material Project Documents Prepayment Offer, an Event of Loss Prepayment Offer, a Disposition Proceeds Prepayment Offer, a Debt Prepayment Offer or an ECF Prepayment Offer (the expiration of such ten (10) Business Day-period, the "Prepayment Offer Deadline"), each Lender shall

advise Borrower in writing whether it has elected to accept such prepayment offer, which it shall determine in its sole discretion; provided that any Lender which shall fail to so advise Borrower by the Prepayment Offer Deadline shall have been deemed to have accepted such prepayment offer. Each of the Lenders shall have the right, but not the obligation, to accept or reject its *pro rata* portion of the prepayment offer by Borrower. Borrower shall have no obligation to prepay any amounts in respect of any declining Lender's *pro rata* portion of the prepayment offer. In connection with any prepayment pursuant to Section 2.06(b)(i), (ii), (iii) and/or (iv), the amount of the Loan prepaid shall be calculated so that the total amount of Loans prepaid, the accrued but unpaid interest on such Loans and any Prepayment Premium applicable to such prepayment of Loans shall be no more than the Net Available Amount.

(iv) It is understood and agreed that if the Obligations are accelerated or otherwise become due prior to their maturity date, in each case, in respect of any Event of Default (including, but not limited to, upon the occurrence of a bankruptcy or insolvency event (including the acceleration of claims by operation of law)), the Prepayment Premium that would have applied if, at the time of such acceleration, Borrower had prepaid, refinanced, substituted or replaced any or all of the Loan as contemplated in Section 2.06(a) (any such event, a "Prepayment Premium Event"), will also be due and payable without any further action (including any notice requirements otherwise applicable to Prepayment Premium Events, if any) as though a Prepayment Premium Event had occurred and such Prepayment Premium shall constitute part of the Obligations, in view of the impracticability and extreme difficulty of ascertaining actual damages and by mutual agreement of the parties as to a reasonable calculation of each Lender's lost profits as a result thereof. Any Prepayment Premium payable above shall be presumed to be the liquidated damages sustained by each Lender as the result of the early termination and Borrower agrees that it is reasonable under the circumstances currently existing. The Prepayment Premium shall also be payable in the event the Obligations (and/or this Agreement) are satisfied or released by foreclosure (whether by power of judicial proceeding), deed in lieu of foreclosure or by any other means. EACH LOAN PARTY EXPRESSLY WAIVES (TO THE FULLEST EXTENT IT MAY LAWFULLY DO SO) (ON BEHALF OF ITSELF AND THE OTHER LOAN PARTIES) THE PROVISIONS OF ANY PRESENT OR FUTURE STATUTE OR LAW THAT PROHIBITS, OR MAY PROHIBIT, THE COLLECTION OF THE FOREGOING PREPAYMENT PREMIUM IN CONNECTION WITH ANY SUCH ACCELERATION. Each Loan Party expressly agrees (to the fullest extent that each may lawfully do so) that: (A) the Prepayment Premium is reasonable and is the product of an arm's length transaction between sophisticated business people, ably represented by counsel; (B) the Prepayment Premium shall be payable notwithstanding the then prevailing market rates at the time payment is made; (C) there has been a course of conduct between Lenders and the Loan Parties giving specific consideration in this transaction for such agreement to pay the Prepayment Premium; and (D) the Loan Parties shall be estopped hereafter from claiming differently than as agreed to in this Section 2.06(c)(iv). Each Loan Party expressly acknowledges that its agreement to pay the Prepayment Premium to Lenders as herein described is a material inducement to Lenders to provide the Commitments and make the Loans contemplated hereby. The Borrower acknowledges, and the parties hereto agree, that each Lender has the right to maintain its investment in the Loans free from repayment by the Borrower (except

as herein specifically provided for) and that the provision for payment of a Prepayment Premium by the Borrower, in the event that the Loans are prepaid or are accelerated as a result of an Event of Default, is intended to provide compensation for the deprivation of such right under such circumstances. Notwithstanding anything herein to the contrary, no Prepayment Premium shall be payable hereunder or under the Loan Documents using the proceeds of any loans under the HoldCo Credit Agreement which are funded in accordance with the Holdco Lender Backstop Agreement.

(v) Each party hereto acknowledges and agrees that Loans of a particular Lender shall be prepaid pursuant to Section 2.06(a) or Section 2.06(b) (as applicable) in the order in which such Loans were made or acquired by such Lender pursuant to Section 2.01.

Section 2.07 Fees.

(a) Agent Fees. Borrower agrees to pay to each of the Administrative Agent and the Collateral Agent, for its own account, amounts payable in the amounts and at the times separately agreed upon in the Agent Reimbursement Letter.

(b) Payment of Fees. All fees that may be payable by any Loan Party to any Lender hereunder from time to time pursuant to a written agreement between such Loan Party and such Lender shall be paid on the dates due, in Dollars and immediately available funds, to the Administrative Agent for distribution to the Lenders entitled thereto. Fees paid shall not be refundable under any circumstances absent manifest error.

Section 2.08 Interest.

(a) Loan. The Loans (including any Accrued Interest) shall bear interest at a rate per annum equal to the Interest Rate on and after the date of borrowing of such Loans.

(b) Default Interest. If all or a portion of the principal amount of any Loan, interest in respect thereof or any other amount due under the Financing Documents shall not be paid when due (whether at the stated maturity, by acceleration or otherwise) or there shall occur and be continuing any other Event of Default, then, to the extent so elected by the Administrative Agent, acting at the direction of the Required Lenders, after Borrower has been notified in writing by the Administrative Agent, acting at the direction of the Required Lenders (or automatically upon the occurrence of an Event of Default pursuant to Section 7.01(f) hereof), the outstanding principal amount of the Loan (whether or not overdue) (to the extent legally permitted) shall bear interest at a rate per annum equal to the Post-Default Rate, from the date of such nonpayment or occurrence of such Event of Default, respectively, until such amount is paid in full (after as well as before judgment) or until such Event of Default is no longer continuing, respectively.

(c) Payment of Interest. Subject to Section 2.08(e), accrued interest on each Loan shall be payable in arrears on each Quarterly Date and on the Maturity Date; provided that (i) interest accrued pursuant to Section 2.08(b) shall be payable on demand and (ii) in the event of any repayment or prepayment of any Loan, accrued interest on the principal amount repaid or prepaid shall be payable on the date of such repayment or prepayment.

(d) Computation. All interest hereunder shall be computed on the basis of a year of 360 days and shall be payable for the actual number of days elapsed (including the first day but excluding the last day). The computation of interest shall be determined by the Administrative Agent and such determination shall be conclusive absent manifest error.

(e) Payment in Kind. For each of the first seven (7) Quarterly Dates following the Closing Date, Borrower may pay up to 2.50% per annum of the Interest Rate in kind (in lieu of payment in cash) on each applicable Quarterly Date (provided that, for the seventh (7th) Quarterly Date, Borrower may pay up to 1.67% per annum of the Interest Rate in kind (in lieu of payment in cash)), by written election of Borrower to the Administrative Agent at least ten (10) Business Days prior to such Quarterly Date. The aggregate outstanding principal amount of the Loans shall be automatically increased on each such Quarterly Date by the amount of such interest paid in kind. For the avoidance of doubt, any portion of the Interest Rate not paid in kind shall be paid in cash.

(f) Miscellaneous. For the avoidance of doubt, (i) on each Quarterly Date prior to the Maturity Date, any interest on the Loan then due and payable shall be paid, either in cash or in kind, in accordance with this Agreement and (ii) on the Maturity Date, any interest on the Loan then due and payable shall be paid entirely in cash in accordance with this Agreement. All amounts of interest added to the principal of the Loans pursuant to Section 2.08(e) shall bear interest as provided herein, be payable as provided in Section 2.05 and shall be due and payable on the Maturity Date. The Administrative Agent's determination of the principal amount of the Loan outstanding at any time shall be conclusive and binding, absent manifest error.

Section 2.09 Increased Costs.

(a) Increased Costs Generally. If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit or similar requirement (including any such requirement imposed by the Board under Regulation D or otherwise) against assets of, deposits with or for account of, or credit extended by, any Lender;

(ii) subject any Agent, any Lender or any other recipient of any payment to be made by or on account of any obligation of any Loan Party hereunder to any Taxes (other than Indemnified Taxes or Excluded Taxes) on its loan, loan principal, commitments or other obligations or its deposits, reserves, other liabilities or capital attributable thereto; or

(iii) impose on any Lender any other condition not otherwise contemplated hereunder affecting this Agreement or the Loan made by such Lender;

and the result of any of the foregoing shall be to increase the cost to such Lender of making or maintaining any Loan (or of maintaining its obligation to make any such Loan) to Borrower or to increase the cost to such Lender or to reduce the amount of any sum received or receivable by such Lender hereunder (whether of principal, interest or otherwise), then Borrower will pay to such Lender such additional amount or amounts as will compensate such Lender for such additional costs incurred or reduction suffered.

(b) Capital Requirements. If any Lender reasonably determines that any Change in Law regarding capital or liquidity requirements has or would have the effect of reducing the rate of return on such Lender's capital or on the capital of such Lender's holding company, if any, as a consequence of this Agreement or the Loan made by such Lender to a level below that which such Lender or such Lender's holding company could have achieved but for such Change in Law (taking into consideration such Lender's policies and the policies of such Lender's holding company with respect to capital adequacy), then from time to time Borrower will pay to such Lender such additional amount or amounts as will compensate such Lender or such Lender's holding company for any such reduction suffered.

(c) Certificates from Lenders. A certificate of a Lender setting forth calculations in reasonable detail of the amount or amounts necessary to compensate such Lender or its respective holding company, as the case may be, as specified in Section 2.09(a) or Section 2.09(b) shall be delivered to Borrower and shall be conclusive absent manifest error. Borrower shall pay such Lender the amount shown as due on any such certificate within thirty (30) Business Days after receipt thereof.

(d) Delay in Requests. Promptly after any Lender has determined that it will make a request for increased compensation pursuant to this Section 2.09, such Lender shall notify Borrower thereof. Failure or delay on the part of any Lender to demand compensation pursuant to this Section shall not constitute a waiver of such Lender's right to demand such compensation; provided that Borrower shall not be required to compensate a Lender pursuant to this Section 2.09 for any increased costs or reductions incurred more than ninety (90) days prior to the date that such Lender notifies Borrower of the Change in Law giving rise to such increased costs or reductions and of such Lender's intention to claim compensation therefor; provided further that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the ninety (90)-day period referred to above shall be extended to include the period of retroactive effect thereof.

Section 2.10 [Reserved].

Section 2.11 Taxes.

(a) Payments Free of Taxes. Any and all payments by or on account of any obligation of any Loan Party hereunder or under any other Financing Document shall be made free and clear of and without withholding or deduction for any Taxes; provided that if such Loan Party (or the applicable withholding agent) shall be required by law to withhold or deduct any Taxes from such payments, then (i) to the extent such Taxes are Indemnified Taxes or Other Taxes, the sum payable by such Loan Party shall be increased as necessary so that after making all required withholdings and deductions (including withholdings and deductions applicable to additional sums payable under this Section) the Administrative Agent, the Collateral Agent or the Lender (as the case may be) receives an amount equal to the sum it would have received had no such withholdings or deductions been made, (ii) such Loan Party shall make or shall cause to be made such withholdings and deductions and (iii) such Loan Party shall pay or shall cause to be paid the full amount withheld and deducted to the relevant Governmental Authority in accordance with Applicable Law.

(b) Payment of Other Taxes by Borrower. Borrower shall timely pay or cause to be paid any Other Taxes to the relevant Governmental Authority in accordance with Applicable Law.

(c) Indemnification by Borrower. Loan Parties shall jointly and severally indemnify or cause to be indemnified the Administrative Agent, the Collateral Agent and each Lender, within thirty (30) days after written demand therefor, for the full amount of any Indemnified Taxes or Other Taxes (including Indemnified Taxes or Other Taxes imposed or asserted on or attributable to amounts payable under this Section but without duplication of any amounts indemnified under Section 2.11(a)) paid or payable by the Administrative Agent, the Collateral Agent or such Lender, as the case may be, and any penalties, interest and reasonable expenses arising therefrom or with respect thereto whether or not such Indemnified Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to Borrower by the Collateral Agent or a Lender, or by the Administrative Agent on its own behalf or on behalf of the Collateral Agent or a Lender, shall be conclusive absent manifest error.

(d) Evidence of Payments. As soon as practicable after any payment of Indemnified Taxes or Other Taxes by any Loan Party to a Governmental Authority, the relevant Loan Party shall deliver or cause to be delivered to the Administrative Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment satisfactory to the Administrative Agent, acting reasonably.

(e) Forms. (i) Any of the Administrative Agent, the Collateral Agent or any Lender (including any assignee Lender) that is legally entitled to an exemption from or reduction of withholding tax under the law of the jurisdiction in which Borrower is located with respect to payments under this Agreement shall deliver to Borrower (with a copy to the Administrative Agent), at the time or times reasonably requested in writing by Borrower, the Collateral Agent or the Administrative Agent, such properly completed and executed documentation prescribed by Applicable Law as will permit such payments to be made without or at a reduced rate of, withholding. In addition, any of the Administrative Agent, the Collateral Agent or any Lender, if reasonably requested in writing by Borrower or the Administrative Agent, shall deliver such other documentation prescribed by law or reasonably requested by Borrower or the Administrative Agent as will enable Borrower or the Administrative Agent to determine whether or not such Lender is subject to any withholding tax. Upon the reasonable written request of Borrower or the Administrative Agent, or if any form or certification previously delivered expires or becomes obsolete or inaccurate, any Lender shall update any such form or certification previously delivered pursuant to this Section 2.11(e)(i). Notwithstanding anything to the contrary in the preceding three sentences, the completion, execution and submission of such documentation shall not be required if in the Lender's judgment such completion, execution or submission would subject such Lender to any material unreimbursed cost or expense (or, in the case of a Change in Law, any incremental material unreimbursed cost or expense) or would materially prejudice the legal or commercial position of such Lender.

(ii) Without limiting the generality of the foregoing, in the event that Borrower is a US Person,

(A) any Lender that is a US Person shall deliver to Borrower and the Administrative Agent on or prior to the date on which such Lender becomes a party to this Agreement (and from time to time thereafter upon the reasonable request of

Borrower or the Administrative Agent), executed copies of IRS Form W-9 certifying that such Lender is exempt from U.S. federal backup withholding tax;

(B) any Lender who is not a US Person shall, to the extent it is legally entitled to do so, deliver to Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Lender becomes a party to this Agreement (and from time to time thereafter upon the reasonable request of Borrower or the Administrative Agent), whichever of the following is applicable:

(I) in the case of a Lender who is not a US Person claiming the benefits of an income tax treaty to which the United States is a party (x) with respect to payments of interest under this Agreement or any Transaction Document, executed copies of IRS Form W-8BEN or W-8BEN-E establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "interest" article of such tax treaty and (y) with respect to any other applicable payments under this Agreement or any Transaction Document, IRS Form W-8BEN or W-8BEN-E establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "business profits" or "other income" article of such tax treaty;

(II) executed copies of IRS Form W-8ECI;

(III) in the case of a Lender who is not a US Person claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (x) a certificate to the effect that such Lender is not a "bank" within the meaning of Section 881(c)(3)(A) of the Code, a "10 percent shareholder" of Borrower within the meaning of Section 881(c)(3)(B) of the Code, or a "controlled foreign corporation" described in Section 881(c)(3)(C) of the Code (a "U.S. Tax Compliance Certificate") and (y) executed copies of IRS Form W-8BEN or W-8BEN-E, as applicable; or

(IV) to the extent a Lender who is not a US Person is not the beneficial owner, executed copies of IRS Form W-8IMY, accompanied by IRS Form W-8ECI, IRS Form W-8BEN or W-8BEN-E, as applicable, a U.S. Tax Compliance Certificate, IRS Form W-9, and/or other certification documents from each beneficial owner, as applicable; provided that if such Lender is a partnership and one or more direct or indirect partners of such Lender are claiming the portfolio interest exemption, such Lender may provide a U.S. Tax Compliance Certificate on behalf of each such direct and indirect partner.

(f) If the Administrative Agent, the Collateral Agent or any Lender determines, in its sole discretion exercised in good faith, that it has received a refund of any Indemnified Taxes or Other Taxes as to which it has been indemnified by a Loan Party or with respect to which a Loan Party has paid additional amounts pursuant to this Section 2.11, it shall pay over such refund to

Borrower, net of all of its out-of-pocket expenses (including Taxes with respect to such refund) and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund); provided that Borrower, upon the request of the Administrative Agent, the Collateral Agent or any Lender, as the case may be, agrees to repay as soon as reasonably practicable the amount paid over to Borrower (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Administrative Agent, the Collateral Agent or any Lender, as the case may be, in the event the Administrative Agent, the Collateral Agent or any Lender, as the case may be, is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this Section 2.11(f), in no event will the Administrative Agent, the Collateral Agent or any Lender be required to pay any amount to Borrower pursuant to this Section 2.11(f) the payment of which would place the Administrative Agent, the Collateral Agent or the Lender, as the case may be, in a less favorable net after-Tax position than it would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. This Section 2.11(f) shall not be construed to require any indemnified party to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to the indemnifying party or any other Person.

(g) If a payment made to the Administrative Agent, the Collateral Agent or any Lender under this Agreement would be subject to U.S. federal withholding Tax imposed by FATCA if such Administrative Agent, Collateral Agent or Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Administrative Agent, Collateral Agent or Lender shall deliver to Borrower and the Administrative Agent at the time or times prescribed by law and at such time or times reasonably requested by Borrower or the Administrative Agent such documentation prescribed by Applicable Law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by Borrower or the Administrative Agent as may be necessary for Borrower and the Administrative Agent to comply with their obligations under FATCA and to determine that such Lender has complied with such Person's obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of this clause, "FATCA" shall include any amendments made to FATCA after the date of this Agreement.

(h) Survival. Each party's obligations under this Section 2.11 shall survive the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, a Lender, the termination of the Loans and the repayment, satisfaction or discharge of all obligations under any Transaction Documents.

Section 2.12 Payments Generally; Pro Rata Treatment; Sharing of Setoffs.

(a) Payments by Borrower. Unless otherwise specified, Borrower shall make each payment required to be made by it hereunder, or by way of transfer from Depositary Bank, (whether of principal, interest, fees, or under Section 2.09 or 2.11, or otherwise) or under any other Financing Document (except to the extent otherwise provided therein) prior to 1:00 p.m., New York City time, on the date when due, in immediately available funds, without setoff or counterclaim. Any amounts received after such time on any date shall be deemed to have been

received on the next succeeding Business Day for purposes of calculating interest thereon. Unless otherwise notified by the Administrative Agent in writing to the Borrower, all such payments shall be made to the Administrative Agent for the benefit of each Agent and Lender at its offices:

(i) to the extent any such payments are associated with Orion Energy Partners or its Affiliates, at: Orion Energy Partners TP Agent, LLC (payment instructions: Bank Name: JP Morgan, ABA/Routing No.: 021000021, Account Name: ORION ENERGY PARTNERS TP AGENT, LLC , Account No.: 758818558, Reference: BKRF OCB, LLC); and

(ii) to the extent any such payments are associated with any other Lender, at: Orion Energy Partners TP Agent, LLC (payment instructions: Bank Name: JP Morgan, ABA/Routing No.: 021000021, Account Name: ORION ENERGY PARTNERS TP AGENT, LLC, Account No.: 758867415, Reference: BKRF OCB, LLC),

in each case, except as otherwise expressly provided in the relevant Financing Document and payments pursuant to Sections 2.11, 2.12 and 10.03, which shall be made directly to the Persons entitled thereto, in each case subject to the terms of this Agreement. The Administrative Agent shall distribute any such payments received by it in like funds as received for account of any other Person to the appropriate recipient promptly (and in any case not more than one (1) Business Day) following receipt thereof. Payments to each Lender shall be made to such Lender in accordance with its Administrative Questionnaire. If any payment hereunder shall be due on a day that is not a Business Day, the date for payment shall be extended to the immediately preceding Business Day and, in the case of any payment accruing interest, interest thereon shall be payable for the period of such extension. All amounts owing under this Agreement or under any other Financing Document are payable in Dollars.

(b) Application of Insufficient Payments. If at any time insufficient funds are received by and available to the Administrative Agent to pay fully all amounts of principal, interest, fees and other amounts then due hereunder, such funds shall be applied (i) first, to pay interest, fees and other amounts (except for the amounts required to be paid pursuant to the following clause (ii)) then due hereunder, ratably among the parties entitled thereto in accordance with the amounts of interest, fees and such other amounts then due to such parties, and (ii) second, to pay principal then due hereunder, ratably among the parties entitled thereto in accordance with the amounts of principal then due to such parties.

(c) Pro Rata Treatment. Except to the extent otherwise provided herein: (i) the Loan shall be made from the Lenders, and each termination or reduction of the amount of the Commitments under Section 2.04 shall be applied to the respective Commitments of the Lenders, *pro rata* according to the amounts of their respective applicable Commitments; (ii) except as provided in Section 2.06(c), each payment or prepayment of principal of the Loan by Borrower shall be made for account of the Lenders *pro rata* in accordance with the respective unpaid principal amounts of the Loan held by them being paid or prepaid; and (iii) each payment of interest on the Loan by Borrower shall be made for account of the Lenders (except, in the case of prepayments under Section 2.06(b), for Lenders not receiving a principal repayment thereunder) *pro rata* in accordance with the amounts of interest on the Loan then due and payable to the respective Lenders.

(d) Sharing of Payments by Lenders. If any Lender shall, by exercising any right of setoff or counterclaim or otherwise, obtain payment or recover any amount in respect of any principal of or interest on any of its Loan resulting in such Lender receiving a greater proportion of the aggregate amount of the Loan and accrued interest thereon then due than the proportion received by any other Lender, then, unless otherwise agreed in writing by the Lenders, the Lender receiving such greater proportion shall purchase (for cash at face value) participations in the Loans of other Lenders to the extent necessary so that the benefit of all such payments shall be shared by the Lenders ratably in accordance with the aggregate amount of principal of and accrued interest on their respective Loan; provided that (i) if any such participations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations shall be rescinded and the purchase price restored to the extent of such recovery, without interest, and (ii) the provisions of this Section 2.12(d) shall not be construed to apply to any payment made by Borrower pursuant to and in accordance with the express terms of this Agreement or any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loan to any assignee or Participant, other than to Borrower or any Affiliate thereof (as to which the provisions of this Section 2.12(d) shall apply), provided further that no Lender shall be required to purchase a participation from a Lender rejecting its option to receive prepayments under Section 2.06(b) to the extent disproportionality results from the rejecting Lender's election under Section 2.06(b). Each Loan Party consents to the foregoing and agrees, to the extent it may effectively do so under Applicable Law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against such Loan Party rights of setoff and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of such Loan Party in the amount of such participation.

(e) Presumptions of Payment. Unless the Administrative Agent shall have received notice from Borrower prior to the date on which any payment is due to the Administrative Agent for account of the Lenders hereunder that Borrower will not make such payment, the Administrative Agent may assume that Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Lenders the amount due to them. In such event, if Borrower has not in fact made such payment within one (1) Business Day after such due date, then each of the Lenders severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation.

(f) Certain Deductions by the Administrative Agent. If any Lender shall fail to make any payment required to be made by it pursuant to Sections 2.03, 2.12(e) or 10.03(c), then the Administrative Agent may, in its discretion (notwithstanding any contrary provision hereof), apply any amounts thereafter received by the Administrative Agent for account of such Lender to satisfy such Lender's obligations under such Sections until all such unsatisfied obligations are fully paid.

Section 2.13 Change of Lending Office. If any Lender requests compensation under Section 2.09, or if Borrower is required to pay any additional amount to any Lender or any Governmental Authority for account of any Lender pursuant to Section 2.11 then such Lender shall (i) file any certificate or document reasonably requested in writing by Borrower and/or (ii) use

reasonable efforts to designate a different Lending Office for funding or booking its Loan hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the sole judgment of such Lender exercised in good faith, such designation or assignment (x) would eliminate or reduce amounts payable pursuant to Section 2.09 or 2.11, as the case may be, in the future and (y) would not subject such Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender in any material respect. Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment.

Section 2.14 Acknowledgement and Consent to Bail-In of EEA Financial Institutions. Notwithstanding anything to the contrary in any Financing Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any EEA Financial Institution arising under any Financing Document, to the extent such liability is unsecured, may be subject to the Write-Down and Conversion Powers of an EEA Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

(a) the application of any Write-Down and Conversion Powers by an EEA Resolution Authority to any such liabilities arising hereunder which may be payable to it by any party hereto that is an EEA Financial Institution; and

(b) the effects of any Bail-In Action on any such liability, including, if applicable:

(i) a reduction in full or in part or cancellation of any such liability;

(ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such EEA Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Financing Document; or

(iii) the variation of the terms of such liability in connection with the exercise of the Write-Down and Conversion Powers of any EEA Resolution Authority.

Section 2.15 Tranche B Lender Joinder. Each of the parties hereto expect that, on or prior to the date that Tranche B Loans are first required to be funded hereunder, one or more Persons shall accede to this Agreement as a Tranche B Lender pursuant to one or more Tranche B Lender Joinders delivered pursuant to Section 4.03(h), and each such Person shall thereafter perform, in accordance with the terms of this Agreement and the other Financing Documents, all of its respective obligations which by the terms of the Agreement are required to be performed by it as a Tranche B Lender (including the obligations set forth in this Article II).

ARTICLE III

REPRESENTATIONS AND WARRANTIES

Each Loan Party represents and warrants to each Agent and the Lenders that (a) as of the Closing Date, (i) with respect to the representations and warranties set forth in Sections 3.01(a), 3.01(b), 3.02, 3.03, 3.06(a), 3.07 (other than with respect to the Project and the Site), 3.08 (other

than with respect to the Project), 3.11, 3.12, 3.13, 3.15, 3.16(b), 3.17, 3.19 (other than with respect to Project Company), 3.21, 3.22 (other than with respect to Project Company), 3.23, 3.24, 3.25, 3.26 and 3.27 only and (ii) solely with respect to Borrower and Holdings, and (b) as of any Funding Date, the Term Conversion Date and on any other date that the representations specified in this Article III are required to be made, with respect to all representations and warranties set forth in this Article III (other than (x) in respect of any Funding Date other than the Tranche A Funding Date, Sections 3.06(a) and 3.12 and (y) Section 3.22(b) and 3.23), and with respect to all Loan Parties:

Section 3.01 Due Organization, Etc.

(a) Each Loan Party is a limited liability company or corporation, as applicable, duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization. Each Loan Party has all requisite limited liability company, corporate or other organizational power and authority to own or lease and operate its assets and to carry on its business as now conducted and as proposed to be conducted and, except for the CA Foreign Qualification, each Loan Party is duly qualified to do business and is in good standing in each jurisdiction where necessary in light of its business as now conducted and as proposed to be conducted (including performance of each Material Project Document to which it is party), except where the failure to so qualify could not reasonably be expected to be material and adverse to the Loan Parties or the Lenders. Except for the CA Foreign Qualification, no filing, recording, publishing or other act by a Loan Party that has not been made or done is necessary in connection with the existence or good standing of such Loan Party.

(b) Holdings is the sole member of Borrower, and all Capital Stock in Borrower is beneficially owned and controlled by Holdings free and clear of all Liens other than Permitted Liens.

(c) Borrower is the sole member of Project Company, and all Capital Stock in Project Company is beneficially owned and controlled by Borrower free and clear of all Liens other than Permitted Liens.

Section 3.02 Authorization, Etc. Each Loan Party has full corporate, limited liability company or other organizational powers, authority and legal right to enter into, deliver and perform its respective obligations under each of the Transaction Documents to which it is a party and to consummate each of the transactions contemplated herein and therein, and has taken all necessary corporate, limited liability company or other organizational action to authorize the execution, delivery and performance by it of each of the Transaction Documents to which it is a party. Each of the Transaction Documents to which any Loan Party is a party has been duly executed and delivered by such Loan Party and is in full force and effect and constitutes a legal, valid and binding obligation of such Loan Party, enforceable against such Loan Party in accordance with its respective terms, except as enforcement may be limited (i) by Bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance or other similar laws affecting creditors' rights generally, (ii) by general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law) and (iii) by implied covenants of good faith and fair dealing.

Section 3.03

No Conflict. The execution, delivery and performance by each Loan Party of each of the Transaction Documents to which it is a party and all other documents and instruments to be executed and delivered hereunder by it, as well as the consummation of the transactions contemplated herein and therein, do not and will not (i) conflict with the Organizational Documents of such Loan Party, (ii) conflict with or result in a breach of, or constitute a default under, any indenture, loan agreement, mortgage, deed of trust or other instrument or agreement to which such Loan Party is a party or by which it is bound or to which such Loan Party's property or assets are subject (other than any Material Project Document to which such Loan Party is a party), except where such contravention or breach could not reasonably be expected to be material and adverse to the Loan Parties or Lenders, (iii) conflict with or result in a breach of, or constitute a default under, any Material Project Document to which such Loan Party is a party, (iv) conflict with or result in a breach of, or constitute a default under, in any material respect, any Applicable Law, except where such contravention or breach could not reasonably be expected to have a Material Adverse Effect, or (v) with respect to each Loan Party, result in the creation or imposition of any Lien (other than a Permitted Lien) upon any of such Loan Party's property or the Collateral.

Section 3.04 Approvals, Etc.

(a) Part I and Part II of Schedule 3.04 sets forth all Authorizations required by any Governmental Authority under any Applicable Law, in each case that are necessary for the Project's development, construction, operation, and ownership (other than (x) those Authorizations that are immaterial to the Project and are ministerial in nature and can reasonably be expected to be obtained in due course, without materially adverse conditions or requirements, on or before the date required and (y) those Authorizations which are required to be obtained due to a change in law arising after the Closing Date). Each Authorizations listed in Part I of Schedule 3.04 has been issued to or made by the Borrower or the Project Company, as applicable, is in full force and effect and is not subject to any current legal proceeding (including administrative or judicial appeal, permit renewals or modification) or, to the Loan Parties' knowledge, to any unsatisfied condition (required to be satisfied as of date this representation and warranty is made) that would reasonably be expected to have a Material Adverse Effect, and, except as set forth on Schedule 3.04, all statutorily prescribed appeal periods with respect to the issuance of such Authorizations have expired. The Loan Parties are in compliance with all Authorizations except such non-compliance as would not reasonably be expected to have a Material Adverse Effect.

(b) As of the Closing Date and until the date on which such Authorization is obtained, each Authorization listed in Part II of Schedule 3.04 has not yet been obtained and, to the knowledge of the Loan Parties, there exists no impediment that could reasonably be expected to prevent such Authorizations from being obtained in due course, without materially adverse conditions or requirements and prior to the time the same is required to be obtained.

Section 3.05 Financial Statements; No Material Adverse Effect.

(a) Each Loan Party has heretofore furnished to the Lenders the financial statements specified in Section 4.02(c). The financial statements furnished to the Lenders pursuant to Section 4.02(c)(i) and, to the knowledge of Borrower, the financial statements furnished to the Lenders pursuant to Section 4.02(c)(ii) present fairly in all material respects the financial condition, results

of operations and cash flows of such Loan Party as of such dates and for such periods. Such balance sheets and the notes thereto disclose all material liabilities (contingent or otherwise) of such Loan Party as of the dates thereof to the extent required by GAAP. Such financial statements were prepared in accordance with GAAP.

(b) With respect to the balance sheet delivered pursuant to Section 4.02(c)(i), such balance sheet has been prepared giving effect (as if such events had occurred on such date) to (a) the Tranche A Loans and the use of proceeds thereof and (b) the payment of fees and expenses in connection with the foregoing. To the knowledge and best estimate of Borrower, the such balance sheet has been prepared based on the best information available to Borrower as of the date of delivery thereof, and presents fairly in all material respects the estimated financial position of Borrower on a pro forma basis as at the Tranche A Funding Date, assuming that the events specified in the preceding sentence had actually occurred at such date.

(c) Since the SPA Execution Date, no event, change or condition has occurred that has caused, or could be reasonably expected to cause, a Material Adverse Effect.

Section 3.06 Litigation. Except as set forth on Schedule 3.06,

(a) There is no pending or, to the knowledge of any Authorized Representative of any Loan Party, threatened (in writing) litigation, investigation, action or proceeding of or before any court, arbitrator or Governmental Authority (in the case of any of the foregoing not involving the Loan Parties, to the knowledge of any Authorized Representative of any Loan Party) (i) seeking to restrain or prohibit the consummation of the transactions contemplated by the Transaction Documents, (ii) purporting to affect the legality, validity or enforceability of any of the Transaction Documents or (iii) that affects the Project or any material part of the Site; and

(b) As of any date on which the representation and warranty set forth in this Section 3.06(b) is made, there is no pending or, to the knowledge of any Authorized Representative of any Loan Party, threatened (in writing) litigation, investigation, action or proceeding of or before any court, arbitrator or Governmental Authority (in the case of any of the foregoing not involving the Loan Parties, to the knowledge of any Authorized Representative of any Loan Party) (i) seeking to restrain or prohibit the consummation of the transactions contemplated by the Transaction Documents, (ii) purporting to affect the legality, validity or enforceability of any of the Transaction Documents or (iii) that affects the Project or any material part of the Site, which in any such case (either individually or in the aggregate) under the foregoing clauses (i) through (iii) could reasonably be expected to have a Material Adverse Effect.

Section 3.07 Authorizations; Environmental Matters. Except as set forth on Schedule 3.07:

(a) each Loan Party and the Project is now and has been in compliance with all applicable Environmental Laws, except as would not be reasonably expected to have a Material Adverse Effect;

(b) each Loan Party or the Project, as applicable, (i) holds or has applied for all material Authorizations (which are set forth in Part I of Schedule 3.04 and each of which is in full force and effect) required for any of its current operations or for any property owned, leased or otherwise

operated by it; and (ii) is and has been in compliance with all Authorizations required under Applicable Laws, except as would not be reasonably expected to have a Material Adverse Effect;

(c) there are no past, pending or, to the knowledge of an Authorized Representative of any Loan Party, threatened, Environmental Claims asserted against any Loan Party or the Project, including any consent decrees, orders, settlements or other agreements relating to compliance or liability with Environmental Laws, except as would not be reasonably expected to have a Material Adverse Effect;

(d) there has been no Release or threat of Release of Hazardous Materials at, on, from or under the Site or any other real property currently or formerly owned, leased or operated by any Loan Party, except in each case in compliance with Environmental Laws, except as would not be reasonably expected to have a Material Adverse Effect;

(e) there have been no material environmental investigations, studies, audits, reviews or other analyses conducted by any Loan Party in relation to the Project which disclose any potential basis for Environmental Claims, except as would not be reasonably expected to have a Material Adverse Effect; and

(f) each Loan Party has made available copies of all significant reports, correspondence and other documents in its possession, custody or control regarding compliance by any of the Loan Parties, or potential liability of any of the Loan Parties under Environmental Laws or Authorizations required under Environmental Laws, except as would not be reasonably expected to have a Material Adverse Effect.

This Section 3.07 sets forth the only representations and warranties of the Loan Parties related to any Environmental Claims or any other environmental matters.

Section 3.08 Compliance with Laws and Obligations. Subject to Section 3.07, each Loan Party and the Project, are in compliance with all Applicable Laws applicable to the Loan Parties and the Project, except where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect.

Section 3.09 Material Project Documents. The copies of each of the Material Project Documents, and any amendments thereto provided or to be provided by any Loan Party to the Administrative Agent are, or when delivered will be, correct and complete copies of such agreements and documents. Except as has been previously disclosed in writing to Administrative Agent, none of the Material Project Documents has been further amended, modified or terminated. No termination event has occurred under any Material Project Document, each Material Project Document is in full force and effect, there are no unsatisfied conditions precedent to a Material Project Counterparty's obligations or to full performance of a Material Project Counterparty under any Material Project Document, and no Loan Party has received any default, expiration, breach or termination notice pursuant to any Material Project Document. Each Loan Party is in compliance in all material respects with all of the terms of the Material Project Documents to which it is a party. To the knowledge of any Authorized Representative of any Loan Party, no Material Project Counterparty is in default of any of its obligations under any Material Project Document other than

defaults which, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect.

Section 3.10 Licenses.

(a) Each Loan Party owns, or is licensed to use, all patents, trademarks, permits, proprietary information and knowledge, technology, copyrights, licenses, franchises and formulas, or rights with respect thereto and all other intellectual property, necessary for its business and that are material to the performance by it of its obligations under the Transaction Documents to which it is a party, in each case, as to which the failure of such Loan Party to so own or be licensed could reasonably be expected to have a Material Adverse Effect, and the use thereof by such Loan Party does not infringe in any material respect upon the rights of any other Person.

(b) Each Loan Party has obtained all necessary licenses, easements and access rights required for the Project the absence of any of which could reasonably be expected to have a Material Adverse Effect as set forth on Schedule 3.10.

Section 3.11 Taxes. Except as specified on Schedule 3.11:

(a) each Loan Party has timely filed or caused to be filed all material tax returns and reports required to have been filed by it and has paid or has caused to be paid all material taxes required to have been paid by it (whether or not shown as due on any tax returns), other than taxes that are being contested in accordance with the Permitted Contest Conditions;

(b) each Loan Party is properly treated as a disregarded entity or a partnership for U.S. federal income tax purposes and has not filed an election pursuant to Treasury Regulation Section 301.7701- 3(c) to be treated as an association taxable as a corporation; and

(c) No Property held by any Loan Party is the subject of any temporary tax abatement or any other temporary tax reduction.

Section 3.12 Full Disclosure; Projections.

(a) None of the written reports, financial statements, certificates or other written information (other than Projections and information of a general economic or industry nature) furnished by or on behalf of any Loan Party to the Administrative Agent or any Lender in connection with the negotiation and execution of this Agreement or delivered hereunder (as modified or supplemented by other information so furnished), taken as a whole, contains any material misstatement of fact or omits to state any material fact necessary to make such statements therein, in the light of the circumstances under which they were made, not materially misleading; provided, that with respect to the financial information provided pursuant to Section 4.02(c)(ii), the representation and warranty set forth in this Section 3.12(a) is solely given to the knowledge of Borrower.

(b) Each Loan Party's sole representation with respect to information consisting of statements, estimates, forecasts and projections regarding the Loan Parties and the future performance of the Project or other expressions of view as to future circumstances (including the Financial Model, the Operating Budget, the Construction Budget, the Construction Schedule, and

estimates, budgets, forecasts, financial information and "forward-looking statements" that have been made available to any Secured Party by or on behalf of any Loan Party or any of its representatives or Affiliates (collectively, "Projections")), shall be that such Projections have been prepared in good faith based upon assumptions believed to be reasonable at the time of preparation thereof and are consistent in all material respects with the Financing Documents and the Project Documents as of the time of preparation thereof; provided that it is understood and acknowledged that such Projections are based upon a number of estimates and assumptions and are subject to business, economic and competitive uncertainties and contingencies, that actual results during the period or periods covered by any such Projections may differ from the projected results and such differences may be material and that, accordingly, no assurances are given and no representations, warranties or covenants are made that any of the assumptions are correct, that such Projections will be achieved or that the forward-looking statements expressed in such Projections will correspond to actual results.

Section 3.13 Senior Obligations. Each Loan Party's obligations under the Financing Documents are the direct and unconditional general obligations of such Loan Party and, on and after the Tranche A Funding Date, rank senior in priority of payment and in all other respects with all other present or future unsecured and secured Indebtedness of such Loan Party.

Section 3.14 Solvency. Each Loan Party is Solvent.

Section 3.15 Regulatory Restrictions on the Loan. No Loan Party is an "investment company" within the meaning of the Investment Company Act of 1940 of the United States (including the rules and regulations thereunder), as amended.

Section 3.16 Title; Security Documents.

(a) Project Company owns and has good, legal and marketable title to the Real Property. Each Loan Party owns all material properties and assets (other than the Real Property), in each case purported to be covered by the Security Documents to which it is party free and clear of all Liens other than Permitted Liens.

(b) The provisions of the Security Documents to which any Loan Party is a party that have been delivered on or prior to the date this representation is made are (and each other Security Document to which any Loan Party will be a party when delivered thereafter will be), effective to create, in favor of the Collateral Agent for the benefit of the Secured Parties, a legal, valid and enforceable first-priority Lien on and security interest in all of the Collateral purported to be covered thereby, and all necessary recordings and filings have been (or, in the case of such other Security Documents, will be) made in all necessary public offices, and all other necessary and appropriate action has been (or, in the case of such other Security Documents, will be) taken, so that the security interest created by each Security Document is a first-priority perfected Lien on and security interest in all right, title and interest of such Loan Party in the Collateral purported to be covered thereby, prior and superior to all other Liens other than Permitted Liens and all necessary and appropriate consents to the creation, perfection and enforcement of such Liens have been (or, in the case of such other Security Documents, will be) obtained from each Material Project Counterparty in accordance with this Agreement.

Section 3.17

ERISA.

(a) No ERISA Event has occurred or is reasonably expected to occur which has or could reasonably be expected to have a Material Adverse Effect. Each Pension Plan has complied in all material respects with the applicable provisions of ERISA and the Code. No termination of a Pension Plan has occurred resulting in any liability that has remained underfunded and no Lien against any Loan Party or any of its ERISA Affiliates in favor of the PBGC or a Pension Plan has arisen during the five-year period prior to the date hereof. None of the Loan Parties or any of its ERISA Affiliates has incurred any liability in an amount which has or could reasonably be expected to have a Material Adverse Effect on account of a complete or partial withdrawal from a Multiemployer Plan.

(b) None of the Loan Party has incurred any obligation which has or could reasonably be expected to have a Material Adverse Effect on account of the termination or withdrawal from any Foreign Plan.

Section 3.18 Insurance. Except as set forth in Schedule 3.18, all insurance policies required to be obtained by the Loan Parties pursuant to Section 5.06 and under any Material Project Document, if any, have been obtained and are in full force and effect as required under Section 5.06 and all premiums then due and payable thereon have been paid in full. No Loan Parties has received any notice from any insurer that any insurance policy has ceased to be in full force and effect or claiming that the insurer's liability under any such insurance policy can be reduced or avoided.

Section 3.19 Single-Purpose Entity.

(a) Each of Holdings and Borrower is a single purpose entity created for purposes of the Project (including the transactions contemplated hereby and by the SPA) and the performance of its obligations under the Transaction Documents to which it is a party and, in each case, activities related thereto or incident thereto, and has not engaged in any business other than the Project and the performance of its obligations under the Transaction Documents to which it is a party and, in each case, activities related thereto, and neither Holdings nor Borrower has any obligations or liabilities other than those arising out of or relating to the conduct of such business or activities related or incidental thereto.

(b) None of Holdings, Borrower nor, since the Acquisition, Project Company has (i) commingled its assets with any other Loan Party or any other Person, (ii) used its assets to pay the obligations of any other Loan Party or any other Person or (iii) held itself out to third parties as anything other than an entity legally separate from each other Loan Party and any other Person.

Section 3.20 Use of Proceeds. The proceeds the Loan have been used solely in accordance with, and solely for the purposes contemplated by, Section 5.13. No part of the proceeds of any Loan and other extensions of credit hereunder will be used, either directly or indirectly, by any Loan Party to purchase or carry any Margin Stock (as defined in Regulation U) or to extend credit to others for the purpose of purchasing or carrying any Margin Stock or for any purpose that entails a violation of any of the regulations of the Board.

Section 3.21 Membership Interests and Related Matters.

(a) Other than set forth on Schedule 3.21(a), as of the Closing Date, no Loan Party has any Subsidiaries and no Loan Party owns any equity interest in, or otherwise Control any Voting Stock of or have any ownership interest in, any Person.

(b) All of the membership interests in each Loan Party have been duly authorized and validly issued in accordance with its Organizational Documents, are fully paid and non-assessable and free and clear of all Liens other than Permitted Liens. Other than as set forth on Schedule 3.21(b), no Loan Party has outstanding any securities convertible into or exchangeable for any of its membership interests in or any rights to subscribe for or to purchase, or any warrants or options for the purchase of, or any agreements providing for the issuance (contingent or otherwise) of, or any calls, commitments or claims of any character relating to any such membership interests (except as expressly provided for or permitted herein or in the Security Documents).

(c) There are no agreements or understandings (other than the Financing Documents, any Permitted Working Capital Facility and Borrower's Organizational Documents) (i) to which Borrower is a party with respect to the voting, sale or transfer of any shares of Capital Stock of Borrower or restricting the transfer or hypothecation of any such shares or (ii) with respect to the voting, sale or transfer of any shares of Capital Stock of Borrower or restricting the transfer or hypothecation of any such shares.

Section 3.22 Permitted Indebtedness; Investments.

(a) No Loan Party has created, incurred, assumed or suffered to exist any Indebtedness, other than Permitted Indebtedness.

(b) As of the Closing Date, all Indebtedness of the Loan Parties incurred pursuant to Section 6.02(b) is listed on Schedule 3.22(b).

(c) None of the Loan Parties (other than Project Company solely with respect to the period prior to the Acquisition) has made any advance, loan or extension of credit to, or made any acquisition or Investment (whether by way of transfers of property, contributions to capital, acquisitions of stock, securities, evidences of Indebtedness or otherwise) in, or purchase of any stock, bonds, notes, debentures or other securities of, any other Person, other than (i) Borrower's acquisition of Project Company pursuant to the SPA, (ii) as permitted under Section 6.04 and (iii) extensions of credit expressly contemplated by the Project Documents.

Section 3.23 Agreements with Affiliates. As of the Closing Date, Schedule 3.23 sets forth any and all agreements, transactions or series of related transactions among, on one hand, one or more Loan Parties, and on the other hand, one or more Affiliates of a Loan Party (other than the Loan Parties).

Section 3.24 No Bank Accounts. No Loan Party maintains, or has caused the Depositary Bank or any other Person to maintain, any accounts other than the Collateral Accounts and any other account permitted under the Financing Documents.

Section 3.25 No Default or Event of Default. No Default or Event of Default has occurred and is continuing.

Section 3.26

Foreign Assets Control Regulations.

(a) None of the Loan Parties, and none of their respective officers or directors, or, to any of the Loan Parties' knowledge, their respective Affiliates or agents (i) is a Sanctioned Person; or (ii) engages in any dealings or transactions in or with a Sanctioned Country or that are otherwise prohibited by Sanctions.

(b) Each of the Loan Parties has implemented and currently maintains policies and procedures to ensure compliance with Sanctions, Anti-Corruption Laws, and Anti-Money Laundering Laws.

(c) Each of the Loan Parties and their respective officers, directors, employees and, to the Loan Parties' knowledge, agents are in compliance with Anti-Corruption Laws, Anti-Money Laundering Laws and Sanctions.

(d) No part of the proceeds of the Loans will be used, directly or indirectly (i) in violation of the FCPA, Anti-Money Laundering Laws or Sanctions or (ii) to offer or make payments or to take any other action that would constitute a violation, or implicate any Lender, Administrative Agent, Collateral Agent or their respective Affiliates in a violation, of Anti-Corruption Laws or applicable Sanctions.

(e) Each of the Loan Parties has disclosed all facts known to it regarding (a) all claims, damages, liabilities, obligations, losses, penalties, actions, judgment, and/or allegations of any kind or nature that are asserted against, paid or payable by such Person, any of its Affiliates or any of its representatives in connection with non-compliance with Anti-Corruption Laws, Sanctions or Anti-Money Laundering Laws by such Person, and (b) any investigations involving possible non-compliance with Anti-Corruption Laws, Sanctions or Anti-Money Laundering Laws by such Person or such Affiliate or such representative. No proceeding by or before any Governmental Authority involving any Loan Party with respect to Anti-Corruption Laws, Sanctions or Anti-Money Laundering Laws is pending or, to the knowledge of the Loan Parties, threatened.

Notwithstanding anything to the contrary in this Section 3.26, the representation set forth in this Section 3.26 shall be given with respect to Project Company only for the period after the Acquisition.

Section 3.27 Commercial Activity; Absence of Immunity. The Loan Parties are subject to civil and commercial law with respect to their obligations under the Transaction Documents, and the making and performance of the Transaction Documents by the Loan Parties constitute private and commercial acts rather than public or governmental acts. The Loan Parties are not entitled to any immunity on the ground of sovereignty or the like from the jurisdiction of any court or from any action, suit, setoff or proceeding, or the service of process in connection therewith, arising under the Financing Documents.

Section 3.28 Sufficiency of Project Documents.

(a) Project Company's interests in the Site:

(i) comprise all of the real property interests necessary for the ownership, construction, installation, completion, operation and maintenance of the Project in accordance in all material respects with all Legal Requirements, the Project Documents and the Construction Budget;

(ii) are sufficient to enable the entire Project to be located, operated and maintained on the Site;

(iii) provide adequate ingress and egress to and from the Site for any reasonable purpose in connection with the ownership, construction, operation and maintenance of the Project for the purposes and on the terms set forth in the applicable Material Project Documents.

(b) Except to the extent that any failure to have any of the following could not reasonably be expected to have a Material Adverse Effect, there are no services, materials or rights required for the development, construction, ownership and operation and maintenance of the Project in accordance with the Material Project Documents and the assumptions that form the basis of the Financial Model, other than those to be provided under the Project Documents.

Section 3.29 Substantial Completion and Final Completion.

(a) (i) Substantial Completion is expected to occur not later than the Date Certain, (ii) Final Completion is expected to occur not later than September 17, 2022, and each of the foregoing representations is based on factual evidence and reasonable assumptions at the time such representation is given and (iii) the Start Date (as defined in the ExxonMobil Offtake Agreement) is reasonably expected to occur not later than the Date Certain.

(b) The proceeds of the Loans, together with all other cash funds on deposit in the Collateral Accounts, are expected to be sufficient to cause the Project to achieve Substantial Completion and Final Completion.

(c) Borrower reasonably anticipates that it is able to achieve each Significant Milestone by the date relating thereto in the Construction Schedule.

ARTICLE IV

CONDITIONS

Section 4.01 Conditions to the Closing Date. The occurrence of the Closing Date, the effectiveness of this Agreement and the obligations of Agent and each Lender hereunder are subject to the receipt by the Administrative Agent (except as set forth otherwise below) of each of the following documents, and the satisfaction of the conditions precedent set forth below, each of which must be satisfied to the reasonable satisfaction of the Administrative Agent and each Lender (unless waived in accordance with Section 10.02):

(a) Execution of Financing Documents. The Financing Documents ((x) including the HoldCo Lender Backstop Agreement but (y) excluding Control Agreements in respect of each Collateral Account, the Mortgage and each other Financing Document to be delivered on the

Tranche A Funding Date in accordance with Section 4.02) shall have been duly executed and delivered by the Persons intended to be parties thereto and shall be in full force and effect.

(b) Corporate Documents. The following documents, each certified as of the Closing Date as indicated below:

(i) copies of the Organizational Documents, together with any amendments thereto, of each of Borrower and Holdings and a certificate of good standing or its equivalent (if any) for the applicable jurisdiction for each such party (in each case such good standing certificate or its equivalent dated no more than ten (10) Business Days prior to the Closing Date);

(ii) an Officer's Certificate of each of Borrower and Holdings dated as of the Closing Date, certifying:

(A) that attached to such certificate is a correct and complete copy of the Organizational Documents referred in clause (i) above for such Person;

(B) attached to such certificate is a correct and complete copy of resolutions duly adopted by the board of directors, member(s), partner(s) or other authorized governing body of such Person, and that such resolutions or other evidence of authority have not been modified, rescinded or amended and are in full force and effect;

(C) that the certificate of incorporation, certificate of formation, charter or other Organizational Documents (as the case may be) referred in clause (i) above for such Person has not been amended since the date of the certification furnished pursuant to clause (i) above;

(D) as to the incumbency and specimen signature of each officer, member or partner (as applicable) of such Person executing the Financing Documents to which such Person is or is intended to be a party (and each Lender may conclusively rely on such certificate until it receives notice in writing from such Person); and

(E) as to the qualification of such Person to do business in each jurisdiction where its operations require qualification to do business and as to the absence of any pending proceeding for the dissolution or liquidation of such Person.

(c) Reports of Consultants. The Administrative Agent shall have received a report from the Environmental Consultant (including a review of all material Authorizations relating to the Project), the Insurance Advisor, the Independent Engineer, the Market Consultant (Feedstock), the Market Consultant (Renewable Diesel) and the Rail Consultant, in each case, in form and substance satisfactory to the Lenders and together with reliance letters (or reliance provisions in such reports) in form and substance reasonably satisfactory to Administrative Agent.

(d) Initial Material Project Documents; Consents to Assignment. Delivery of (i)(x) a copy of the SPA and (y) each of the Initial Material Project Documents (other than any Pre-

Acquisition Material Project Document), and any amendments thereto, together with a certificate by an Authorized Representative of Borrower certifying as of the Closing Date that each such copy of the SPA and each such Initial Material Project Document is a correct and complete copy thereof and the SPA (including all waivers, consents, amendments and other modifications thereof) and each such Initial Material Project Document (including all waivers, consents, amendments and other modifications thereof) is in full force and effect and (ii) a Consent to Assignment, dated as of the Closing Date, in respect of the COMA and the SusOils License Agreement.

(e) Authorizations. Except as set forth on Schedule 3.04, all Authorizations set forth in Part I of Schedule 3.04 hereto (i) have been duly obtained and validly issued, (ii) are in full force and effect and not subject to any pending or, to the knowledge of any Loan Party threatened, appeal, (iii) are issued to, assigned to, or otherwise assumed by, a Loan Party or the Project Company (or such Loan Party or Project Company is entitled to the benefit thereof), (iv) are not subject to any current legal proceeding to which any Loan Party or Project Company is a party, (v) are free from any unsatisfied condition the failure of which to satisfy could reasonably be expected to have a Material Adverse Effect and (vi) there is no reason to believe that any such Authorization may be withdrawn, cancelled, varied, suspended or revoked.

(f) Financial Model, Construction Budget and Construction Schedule. Delivery of a certified copy of each of the Financial Model, the Construction Budget and the Construction Schedule, in each case, in form and substance reasonably satisfactory to the Administrative Agent.

(g) Regulatory Information. Each Lender shall have received (i) all documentation and other written information required by bank regulatory authorities under applicable "know your customer" and anti-money laundering rules and regulations, including the USA PATRIOT Act, reasonably requested by them at least five (5) Business Days prior to execution of this Agreement and (ii) the Beneficial Ownership Regulation (including a Beneficial Ownership Certification).

(h) Representations and Warranties. The representations and warranties of each Loan Parties set forth in the Financing Documents shall be true and correct in all material respects (except where already qualified by materiality or Material Adverse Effect, in which case, such representations and warranties shall be true and correct in all respects) on and as of the Closing Date (unless stated to relate solely to an earlier date, in which case such representations and warranties were true and correct as of such earlier date).

(i) No Default or Event of Default. No Default or Event of Default shall have occurred and be continuing on the Closing Date.

(j) Collateral Perfection Matters. The Administrative Agent shall have received:

(i) appropriately completed UCC financing statements (Form UCC-l), which have been duly authorized for filing by the appropriate Person, naming Holdings and Borrower as debtors and Collateral Agent as secured party, in form appropriate for filing under the UCC of each jurisdiction as may be necessary to perfect the security interests purported to be created by the Security Documents, covering the applicable Collateral;

(ii) copies of UCC, judgment lien, tax lien and litigation lien search reports, which reports will be dated a recent date reasonably acceptable to the Administrative

Agent, listing all effective financing statements that name Holdings or Borrower as debtor and that are filed in the jurisdictions in which the UCC-1 financing statements will be filed in respect of the Collateral, none of which shall cover the Collateral except to the extent evidencing Permitted Liens;

(iii) appropriately completed copies of all other recordings and filings of, or with respect to, the Security Documents as may be reasonably requested by Collateral Agent and necessary to perfect the security interests purported to be created by the Security Documents; and

(iv) evidence that all other actions reasonably requested by Collateral Agent and necessary to perfect and protect the security interests purported to be created by the Security Documents entered into on or prior to the Closing Date have been taken immediately prior to the occurrence of the Closing Date.

(k) Certain Agreements; Staffing Plan.

(i) Each of Richard Palmer and Noah Verleun shall have entered into a non-solicitation and confidentiality agreement with Borrower, which agreements shall be in form and substance reasonably satisfactory to the Administrative Agent and which shall name the Administrative Agent as a third party beneficiary.

(ii) Borrower shall have delivered a staffing plan to the Administrative Agent, which plan shall be in form and substance reasonably satisfactory to the Administrative Agent.

(l) Security Documents. The security interests in and to the Collateral as of the Closing Date intended to be created under the Security Documents in effect as of the Closing Date shall have been created in favor of the Collateral Agent for the benefit of the Secured Parties, are in full force and effect and the necessary notices, consents, acknowledgments, filings, registrations and recordings to preserve, protect and perfect the security interests in such Collateral have been made immediately prior to the occurrence of the Closing Date such that the security interests granted in favor of the Collateral Agent for the benefit of the Secured Parties are filed, registered and recorded and will constitute a first priority, perfected security interest in such Collateral free and clear of any Liens, other than Permitted Liens, and all related recordation, registration and/or notarial fees of such Collateral have been paid to the extent required.

(m) Equity Kicker; VCOC Matters. (i) The Administrative Agent shall have received a copy of (x) the HoldCo Borrower LLC Agreement, executed and delivered by each of the parties thereto and (y) board observer rights agreements, dated as of the Closing Date, in form and substance reasonably satisfactory to the Administrative Agent and (ii) each Tranche A Lender and Borrower shall have agreed in writing as to the portion of such Loan allocated to the purchase of the corresponding Equity Kicker as required pursuant to Section 2.01(f).

(n) Establishment of Accounts. The Administrative Agent shall have received evidence that each of the Collateral Accounts required under this Agreement has been established in accordance with the terms thereof.

(o) Officer's Certificate. The Administrative Agent shall have received an Officer's Certificate of each Loan Party, dated as of the Closing Date, certifying that each of the conditions set forth in this Section 4.01 have been satisfied (other than with respect to whether any document, event or circumstance is satisfactory or otherwise acceptable to the Administrative Agent or any Lender or Agent).

Section 4.02 Conditions to Tranche A Funding Date. The occurrence of the Tranche A Funding Date and each Tranche A Lender's obligations to make the Tranche A Loans pursuant to Section 2.01 are subject to the receipt by the Administrative Agent (except as set forth otherwise below) of each of the following documents, and the satisfaction of the conditions precedent set forth below, each of which must be satisfied to the reasonable satisfaction of the Administrative Agent (unless waived in accordance with Section 10.02):

(a) Authorizations. All Authorizations set forth in Part I of Schedule 3.04 hereto (i) have been duly obtained and validly issued, (ii) are in full force and effect and not subject to any pending or, to the knowledge of any Loan Party threatened, appeal, (iii) are issued to, assigned to, or otherwise assumed by, a Loan Party (or such Loan Party is entitled to the benefit thereof), (iv) are not subject to any current legal proceeding to which any Loan Party is a party and (v) are free from any unsatisfied condition the failure of which to satisfy could reasonably be expected to have a Material Adverse Effect.

(b) Acquisition.

(i) The Acquisition shall have been consummated in accordance with the terms of the SPA simultaneously with the occurrence of the Tranche A Funding Date and the incurrence of the borrowing, without giving any amendments, waivers or other modifications to (or consent under) the SPA that are adverse to the Lenders and that have not been approved by the Lenders.

(ii) Each of the conditions set forth in Article VIII of the SPA shall have been satisfied to the reasonable satisfaction of the Administrative Agent, and a copy of all documents and other deliverables referenced therein shall have been provided to the Administrative Agent.

(iii) Each of the representations and warranties set forth in Article IV of the SPA that are material to the interests of the Lenders are, to the knowledge of any Authorized Representative of Borrower, true and correct in all material respects (except where already qualified by materiality or Material Adverse Effect or similar qualifier, in which case, such representations and warranties are true and correct in all respects); provided that if any such representation or warranty relates solely to an earlier date, then such representation or warranty shall be true and correct in all material respects as of such earlier date.

(iv) Project Company shall have entered into the Project Company Joinder and a joinder agreement to the Security Agreement in the form of Exhibit A thereto.

(c) No Material Adverse Effect. Since the SPA Execution Date, there shall not have been any event or series of events which has had or could reasonably be expected to have a Material Adverse Effect (as defined in the SPA).

(d) Financial Statements. The Administrative Agent shall have received:

(i) an unaudited consolidated *pro forma* balance sheet of Borrower dated as of the Tranche A Funding Date; and

(ii) all "Carve-Out Financials" (as defined in the SPA) as provided to Borrower under the SPA.

(e) Assignment of SPA. Borrower shall have entered into an assignment agreement pursuant to which GCE Holdings shall have assigned, and Borrower shall have assumed, the SPA on or prior to the Tranche A Funding Date. The closing statement delivered pursuant to the SPA shall be in form and substance reasonably satisfactory to the Administrative Agent.

(f) Corporate Documents. The following documents:

(i) copies of the Organizational Documents, together with any amendments thereto, of Project Company (including all documents reflecting the conversion of the organizational form of Project Company from a Delaware corporation to a Delaware limited liability, if applicable) and a certificate of good standing or its equivalent (if any) for the applicable jurisdiction for each such party (in each case such good standing certificate or its equivalent dated no more than ten (10) Business Days prior to the Tranche A Funding Date);

(ii) an Officer's Certificate of Project Company dated as of the Tranche A Funding Date, certifying:

(A) that attached to such certificate is a correct and complete copy of the Organizational Documents referred in clause (i) above for such Person;

(B) attached to such certificate is a correct and complete copy of resolutions duly adopted by the board of directors, member(s), partner(s) or other authorized governing body of such Person, and that such resolutions or other evidence of authority have not been modified, rescinded or amended and are in full force and effect;

(C) that the certificate of incorporation, certificate of formation, charter or other Organizational Documents (as the case may be) referred in clause (i) above for such Person has not been amended since the date of the certification furnished pursuant to clause (i) above;

(D) as to the incumbency and specimen signature of each officer, member or partner (as applicable) of such Person executing the Financing Documents to which such Person is or is intended to be a party (and each Lender may conclusively rely on such certificate until it receives notice in writing from such Person); and

(E) as to the qualification of such Person to do business in each jurisdiction where its operations require qualification to do business except for the

the CA Foreign Qualification and as to the absence of any pending proceeding for the dissolution or liquidation of such Person.

(g) Officer's Certificate. The Administrative Agent shall have received an Officer's Certificate of each Loan Party dated as of the Tranche A Funding Date certifying that each of the **documentary** conditions set forth in this Section 4.02 have been satisfied (and other than with respect to whether any document, event or circumstance is satisfactory or otherwise acceptable to the Administrative Agent or any Lender or Agent).

(h) Solvency Certificate. The Lenders shall have received a solvency certificate of the chief financial officer or president of Borrower, demonstrating that the Loan Parties are, on a consolidated basis, and after giving effect to the incurrence of all Indebtedness, will be, Solvent.

(i) Control Agreements. A Control Agreement in respect of each Collateral Account shall have been duly executed and delivered by the Persons intended to be parties thereto and shall be in full force and effect, which Control Agreements shall be in form and substance reasonably satisfactory to the Administrative Agent.

(j) Real Estate Documents. The Administrative Agent shall have received:

(i) an ALTA mortgagee policy of title insurance, in each case together with such endorsements as are reasonably required by the Administrative Agent (such policies and endorsements being hereinafter referred to collectively as the "Title Policy"), in an amount not less than $225,000,000, issued by Chicago Title Policy (the "Title Company"), in form and substance reasonably satisfactory to the Administrative Agent, and insuring the Collateral Agent that with respect to the Project;

(A) the Mortgage constitutes a valid, first priority Lien on Project Company's fee interest in the Site, free and clear of all Liens, encumbrances and exceptions to title whatsoever, other than Permitted Liens.

(ii) For the Project, a recent survey of the real estate parcels constituting the Site (including all easements and related rights of way comprising the Project) whether owned or leased, certified to the Collateral Agent by a licensed surveyor, in form reasonably satisfactory to it, and conforming to the standard of the applicable state surveyors association; and

(iii) (A) A completed Flood Certificate with respect to the Mortgaged Property, which Flood Certificate shall (I) be addressed to the Collateral Agent, (II) be completed by a company which has guaranteed the accuracy of the information contained therein, and (III) otherwise comply with the Flood Program; (B) evidence describing whether each community in which any Mortgaged Property is located participates in the Flood Program; (C) if the Flood Certificate delivered pursuant to clause (A) hereof states that any portion of any Mortgaged Property is located in a Flood Zone, the Loan Parties' written notification to the Collateral Agent (I) as to the existence of such Mortgaged Property, and (II) as to whether the community in which such Mortgaged Property is located is participating in the Flood Program; and (D) if any improved portion of any Mortgaged Property is located in a Flood Zone and is located in a community that participates in the Flood Program,

evidence that the Loan Parties have obtained a policy of flood insurance that is in compliance with all applicable regulations of the Board of Governors of the Federal Reserve System.

(k) [Reserved].

(l) Insurance Deliverables.

(i) Borrower shall have obtained the insurance required to be in effect under Section 5.06 to the extent required as of the Tranche A Funding Date and such insurance shall be in full force and effect, and Borrower shall have furnished the Administrative Agent with certificates signed by the insurer or an agent authorized to bind the insurer, together with loss payee endorsements in favor of the Collateral Agent, evidencing such insurance, identifying underwriters, the type of insurance, the insurance limits and the policy terms, and stating that such insurance (x) is, in each case, in full force and effect and (y) complies with Section 5.06 and that all premiums then due and payable on such insurance have been paid.

(ii) The Administrative Agent shall have received reasonably satisfactory evidence that Borrower has in place insurance required to be in effect under Section 5.06.

(m) Opinions of Counsel to the Loan Parties. The Administrative Agent shall have received written opinions (dated as of the Tranche A Funding Date and addressed to the Administrative Agent, the Lenders and the Collateral Agent) of (i) King & Spalding LLP, special New York counsel to the Loan Parties, and (ii) Rutan & Tucker, LLP, special California counsel to the Loan Parties, in each case, in form and substance reasonably satisfactory to the Administrative Agent.

(n) Fees and Expenses. Borrower has arranged for payment on the Tranche A Funding Date (including through the application of Tranche A Loans on the Tranche A Funding Date) of all reasonable and documented out-of-pocket fees and expenses then due and payable pursuant to the Financing Documents (including any fees and expenses in connection with the Title Policy).

(o) Funds Flow Memorandum. The Administrative Agent shall have received the Funds Flow Memorandum, in form and substance reasonably satisfactory to the Administrative Agent.

(p) Debt Service Reserve Account. The Debt Service Reserve Account shall have been funded (or will funded with the proceeds of Tranche A Loans in accordance with the Funds Flow Memorandum) in an amount equal to or greater than the Debt Service Reserve Funding Amount.

(q) COMA Employees. The Administrative Agent shall have received reasonably satisfactory evidence that GCE Operating shall have employed the individuals listed on Schedule 4.02(q).

(r) Assignment of Material Project Documents; Consents.

(i) (A) Each of the Initial Material Project Documents shall have been assigned by GCE Holdings or Borrower (as applicable) to, and assumed by Project Company (or, as an alternative, the Borrower or the Project Company shall already be a party to such agreement), (B) the ARB EPC Agreement shall be modified pursuant to change orders reasonably acceptable to the Administrative Agent (which have been previously discussed with the Borrower and the Lenders prior to the date hereof) and (C) except as noted in the foregoing clause (B), such Initial Material Project Document shall either be in the form disclosed to Lenders prior to the Closing Date or otherwise be reasonably acceptable to the Required Lenders.

(ii) The Administrative Agent shall have received a Consent to Assignment (in form and substance reasonably satisfactory to the Majority Lenders) in respect of each Initial Material Project Document (other than the Industrial Track Agreement, Mojave Spur Pipeline Ownership Agreement, the Mojave Spur Pipeline Operating Agreement and the Reactor Purchase Agreement).

(iii) The Industrial Track Agreement shall have been assigned by Seller to, and assumed by, Project Company.

(s) Collateral Perfection Matters. The Administrative Agent shall have received:

(i) appropriately completed UCC financing statements (Form UCC-l), which have been duly authorized for filing by the appropriate Person, naming Project Company as debtor and Collateral Agent as secured party, in form appropriate for filing under the UCC of each jurisdiction as may be necessary to perfect the security interests purported to be created by the Security Documents, covering the applicable Collateral;

(ii) copies of UCC, judgment lien, tax lien and litigation lien search reports, which reports will be dated a recent date reasonably acceptable to the Administrative Agent, listing all effective financing statements that name Project Company as debtor and that are filed in the jurisdictions in which the UCC-1 financing statements will be filed in respect of the Collateral, none of which shall cover the Collateral except to the extent evidencing Permitted Liens;

(iii) appropriately completed copies of all other recordings and filings of, or with respect to, the Security Documents as may be reasonably requested by Collateral Agent and necessary to perfect the security interests purported to be created by the Security Documents as of the Tranche A Funding Date;

(iv) evidence that all other actions reasonably requested by Collateral Agent and necessary to perfect and protect the security interests purported to be created by the Security Documents have been taken immediately prior to the occurrence of the Tranche A Funding Date.

(t) CCI Hedging Amendment. The Administrative Agent shall have received an executed copy of the CCI Hedging Amendment, in form and substance reasonably satisfactory to the Administrative Agent.

(u) Equity Kicker. In connection with the Tranche A Funding Date, (i) such Lender (or the Lender Equity Owner Affiliated with such Lender) shall have been granted Class B Units on the terms set forth in the HoldCo Borrower LLC Agreement (such Class B Units, the "Equity Kicker") so that such Lender (or its Affiliated Lender Equity Owner) holds a proportion of Class B Units (relative to all Class B Units) equal to the proportion of Loans of such Lender (relative to all Loans then outstanding), (ii) such Lender and Borrower shall have agreed in writing as to the portion of such Loan allocated to the purchase of the corresponding Equity Kicker as required pursuant to Section 2.01(f) and (iii) if the HoldCo Borrower LLC Agreement has been amended since the Closing Date, such amendment shall be in form reasonably satisfactory to the Required Lenders.

Section 4.03 Conditions to Each Funding Date. The occurrence of each Funding Date and each Lender's obligations to make the Loans pursuant to Section 2.01 are subject to the receipt by the Administrative Agent (except as set forth otherwise below) of each of the following documents, and the satisfaction of the conditions precedent set forth below, each of which must be satisfied to the reasonable satisfaction of the Administrative Agent (unless waived in accordance with Section 10.02):

(a) Borrowing Request. The Administrative Agent shall have received a Borrowing Request in accordance with Section 2.01, and the amount of such Borrowing Request shall not exceed the next ninety (90) days' worth of anticipated Project Costs.

(b) Notes. Each Lender that has requested a Note or Notes, as applicable, prior to such Funding Date pursuant to Section 2.05(b) shall have (i) received a duly executed Note or Notes, as applicable, dated the applicable Funding Date, payable to such Lender in a principal amount equal to such Lender's Loan and (ii) a private placement number issued by S&P's CUSIP Service Bureau (in cooperation with the SVO) with respect to such Notes.

(c) Application of Prior Loans. Other than in connection with the Tranche A Funding Date, Borrower shall have delivered to the Administrative Agent and the Independent Engineer evidence reasonably satisfactory to the Administrative Agent (in consultation with the Independent Engineer) that amounts withdrawn from the Construction Account prior to such Funding Date have been applied (or have been committed to be applied) to pay Project Costs.

(d) Representations and Warranties. The representations and warranties of each Loan Parties set forth in the Financing Documents shall be true and correct in all material respects (except where already qualified by materiality or Material Adverse Effect, in which case, such representations and warranties shall be true and correct in all respects) on and as of such Funding Date (unless stated to relate solely to an earlier date, in which case such representations and warranties were true and correct as of such earlier date).

(e) No Default or Event of Default. No Default or Event of Default shall have occurred and be continuing on such Funding Date.

(f) Fees and Expenses. Borrower has arranged for payment on such Funding Date (including through the application of Loan proceeds on such Funding Date) of all reasonable and documented out-of-pocket fees and expenses then due and payable pursuant to the Financing

Documents (including any fees and expenses in connection with the Title Policy) to the extent invoiced prior to the date the Borrowing Request is delivered in connection with such Funding Date.

(g) Equity Kicker. In connection with each Funding Date, (i) such Lender (or the Lender Equity Owner Affiliated with such Lender) shall have been granted Class B Units on the terms set forth in the HoldCo Borrower LLC Agreement so that such Lender (or its Affiliated Lender Equity Owner) holds a proportion of Class B Units (relative to all Class B Units) equal to the proportion of Loans of such Lender (relative to all Loans then outstanding) (and, if required under the Holdco Borrower LLC Agreement, such Lender shall sign a joinder to such agreement), (ii) such Lender and Borrower shall have agreed in writing as to the portion of such Loan allocated to the purchase of the corresponding Equity Kicker as required pursuant to Section 2.01(f) and (iii) if the HoldCo Borrower LLC Agreement has been amended since the Closing Date, such amendment shall be in form reasonably satisfactory to the Required Lenders.

(h) Tranche B Lender Joinders. Solely in connection with the first Funding Date which Tranche B Loans are required to be funded hereunder, the Administrative Agent shall have received one or more fully executed Tranche B Lender Joinders providing for additional Tranche B Commitments in an aggregate amount at least equal to $51,700,000.

Section 4.04 Conditions to Each Disbursement from the Construction Account. The occurrence of each disbursement from the Construction Account (the date of each such disbursement, a "Disbursement Date"), are subject to the receipt by the Administrative Agent (except as set forth otherwise below) of each of the following documents, and the satisfaction of the conditions precedent set forth below, each of which must be satisfied to the reasonable satisfaction of the Administrative Agent (unless waived in accordance with Section 10.02):

(a) Construction Requisition and IE Requisition Certificate.

(i) At least seven (7) Business Days prior to such disbursement, Borrower shall have provided to Administrative Agent and Independent Engineer a Construction Requisition certified by an Authorized Representative of Borrower, dated the date of delivery of such certificate and completed to the reasonable satisfaction of Administrative Agent, setting forth:

(A) the Disbursement Date;

(B) in the case of payments to be made under the Material Construction Contracts, copies of all documentation related to such payments required to be provided by the relevant Material Project Counterparty to Borrower under such Material Construction Contracts;

(C) in the case of payments to be made to any other vendors or contractors, copies of all documentation related to such payments required to be provided by such Person to Borrower under the relevant contract; and

(D) a certification as to the matters set forth in Sections 4.04(e) and 4.04(f).

(ii) At least four (4) Business Days prior to such disbursement, Administrative Agent shall have received an IE Requisition Certificate, dated the date of delivery of such certificate, which shall include, without limitation:

(A) a certification as to the last date the Independent Engineer was on the Site;

(B) a verification of the payments referenced in Section 4.04(a)(i)(B) and (C) above;

(C) a certification as to the matters set forth in Sections 3.29; and

(D) attaching the monthly progress report for the period in respect of which payments are being requested in the applicable Construction Requisition.

(b) Title Policy. Title Company shall have issued (or shall have irrevocably committed to issue) to Administrative Agent an endorsement to the Title Policy substantially in the form of Exhibit P, confirming that no Liens are disclosed by public records as encumbering the Real Property, except for Permitted Liens and any other exceptions to title as are reasonably acceptable to Administrative Agent.

(c) Lien Releases; No Liens. Borrower shall have delivered to Administrative Agent to the extent required to be delivered by the applicable counterparty pursuant to the terms of the applicable Material Construction Contract, a duly executed conditional waiver and release of liens on progress payment (for purposes of this Section 4.04(c), a "lien waiver") from each of the EPC Contractors and, to the extent the aggregate contract price under any contract entered into with a subcontractor or supplier exceeds $500,000 for any interim payment or $500,000 for any final payment, from each such subcontractor or supplier under the Material Construction Contracts providing for construction services on, or delivery of, any equipment or materials to, any Real Property (including any subcontractor or supplier engaged pursuant to a subcontract with a contractor under the Material Construction Contracts other than any such subcontractor or supplier that is not required to deliver such lien waivers by the terms of the Material Construction Contracts) to be paid from funds requested under the related disbursement, which lien waivers shall each be dated no earlier than the invoice delivered by the applicable counterparty which is to be paid from the requested disbursement and shall be substantially consistent with any relevant requirements of the applicable Material Construction Contract and in the form required pursuant to California law; provided that any such lien waiver may be contingent upon receipt of payment with respect to the work, services and materials to be paid for with the requested funds.

(d) Authorizations. All Authorizations set forth in Part I of Schedule 3.04 hereto (i) have been duly obtained and validly issued, (ii) are in full force and effect and not subject to any pending or, to the knowledge of any Loan Party threatened, appeal, (iii) are issued to, assigned to, or otherwise assumed by, a Loan Party (or such Loan Party is entitled to the benefit thereof), (iv) are not subject to any current legal proceeding to which any Loan Party is a party, (v) are free from any unsatisfied condition the failure of which to satisfy could reasonably be expected to have a Material Adverse Effect and (vi) there is no reason to believe that any such Authorization may be withdrawn, cancelled, varied, suspended or revoked.

(e) Representations and Warranties. The representations and warranties of each Loan Parties set forth in the Financing Documents shall be true and correct in all material respects (except where already qualified by materiality or Material Adverse Effect, in which case, such representations and warranties shall be true and correct in all respects) on and as of such Disbursement Date (unless stated to relate solely to an earlier date, in which case such representations and warranties were true and correct as of such earlier date).

(f) No Default or Event of Default; No Material Adverse Effect. No Default or Event of Default shall have occurred and be continuing on such Disbursement Date. As of such Disbursement Date, no development, event or circumstance that has had or could reasonably be expected to have a Material Adverse Effect shall have occurred and be continuing.

(g) Debt Service Reserve Account. The Debt Service Reserve Account shall have been funded in an amount equal to or greater than the Debt Service Reserve Funding Amount.

Section 4.05 Conditions to Term Conversion. The occurrence of the Term Conversion Date is subject to the receipt by the Administrative Agent (except as set forth otherwise below) of each of the following documents, and the satisfaction of the conditions precedent set forth below, each of which must be satisfied to the reasonable satisfaction of the Administrative Agent (unless waived in accordance with Section 10.02):

(a) Notice of Term Conversion. Borrower shall have delivered a duly executed notice of Term Conversion to Administrative Agent substantially in the form of Exhibit E.

(b) Substantial Completion. The Project shall have achieved Substantial Completion, as certified in writing by an Authorized Representative of Borrower in a certificate substantially in the form of Exhibit O-1 and confirmed in a certificate from the Independent Engineer substantially in the form of Exhibit O-2.

(c) Acceptable Work; No Liens; Project Costs.

(i) All work on the Project has been completed other than work that has been taken into consideration in establishing the Remaining Costs. All work previously done on the Project funded with the proceeds of the Loans has been done in all material respects in accordance with the applicable Material Project Documents. There has not been filed with or served upon any Loan Party or the Project (or any part thereof) notice of any Lien or claim of Lien affecting the right to receive payment of any of the moneys payable to any of the Persons named on such request which has not been released or will not be released on the Term Conversion Date by payment or bonding on terms reasonably satisfactory to Administrative Agent, other than Permitted Liens.

(ii) All Project Costs other than Remaining Costs shall have been paid for or, in the case of the Remaining Costs, reserved for in the Construction Account in accordance with this Agreement.

(d) Insurance Deliverables.

(i) Borrower shall have obtained the insurance required to be in effect under Section 5.06 to the extent required as of the Term Conversion Date and such insurance shall be in full force and effect, and Borrower shall have furnished the Administrative Agent with certificates signed by the insurer or an agent authorized to bind the insurer, together with loss payee endorsements in favor of the Collateral Agent, evidencing such insurance, identifying underwriters, the type of insurance, the insurance limits and the policy terms, and stating that such insurance (x) is, in each case, in full force and effect and (y) complies with Section 5.06 and that all premiums then due and payable on such insurance have been paid.

(ii) The Administrative Agent shall have received reasonably satisfactory evidence that Borrower has in place insurance required to be in effect under Section 5.06.

(e) Title Policy. Title Company shall have issued (or shall have irrevocably committed to issue) to Administrative Agent an endorsement to the Title Policy substantially in the form of Exhibit P, confirming that no Liens are disclosed by public records as encumbering the Real Property, except for Permitted Liens and any other exceptions to title as are reasonably acceptable to Administrative Agent.

(f) Operating Budget. Borrower shall have delivered to Administrative Agent and Administrative Agent shall have approved the first Operating Budget, which shall cover the period from the Term Conversion Date through the first full calendar year after the Term Conversion Date, in accordance with Section 5.20.

(g) Notes. Each Lender that has requested a Note or Notes, as applicable, pursuant to Section 2.05(b) shall have received a duly executed Note or Notes, as applicable, payable to such Lender in a principal amount equal to such Lender's Loan.

(h) Required Documentation. Administrative Agent shall have received on or prior to the Term Conversion Date a copy of each Material Project Document executed after the Closing Date (certified by an Authorized Representative of Borrower that such Material Project Documents previously delivered to Administrative Agent by Borrower are correct and complete) and any related Consent to Assignment to the extent required pursuant to Section 4.02(r)(ii), 5.26 and 6.09(a)(iii), in each case if and to the extent that a copy thereof has not previously been delivered to Administrative Agent.

(i) Authorizations. All Authorizations set forth in Parts I and II of Schedule 3.04 hereto (i) have been duly obtained and validly issued, (ii) are in full force and effect and not subject to any pending or, to the knowledge of any Loan Party threatened, appeal, (iii) are issued to, assigned to, or otherwise assumed by, a Loan Party (or such Loan Party is entitled to the benefit thereof), (iv) are not subject to any current legal proceeding to which any Loan Party is a party (v) are free from any unsatisfied condition the failure of which to satisfy could reasonably be expected to have a Material Adverse Effect and (vi) there is no reason to believe that any such Authorization may be withdrawn, cancelled, varied, suspended or revoked.

(j) Event of Loss. No Event of Loss shall have occurred and not been resolved or corrected pursuant to a completed Restoration in accordance with this Agreement to the extent that

such Event of Loss could reasonably be expected to have an impact on the Project of more than $2,500,000 or prevent the Project from operating in all material respects in a safe and reliable manner or in accordance in all material respects with the requirements of the Project Documents.

(k) Representations and Warranties. The representations and warranties of each Loan Parties set forth in the Financing Documents shall be true and correct in all material respects on and as of the Term Conversion Date (except where already qualified by materiality or Material Adverse Effect, in which case, such representations and warranties shall be true and correct in all respects); provided that if any such representation or warranty relates solely to an earlier date, then such representation or warranty shall be true and correct in all material respects as of such earlier date.

(l) No Default or Event of Default; No Material Adverse Effect.

(i) No Default or Event of Default shall have occurred and be continuing on the Term Conversion Date.

(ii) As of the Term Conversion Date, no development, event or circumstance that has had or could reasonably be expected to have a Material Adverse Effect shall have occurred and be continuing.

(m) Debt Service Reserve Account. The Debt Service Reserve Account shall have been funded in an amount equal to or greater than the Debt Service Reserve Funding Amount.

ARTICLE V

AFFIRMATIVE COVENANTS

Each Loan Party hereby agrees that (i) from and after the Closing Date and prior to the Tranche A Funding Date, to the extent applicable (it being acknowledged and agreed that, prior to the Tranche A Funding Date, the Acquisition has not occurred, Project Company is not a Loan Party, and neither Borrower nor Holdings have rights to the Site or the Project or under any Material Project Document) (other than any Material Project Document to which Borrower is a party on the Closing Date) and (ii) on the Tranche A Funding Date (following the Acquisition) and thereafter, in all respects:

Section 5.01 Corporate Existence; Etc. Each Loan Party shall at all times preserve and maintain in full force and effect (a) subject to the proviso of Section 6.07(b), its existence as a corporation or a limited liability company, as applicable, in good standing under the laws of the jurisdiction of its organization and (b) except as would not reasonably be expected to cause a Material Adverse Effect, its qualification to do business and its good standing in each jurisdiction in which the character of properties owned by it or in which the transaction of its business as conducted or proposed to be conducted makes such qualification necessary.

Section 5.02 Conduct of Business. Each Loan Party shall operate, maintain and preserve or cause to be operated, maintained and preserved, the Site in accordance in all material respects with the requirements of the Material Project Documents to which it is a party and in compliance,

in all material respects, with Applicable Laws and Authorizations by Governmental Authorities and the terms of its insurance policies.

Section 5.03 Compliance with Laws and Obligations. Each Loan Party shall comply in all material respects with applicable Environmental Laws, including occupational health and safety regulations and all other Applicable Laws and Authorizations. Each Loan Party shall comply with and perform its respective contractual obligations in all material respects, and enforce against other parties their respective contractual obligations in all material respects, under each Material Project Document to which it is a party. Each Loan Party shall comply with and not violate applicable Sanctions, Anti-Money Laundering Laws, the FCPA or any other Anti-Corruption Laws or undertake or cause to be undertaken any Anti-Corruption Prohibited Activity.

Section 5.04 Governmental Authorizations. Each Loan Party shall: (a) obtain and maintain in full force and effect (or where appropriate, promptly renew in a timely manner), or cause to be obtained and maintained in full force and effect all Authorizations set forth on Schedule 3.04 (including all Authorizations required by Environmental Law) required under any Applicable Law for the Project and such Loan Party's business and operations generally, in each case, at or before the time the relevant Authorization becomes necessary for such purposes , (b) obtain and maintain in full force and effect (or where appropriate, promptly renew in a timely manner), or cause to be obtained and maintained in full force and effect all Authorizations set forth required under any Applicable Law for each Loan Party's business and operations generally, in each case, at or before the time the relevant Authorization becomes necessary for such purposes and (c) preserve and maintain all other Authorizations required for the Project, in either case, in all material respects.

Section 5.05 Maintenance of Title. Each Loan Party shall maintain (a) good title to the material property owned by such Loan Party free and clear of Liens, other than Permitted Liens; (b) legal and valid and subsisting leasehold interests to the material properties leased by such Loan Party, free and clear of Liens, other than Permitted Liens; and (c) legal and valid possessory rights to the material properties possessed and not otherwise held in fee or leased by such Loan Party.

Section 5.06 Insurance.

(a) Each Loan Party shall maintain or cause to be maintained in all material respects on its behalf in effect at all times the types of insurance required pursuant to Schedule 5.06, in the amounts and on the terms and conditions specified therein, from the quality of insurers specified in such Schedule or other insurance companies of recognized responsibility reasonably satisfactory to Administrative Agent in consultation with the Insurance Advisor.

(b) Each Loan Party shall maintain or cause to be maintained the insurance required to be maintained pursuant to the Material Project Documents in accordance with the terms of the same.

(c) Loss Proceeds of the insurance policies provided or obtained by or on behalf of the Loan Parties shall be required to be paid by the respective insurers directly to the Extraordinary Receipts Account. If any Loss Proceeds that are required under the preceding sentence to be paid to the Extraordinary Receipts Account are received by the Loan Parties or any other Person, such

Loss Proceeds shall be received in trust for the Collateral Agent, shall be segregated from other funds of the recipient, and shall be forthwith paid into the Extraordinary Receipts Account, in the same form as received (with any necessary endorsement). Amounts in the Extraordinary Receipts Account shall be applied in accordance with Section 5.29(f).

Section 5.07 Keeping of Books. Each Loan Party shall maintain an accounting and control system, management information system and books of account and other records, which together adequately reflect truly and fairly the financial condition of such Loan Party and the results of operations in accordance with GAAP and all Applicable Laws.

Section 5.08 Access to Records. Each Loan Party shall permit (i) officers and designated representatives of the Administrative Agent to visit and inspect the Site accompanied by officers or designated representatives of such Loan Party and (ii) officers and designated representatives of the Administrative Agent to examine and make copies of the books of record and accounts of such Loan Party (provided that such Loan Party shall have the right to be present) and discuss the affairs, finances and accounts of such Loan Party with the chief financial officer, the chief operating officer and the chief executive officer of such Loan Party (subject to reasonable requirements of safety and confidentiality, including requirements imposed by Applicable Law or by contract, provided the Loan Parties will use reasonable efforts to obtain relief from any contractual confidentiality restrictions that prohibit the Administrative Agent or any Lender from obtaining information), in each case, with at least three (3) Business Days advance notice to such Loan Party and during normal business hours of such Loan Party; provided that, (i) such Loan Party shall not be required to reimburse the Administrative Agent for more than one (1) inspection per year as long as no Event of Default has occurred and is continuing and (ii) such visits by officers and designated representatives of the Administrative Agent shall not occur more frequently than twice per year as long as no Event of Default has occurred and is continuing.

Section 5.09 Payment of Taxes, Etc.

(a) Each Loan Party shall pay and discharge, before the same shall become delinquent: (i) all material taxes, assessments and governmental charges or levies imposed upon it or upon its property to the extent required under the Transaction Documents to which such Loan Party is a party or under Applicable Law and (ii) all material lawful claims that, if unpaid, might become a Lien (other than a Permitted Lien of the type referenced in clause (a)(i) of the definition of Permitted Lien) upon its property; provided that such Loan Party shall not be required to pay or discharge any such tax, assessment, charge or claim for so long as such Loan Party satisfies the Permitted Contest Conditions in relation to such tax, assessment, charge or claim.

(b) Each Loan Party shall continue to be properly treated as a disregarded entity or a partnership for U.S. federal income tax purposes and no Loan Party shall file an election pursuant to Treasury Regulation Section 301.7701-3(c) to be treated as an association taxable as a corporation.

Section 5.10 Financial Statements; Other Reporting Requirements. Each Loan Party shall furnish to the Administrative Agent:

(a) (i) commencing with the first full month after the Closing Date, as soon as available and in any event within forty five (45) days after the end of each month, the monthly unaudited consolidated financial statements of the Loan Parties, including the unaudited consolidated balance sheet as of the end of such month and the related unaudited statements of income, retained earnings and cash flows for such monthly period and for the portion of such fiscal year ending on the last day of such period, all in reasonable detail and (ii) commencing with the first full month after the Closing Date, as soon as available and in any event within forty five (45) days after the end of each month, a monthly report containing, to the extent applicable (A) such detailed information as Borrower customarily relies upon to monitor the operational performance of the Project, (B) information on the financial performance of the Project, (C) an update as to the "Cleaning Plan" (as defined in the SPA), including all notices and reporting relating thereto delivered under the SPA, (D) payments, royalties, volumes and costs relating to the SusOils License Agreement and (E) other key business performance indicators, in each case, in a form reasonably satisfactory to the Administrative Agent;

(b) commencing with the first full fiscal quarter after the Closing Date, as soon as available and in any event within sixty (60) days after the end of each fiscal quarter, quarterly unaudited consolidated financial statements of the Loan Parties, including the unaudited consolidated balance sheet as of the end of such quarterly period and the related unaudited statements of income, retained earnings and cash flows for such quarterly period and for the portion of such fiscal year ending on the last day of such period, all in reasonable detail;

(c) commencing with fiscal year ending on December 31, 2020, as soon as available and in any event within one hundred fifty (150) days after the end of each fiscal year, audited consolidated financial statements for such fiscal year for the Loan Parties, including therein the consolidated balance sheet as of the end of such fiscal year and the related statements of income, retained earnings and cash flows for such year, a comparison of actual performance of the Loan Parties with the projected performance set out in the Operating Budget for the relevant fiscal year and the respective directors' and auditors' reports, all in reasonable detail and accompanied by an audit opinion thereon by the Independent Auditor, which opinion shall state that said financial statements present fairly, in all material respects, the financial position of the Loan Parties, as the case may be, at the end of, and for, such fiscal year in accordance with GAAP;

(d) within forty-five (45) days following the end of each fiscal quarter, an environmental, social and governance report in respect of the applicable fiscal quarter in the form attached hereto as Exhibit H;

(e) at the time of the delivery of the financial statements under Sections 5.10(a), (b) and (c) above, a certificate of an Authorized Representative of such Loan Party (i) certifying to the Administrative Agent and the Lenders that such financial statements fairly present in all material respects the financial condition and results of operations of such Loan Party and its Affiliates on the dates and for the periods indicated in accordance with GAAP, subject, in the case of interim financial statements, to the absence of footnotes and normally recurring year-end adjustments and (ii) certifying to the Administrative Agent and the Lenders that no Default or Event of Default has occurred and is continuing, or if a Default or Event of Default has occurred and is continuing, a statement as to the nature thereof;

(f) within thirty (30) days after each annual policy renewal date, a certificate of an Authorized Representative of Borrower certifying that the insurance requirements of Section 5.06 have been implemented and are being complied with by the Loan Parties and on or prior to the expiration of each policy required to be maintained pursuant to Section 5.06, certificates of insurance with respect to each renewal policy and each other insurance policy required to be in effect under this Agreement that has not previously been furnished to the Administrative Agent under this Agreement. If at any time requested by the Administrative Agent (acting reasonably), Borrower shall deliver to the Administrative Agent a duplicate of any policy of insurance required to be in effect under this Agreement;

(g) concurrently with delivery under a Permitted Working Capital Facility, each other report delivered to lenders or agents under such Permitted Working Capital Facility;

(h) concurrently with delivery under the SPA, written reports concerning the status of the Cleaning Work (as defined in the SPA) and Cleaning Plan (as defined in the SPA) delivered to Seller under the SPA;

(i) Borrower shall, until the Term Conversion Date, deliver or cause to be delivered to Administrative Agent and the Independent Engineer on or before the 30th day following the last day of each calendar month, monthly reports describing the progress of the construction of the Project substantially in a form reasonably satisfactory to the Administrative Agent (together with copies of the most recently available monthly progress report received by Borrower under each of the EPC Agreements);

(j) within thirty (30) days following the end of each fiscal quarter, quarterly information relating to each of SusOils and Sponsor substantially in a form reasonably satisfactory to the Administrative Agent;

(k) concurrently with the notice delivered under Section 5.11, all material documentation related to any notice given under Section 5.11; and

(l) promptly after Administrative Agent's request therefor, such other information regarding the business, assets, operations or financial condition of the Loan Parties as the Administrative Agent may reasonably request.

Section 5.11 Notices. The Loan Parties shall promptly (and in any event within five (5) Business Days) upon an Authorized Representative of any Loan Party obtaining knowledge thereof, give notice to the Administrative Agent of:

(a) notice of the occurrence of any force majeure claim, change order request, indemnity claim, material dispute, breach or default under any of the Material Project Documents;

(b) details of any change of Applicable Law that would reasonably be expected to have a Material Adverse Effect (including material changes to the California Low Carbon Fuel Standard or the Federal Renewable Fuel Standard);

(c) any material notice or communication given to or received (i) from creditors of any Loan Party generally or (ii) in connection with any Material Project Document;

(d) notice received by it with respect to the cancellation of, adverse change in, or default under, any insurance policy required to be maintained in accordance with Section 5.06;

(e) the filing or commencement of any litigation, investigation, action or proceeding of or before any court, arbitrator or Governmental Authority against or affecting any Loan Party, the Site or the Project that, if adversely determined, could reasonably be expected to result in liability to any Loan Party in an aggregate amount exceeding $500,000 or be materially adverse to the interests of the Loan Parties;

(f) the occurrence of a Default or an Event of Default or an incipient or mature event of default or termination event under a Permitted Working Capital Facility;

(g) any amendment of any Material Project Document, and correct and complete copies of any Material Project Documents executed after the Closing Date;

(h) any Environmental Claim by any Person against, or with respect to the activities of, the Loan Parties or the Project and any alleged violation of or non-compliance with any Environmental Laws or any Authorizations required by Environmental Laws applicable to any Loan Party or the Project that, if adversely determined, could reasonably be expected to have a Material Adverse Effect;

(i) the occurrence of any ERISA Event in excess of $500,000, together with a written notice setting forth the nature thereof and the action, if any, that such Loan Party or ERISA Affiliate proposes to take with respect thereto;

(j) the sale, lease, transfer or other Disposition of, in one transaction or a series of transactions, all or any part of its property in excess of $500,000 per individual Disposition or $1,000,000 in the aggregate per annum in the aggregate per annum for all such Dispositions and/or Events of Loss;

(k) the occurrence of a Bankruptcy of any Loan Party or Material Project Counterparty;

(l) the resignation, removal, incapacitation or death of any Qualified CEO or Qualified Officer;

(m) any notices provided under any Permitted Working Capital Facility, other than routine or ministerial notices relating to the borrowing of loans thereunder; and

(n) notice of any condemnation, taking by eminent domain or other taking or seizure by a Governmental Authority with respect to a material portion of the Project or the Site.

Section 5.12 Scheduled Calls and Meetings.

Borrower shall arrange to have either (x) a telephonic conference call or (y) if requested by the Administrative Agent, an in-person meeting at the Site, in each case, with the Administrative Agent and Lenders no earlier than fifteen (15) Business Days after the end of each calendar month, which shall be coordinated with the Administrative Agent during normal business hours upon reasonable prior notice to the Lenders, to discuss (i) prior to the Term Conversion Date, the most

recent construction report delivered pursuant to Section 5.10(i) (ii) after the Term Conversion Date, the matters contained in the various financial statements and reports delivered pursuant to Section 5.10, including the status of the Loan Parties and the affairs, finances and accounts of the Loan Parties; provided that, the Administrative Agent shall not request more than two (2) in-person meetings at the Site in any calendar year pursuant to this Section 5.12.

Section 5.13 Use of Proceeds.

(a) Borrower shall apply the proceeds of the Loans solely (i) to consummate the Acquisition and pay the Purchase Price (as defined in the SPA), (ii) for the payment of Project Costs, (iii) for a payment to GCE Holdings, in an amount not to exceed $4,500,000, in connection with the CCI Hedging Documentation, without limiting the aggregate amount that may be transferred to GCE Holdings pursuant to Section 5.29(b)(ii)(H), (iv) to cash collateralize bonds or other surety obligations and letters of credit to the extent permitted under clause (j) of the definition of Permitted Lien and (v) as otherwise permitted by the Financing Documents.

(b) The proceeds of the Loans will not be used in violation of Anti-Corruption Laws or applicable Sanctions.

Section 5.14 Security. The Loan Parties shall preserve and maintain the security interests granted under the Security Documents and undertake all actions which are necessary or appropriate to: (a) subject to Permitted Liens, maintain the Collateral Agent's security interest in the Collateral in full force and effect at all times (including the priority thereof) and (b) subject to Permitted Liens, preserve and protect the Collateral and protect and enforce the Loan Parties' rights and title and the rights of the Collateral Agent and the other Secured Parties to the Collateral, including the making or delivery of all filings and recordations, the payment of all fees and other charges and the issuance of supplemental documentation.

Section 5.15 Further Assurances. The Loan Parties shall execute, acknowledge where appropriate, and deliver, and cause to be executed, acknowledged where appropriate, and delivered, from time to time promptly at the reasonable request of any Agent all such instruments and documents as are necessary or appropriate to carry out the intent and purpose of the Financing Documents (including filings, recordings or registrations required to be filed in respect of any Security Document or assignment thereto) necessary to maintain, to the extent permitted by Applicable Law, the Collateral Agent's perfected security interest in the Collateral (subject to Permitted Liens) to the extent and in the priority required pursuant to the Security Documents.

Section 5.16 Security in Newly Acquired Property and Revenues. Without limiting any other provision of any Financing Document, if any Loan Party shall at any time (a) acquire any interest in a single item of property (other than any Excluded Property) with a value of at least $250,000 or any interest (other than any Excluded Property) in revenues that could aggregate during the term of the agreement under which such receivables arise to over $250,000; or (b) acquire interests in property (other than any Excluded Property) in a single transaction or series of transactions not otherwise subject to the Lien created by the Security Documents having a value of at least $250,000 in the aggregate, in each case not otherwise subject to a Lien pursuant to, and in accordance with, the Security Documents, promptly upon such acquisition, such Loan Party

shall execute, deliver and record a supplement to the Security Documents or other documents, subjecting such interest to the Lien created by the Security Documents.

Section 5.17 Material Project Documents. Each Loan Party shall (i) duly and punctually perform and observe all of its material covenants and obligations contained in each Material Project Document to which it is a party, (ii) take all reasonable and necessary action to prevent the termination or cancellation of any Material Project Document in accordance with the terms of such Material Project Document or otherwise (except for the expiration of any Material Project Document in accordance with its terms and not as a result of a breach or default thereunder) and (iii) enforce against the relevant Material Project Counterparty each material covenant or obligation of such Material Project Document, as applicable, in accordance with its terms.

Section 5.18 Collateral Accounts.

(a) The Loan Parties shall at all times maintain the Collateral Accounts and any other account permitted herein in accordance with this Agreement and the other Financing Documents. The Loan Parties shall not maintain any securities accounts or bank accounts other than the Collateral Accounts.

(b) At all times each Loan Party shall deposit and maintain, or cause to be deposited and maintained, all Project Revenues, insurance proceeds and other amounts received into the Collateral Accounts in accordance with this Agreement and the other Financing Documents and request or make only such payments and transfers out of the Collateral Accounts as permitted by this Agreement and the other Financing Documents.

Section 5.19 Intellectual Property. The Loan Parties shall own, or be licensed to use, all trademarks, tradenames, copyrights, patents and other intellectual property necessary for the Project and their businesses (as applicable), in each case, as to which the failure of such Loan Party to so own or be licensed could reasonably be expected to have a Material Adverse Effect, and the use thereof by such Loan Party does not infringe upon the rights of any other Person, except for any such infringements that, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect.

Section 5.20 Operating Budget and Financial Model.

(a) Submission of Operating Budget and Financial Model. Borrower shall, as a condition precedent to the occurrence of the Term Conversion Date under Section 4.05(f) and no later than sixty (60) days before the commencement of each calendar year thereafter, submit to the Administrative Agent (i) a draft of its proposed Operating Budget for the succeeding calendar year and (ii) a draft of its updated Financial Model on a quarterly basis over a period ending no sooner than the latest scheduled termination date of the Initial Material Project Documents. Any such Operating Budget and/or updated Financial Model submitted by Borrower pursuant to this Section 5.20(a) shall not be effective until approved by the Administrative Agent in accordance with Section 5.20(b) or 5.20(c) below.

(b) Approval of Operating Budget. Each Operating Budget delivered pursuant to Section 5.20(a) shall not be effective until approved by the Administrative Agent, such approval not to be unreasonably withheld, conditioned, or delayed. The Operating Budget will be deemed

to be approved unless the Administrative Agent objects in writing to such Operating Budget within twenty (20) days of receipt thereof. In the event that, pursuant to the immediately preceding sentence, the Operating Budget is not approved by the Administrative Agent (which approval shall not be unreasonably withheld, conditioned, or delayed) or Borrower has not submitted a proposed Operating Budget in accordance with the terms and conditions herein, an operating budget including the greater of (x) the sum of 100% of the then-actual costs of feedstock, consumables and other variable costs for such calendar year and 105 % of the other costs set forth in the Operating Budget for the immediately preceding calendar year and (y) the amounts specified in the Financial Model delivered on the Closing Date for such calendar year (or any updated Financial Model approved by the Administrative Agent), in any case, shall apply until the Operating Budget for the then current calendar year is approved. Copies of each final Operating Budget adopted shall be furnished to the Administrative Agent promptly upon its adoption.

(c) Intra-year Adjustments to Operating Budget. Operating Expenses and Capital Expenditures shall be made in accordance with such Operating Budget, except as set forth in this Section 5.20(c). Borrower may from time to time adopt an amended Operating Budget for the remainder of any calendar year to which the amended Operating Budget applies, and such amended Operating Budget shall be effective as the Operating Budget for the remainder of such calendar year upon the consent of the Administrative Agent (in consultation with the Independent Engineer) to such amendment, such consent not to be unreasonably withheld, conditioned, or delayed. Notwithstanding the foregoing and without necessitating any such amendment, but without limiting the applicability of Section 6.07(d), the Loan Parties may exceed the aggregate annual Operating Expenses and Capital Expenditures set forth in any Operating Budget by an amount not to exceed 5% of the aggregate budgeted amount of Operating Expenses and Capital Expenditures for the applicable calendar year.

Section 5.21 Collateral Account Report. Borrower shall provide to the Administrative Agent, within three (3) business days of the end of each calendar month, in electronic format, an itemized summary of all withdrawals from the Collateral Accounts made during such calendar month.

Section 5.22 Construction of the Project; Final Completion.

(a) Borrower shall construct, or cause the construction of, the Project in all material respects in accordance with the Material Construction Contracts and the approved plans and specifications thereunder, Prudent Industry Practices, Authorizations by Governmental Authorities and Legal Requirements.

(b) Borrower shall cause Final Completion (other than any immaterial Punch List items) to be achieved prior to the "Guaranteed Final Acceptance Date" (howsoever defined in each of the EPC Agreements), as such date may be adjusted in accordance with the terms of such EPC Agreements and this Agreement.

Section 5.23 Independent Engineer; Performance Test. Borrower shall permit Administrative Agent, the Lenders and their respective representatives and technical advisors and the Independent Engineer to witness and verify the Performance Tests to the extent reasonably requested by Administrative Agent, acting at the direction of the Required Lenders, and the

Independent Engineer in each case subject to the terms of the applicable Material Construction Contracts. Borrower shall give Administrative Agent, the Lenders and the Independent Engineer notice regarding any proposed Performance Test promptly following Borrower's receipt of such notice (and, in any event, no less than three (3) Business Days prior to any Performance Test). Borrower shall forward to Administrative Agent and the Independent Engineer the procedures to be used in the conduct of the Performance Test in connection with such notice. If, upon completion of any Performance Test, Borrower believes that such Performance Test has been satisfied, it shall so notify Administrative Agent and the Independent Engineer and shall deliver a copy of all test results supporting such conclusion, accompanied by reasonable supporting data.

Section 5.24 Operation and Maintenance of Project. Project Company shall construct, keep, operate and maintain the Project, or cause the same to be constructed, kept, maintained and operated (ordinary wear and tear excepted), in a manner consistent in all material respects with this Agreement and Prudent Industry Practices, and make or cause to be made all repairs (structural and non-structural, extraordinary or ordinary) necessary to keep the Project in such condition.

Section 5.25 Certain Post-Closing Obligations.

(a) Borrower shall design and implement the Feedstock Execution Plan as specified therein and provide evidence of such implementation reasonably satisfactory to the Administrative Agent.

(b) Borrower shall cause GCE Operating to implement the Executive Hiring Plan as specified therein and provide evidence of such implementation reasonably satisfactory to the Administrative Agent.

(c) Borrower shall complete the Rail Development Milestones as specified therein and provide evidence of such completed milestones reasonably satisfactory to the Administrative Agent.

(d) Borrower shall complete the Gas Supply Commercial Milestones as specified therein and provide evidence of such completed milestones reasonably satisfactory to the Administrative Agent.

(e) Borrower shall complete the Environmental and Permitting Milestones as specified therein and provide evidence of such completed milestones reasonably satisfactory to the Administrative Agent.

(f) Borrower shall use commercially reasonable efforts to enter into a Permitted Working Capital Facility within three hundred sixty-five (365) days following the Closing Date.

(g) Borrower shall enter into a product marketing agreement or an offtake agreement with ExxonMobil, in a form reasonably satisfactory to the Administrative Agent within two hundred forty (240) days following the Closing Date.

(h) Borrower shall enter into a franchise agreement with the County of Kern, in a form reasonably satisfactory to the Administrative Agent within ninety (90) days following the Tranche A Funding Date.

(i) Borrower shall use commercially reasonable efforts to obtain a Consent to Collateral Assignment in respect of the Industrial Track Agreement by the date that is ninety (90) days following the Closing Date.

(j) The Collateral Agent shall have received the certificates representing the shares of Capital Stock of Holdings, Borrower and the Project Company pursuant to the Security Agreement, together with an undated stock power for each such certificate executed in blank by a duly Authorized Representative of the Holdings, Borrower or the Project Company, as applicable, within thirty (30) days following the Tranche A Funding Date.

(k) Borrower shall deliver to Administrative Agent evidence from the CA Secretary of State of filing of the CA Foreign Qualification upon receipt, but in any event within forty-five (45) days after the Tranche A Funding Date (as extended by the Administrative Agent in its reasonable discretion).

(l) Borrower shall enter into agreements with each of Richard Palmer and Noah Verleun, in forms reasonably satisfactory to the Administrative Agent, prior to the Tranche A Funding Date that restrict the Disposition by such Persons of any Capital Stock in Sponsor or any of its Subsidiaries prior to the date on which the Class B MOIC (as defined in the HoldCo Borrower LLC Agreement in effect as of the date hereof) is at least 1.33x; unless (x) such Disposition is for estate planning purposes to an entity that is and remains controlled by such person or (y) all of the cash proceeds from any such Dispositions are used to pay costs and expenses (specifically including amounts needed to purchase any Capital Stock or to cover any resultant tax liabilities) incurred in connection with the exercise of options to purchase Capital Stock. The foregoing restrictions in such agreements shall apply for so long as each of Richard Palmer and Noah Verleun, respectively, remain employed by the Sponsor or any of its Subsidiaries and shall continue following any separation of such Persons from the Sponsor or any of its Subsidiaries. Following the execution of the foregoing agreements, the Borrower shall use all commercially reasonable efforts to promptly enforce the terms of such agreements and pursue all available rights and remedies following any breach thereof by either counterparty.

(m) The Borrower shall, within ninety (90) days following the Tranche A Funding Date, amend the ARB EPC Agreement as follows, in each case, pursuant to an amendment or Change Order in form and substance reasonably satisfactory to the Administrative Agent (in consultation with the Independent Engineer):

(i) to add to the scope of work the design, procurement, delivery and installation of a membrane separation unit related to hydrogen production at the Project;

(ii) to add Compressor 15 (C-15) into the overall process;

(iii) to add to the scope of work the inspection and either refurbishment of existing desulfurizers or installation of new purge-gas pre-treatment systems (also known as an ‘iron-sponge’); and

(iv) if reasonably expected to be required to meet the Significant Milestones, to add to the scope of work the design, procurement, delivery, and installation of any free-standing structure to support platforms around the Reactors;

provided, that one or more of the foregoing shall not be required if TechnipFMC (or the engineer of record working under the ARB EPC Agreement) and the Administrative Agent (at the direction of the Independent Engineer) mutually determine that any such items are not necessary to achieve Substantial Completion by the Date Certain.

(n) The Borrower shall, within sixty (60) days following the Closing Date, deliver an updated construction budget to the Administrative Agent (the "Updated Construction Budget"), in a form reasonably satisfactory to the Required Lenders, which Updated Construction Budget shall demonstrate a total specified contingency of at least $5,000,000; provided that, if the Borrower fails to deliver such Updated Construction Budget satisfying the foregoing requirements, then the Borrower shall use best efforts to, within two hundred forty (240) days following the Closing Date, cause Equity Contributions to be deposited into the Revenue Account in an amount equal to or greater than the positive difference between (x) $5,000,000 and (y) the contingency specified in the Updated Construction Budget (such requirements in this proviso, the "Equity Contribution Requirement"). Notwithstanding the foregoing, the parties agree that no Default shall have occurred under this Section 5.25(n) prior to the date which the Borrower has failed to satisfy the Equity Contribution Requirement.

Section 5.26 Independent Engineer; Performance Testing.

(a) Borrower shall permit each Lender and the Independent Engineer to witness and verify the Performance Tests to the extent requested by the Administrative Agent (acting at the reasonable direction of the Required Lenders) and the Independent Engineer, in each case subject to the terms of the applicable EPC Agreement. Borrower shall give each Lender and the Independent Engineer notice regarding any proposed Performance Test promptly following Borrower's receipt of such notice (and, in any event, no less than three (3) Business Days prior to any Performance Test). Borrower shall forward to Administrative Agent and the Independent Engineer the procedures to be used in the conduct of the Performance Test in connection with such notice. If, upon completion of any Performance Test, Borrower believes that such Performance Test has been satisfied, it shall so notify each Lender and the Independent Engineer and shall deliver a copy of all test results supporting such conclusion, accompanied by reasonable supporting data.

(b) Borrower shall: (i) in connection with satisfying the conditions for Substantial Completion and/or Final Completion, perform a Refinery Performance Test, (ii) provide Administrative Agent, the Lenders and the Independent Engineer notice of each Refinery Performance Test no less than ten (10) Business Days prior to the conducting of such Refinery Performance Test and permit the Independent Engineer to witness and verify such Refinery Performance Test, (iii) conduct each Refinery Performance Test in material compliance with the EPC Agreements and (iv) deliver a copy of each Refinery Performance Test results, accompanied by supporting data and calculations (each, an "Refinery Performance Test Report"), and the Independent Engineer shall, within fifteen (15) Business Days after the receipt of such Refinery Performance Test Report, which report shall (1) verify for Administrative Agent and the Lenders the results contained in such Refinery Performance Test Report and confirm to Administrative Agent and the Lenders that such Refinery Performance Test was performed in materially compliance with the EPC Agreements or (2) deliver a report to Administrative Agent, the Lenders and Borrower setting forth in reasonable detail any objections of the Independent Engineer to such

Refinery Performance Test Report. If any objections are made by the Independent Engineer or the Required Lenders, then Borrower shall address such objections to the reasonable satisfaction of the Independent Engineer and the Required Lenders or re-conduct such Refinery Performance Test in accordance with this Section 5.26(b).

Section 5.27 As-Built Surveys; Title Endorsement. Borrower shall, no later than ninety (90) days after the Term Conversion Date, deliver to Administrative Agent (a) an ALTA as-built survey (or other survey approved by Administrative Agent (such approval not to be unreasonably withheld, conditioned, or delayed) or the most recent draft of any such ALTA as-built survey or other survey approved by the Administrative Agent in the event the final version of such survey is not yet available) of the Site, reasonably satisfactory in form and substance to Administrative Agent, such survey certified to Administrative Agent, Collateral Agent, Borrower and Title Company by a surveyor licensed in the state where the Project is located and reasonably satisfactory to the Lenders in a manner sufficient to delete any general survey exception with respect to the Site from the Title Policy and (b) an endorsement to the Title Policy issued by the Title Company substantially in the form of Exhibit T.

Section 5.28 Qualified CEO and Qualified Officers(a). The Loan Parties shall cause the Qualified CEO and each Qualified Officer to dedicate substantially all of their time and effort to the business of the Loan Parties and the ownership, construction, operation and maintenance of the Project; provided that (i) Richard Palmer and Noah Verleun shall be permitted to continue dedicating such time and effort to the business and operations of Sponsor and SusOils as are reasonably necessary to perform and satisfy their respective duties and responsibilities in respect of the business and operations of Sponsor and SusOils, (ii) in the event of the death, resignation, removal, incapacitation, death or other cessation of performance of duties (as a result of a family emergency, a personal matter or otherwise) of the Qualified CEO or Qualified Officer (so long as such cessation exceeds a period of consecutive forty-five (45) days) (any such occurrence, a "Qualified Officer Event"), Project Company shall, within (i) ninety (90) days in the case of a Qualified Officer Event affecting the Qualified CEO and (ii) sixty (60) days in the case of a Qualified Officer Event affecting any Qualified Officer, appoint a natural person in replacement thereof (which may be the Qualified CEO or another Qualified Officer, to the extent such natural person assumes the role of the Qualified Officer affected by such Qualified Officer Event); provided, further, that (i) any such replacement shall be reasonably acceptable to the Administrative Agent (such acceptance not to be unreasonably withheld, conditioned or delayed) and (ii) no Default or Event of Default shall occur under this Section 5.28 until the one-hundred eightieth (180^{th}) day following any Qualified Officer Event so long as Project Company is diligently attempting to comply with this Section 5.28 and no Material Adverse Effect is or would reasonably be expected to occur from any failure to comply with this Section 5.28.

Section 5.29 Accounts.

(a) Construction Account.

(i) Deposits into the Construction Account. Except as otherwise specified in this Section 5.29, Borrower shall deposit, and shall use all reasonable efforts to cause third parties that would otherwise make payments directly to Borrower to deposit, all revenues, payments, cash and proceeds (including Loan proceeds and any tax credit proceeds,

including from the Federal blender's tax credit) from whatever source received by it after the Closing Date and prior to the Term Conversion Date to be deposited into the Construction Account; provided that on the Tranche A Funding Date, the proceeds of the Loans shall be deposited and/or transferred in accordance with the Funds Flow Memorandum.

(ii) Transfers from the Construction Account.

(A) After the Closing Date and on and prior to the Final Completion Date subject to the satisfaction or waiver of the conditions set forth in Section 4.04, Borrower may cause to be transferred from the Construction Account an amount equal to the Project Costs then due and payable or becoming due and payable within the next thirty (30) days (and the Administrative Agent shall, to the extent the conditions set forth in Section 4.04 have been satisfied or waived, countersign any withdrawal certificates required under any Control Agreements to allow such transfers).

(B) On each Funding Date prior to the Term Conversion Date, Borrower shall cause, and the Administrative Agent and the Lenders hereby consent to Borrower causing, funds to be transferred from the Construction Account to the Debt Service Reserve Account so that the amount then on deposit in the Debt Service Reserve Account equals the Debt Service Reserve Funding Amount after giving effect to such transfer (and the Administrative Agent shall countersign any withdrawal certificates required under any Control Agreements to allow such transfers).

(C) On the Final Completion Date, Borrower shall cause any remaining amounts on deposit in the Construction Account to be transferred to the Revenue Account (and the Administrative Agent shall countersign any withdrawal certificates required under any Control Agreements to allow such transfers) and, promptly thereafter, permanently close the Construction Account.

(b) Revenue Account.

(i) Deposits into the Revenue Account. Except as otherwise specified in this Section 5.29, Borrower shall deposit, and shall use all reasonable efforts to cause third parties that would otherwise make payments directly to Borrower to deposit, all revenues, payments, cash and proceeds (including Loan proceeds and any tax credit proceeds, including from the Federal blender's tax credit) from whatever source received by it on and after the Term Conversion Date to be deposited into the Revenue Account.

(ii) Transfers from the Revenue Account. Following the Term Conversion Date, subject to delivery of a Revenue Transfer Certificate to Administrative Agent, Borrower shall direct the applicable Depositary Bank to transfer amounts from the Revenue Account at the following times and in the following order of priority (subject, however, to Section 2.12(b)) (and the Administrative Agent shall, to the extent the conditions for such

transfers have been satisfied, countersign any withdrawal certificates required under any Control Agreements to allow such transfers):

(A) *first*, on each Monthly Date, transfer, to (1) the Operating Account an amount equal to, together with the amounts then on deposit in or credited to the Operating Account, the sum (without duplication) of (x) the Operating Expenses and Capital Expenditures then due and payable (including Operating Expenses and Capital Expenditures owing from a prior month) in accordance with the then applicable Operating Budget, (y) 110% of the Operating Expenses and Capital Expenditures reasonably expected to be due and payable before the next Monthly Date as set forth in the then applicable Operating Budget, and (z) an amount determined by Borrower in accordance with Prudent Industry Practice to represent a reasonable working capital reserve (taking into account reasonably anticipated Operating Expenses of Borrower), but in any event not to exceed, together with amounts then on deposit in the Liquidity and Capex Project Account, forty-five (45) days' worth of anticipated Operating Expenses (the "Maximum Liquidity and Capex Amount"), and (2) the Liquidity and Capex Project Account, an amount that, taken together with the amounts under Section 5.29(b)(ii)(A)(1)(z) and the amounts then on deposit in or credit to the Liquidity and Capex Project Account, does not exceed the Maximum Liquidity and Capex Amount;

(B) *second*, on each Monthly Date and after giving effect to the transfers specified in clause (A) above, (1) first, to Agent (for the benefit of Agent) an amount equal to the sum (without duplication) of all fees, costs and expenses and indemnification payments then due and payable to Agent under the applicable Financing Documents and (2) second, to the Administrative Agent (for the benefit of the applicable Lenders) an amount equal to the sum (without duplication) of all fees, costs and expenses and indemnification payments then due and payable to the Lenders under the applicable Financing Documents;

(C) *third*, on each Quarterly Date and after giving effect to the transfers specified in clauses (A) and (B) above, (I) first, to Agent (for the benefit of the Lenders) an amount equal to the interest on the Loans then due and payable by Borrower hereunder and (II) second, to the HoldCo Borrower in an amount equal to amount of reasonable operating expenses and fees in accordance with the HoldCo Credit Agreement in effect as of the date hereof;

(D) *fourth*, on the Maturity Date (or any other date on which principal on the Loans becomes due and payable hereunder) (other than amounts payable pursuant to clause (E) below) and after giving effect to the transfers specified in clauses (A) through (C) above, to Agent (for the benefit of the Lenders) an amount equal to the principal on the Loans then due and payable by Borrower hereunder;

(E) *fifth*, on each Quarterly Date and after giving effect to the transfers specified in clauses (A) through (D) above, transfer to the Debt Service Reserve Account the amount (if any, and to the extent of funds available at this clause (E)) necessary to fund the Debt Service Reserve Account so that the amount then on deposit in the Debt Service

Reserve Account equals the Debt Service Reserve Funding Amount as of such Quarterly Date;

(F) *sixth*, thirteen (13) Business Days following each Quarterly Date and after giving effect to the transfers specified in clauses (A) through (E) above, transfer to Agent (for the benefit of the Lenders) an amount equal to the ECF Sweep Amount that is accepted for mandatory prepayment by Lenders pursuant to Section 2.06(b)(v) and 2.06(c) as of such applicable Quarterly Date;

(G) *seventh,* thirteen (13) Business Days following each Quarterly Date and after giving effect to the transfers specified in clauses (A) through (F) above, to any other person to whom a payment in respect of accrued and unpaid interest and/or principal amount of any Permitted Indebtedness (other than Permitted Indebtedness under Section 6.02(b)) is then due and payable (if any) and any ordinary course settlements to any Permitted Hedging Counterparties under any Swap Agreements;

(H) *eighth*, thirteen (13) Business Days following each Quarterly Date, and after giving effect to the transfers specified in clauses (A) through (G) above, transfer to GCE Holdings the amount due and payable under the CCI Hedging Documentation (in effect as of the date hereof and the amount of such transfers pursuant to this Section 5.29(b)(ii)(H) not to exceed, in the aggregate, $20,250,000);

(I) *ninth,* thirteen (13) Business Days following each Quarterly Date and after giving effect to the transfers specified in clauses (A) through (H) above, transfer to the Distribution Suspense Account all amounts remaining on deposit in the Revenue Account.

On any Monthly Date or Quarterly Date, if the amount required to be transferred from the Revenue Account pursuant to any applicable clause of Section 5.29(b)(ii) exceeds the amount then on deposit in or credited to the Revenue Account after the transfers made pursuant to all applicable preceding clauses are completed, the amount on deposit in the Revenue Account at the time of application pursuant to such clause shall be transferred *pro rata* to each of the Persons specified in such clause based on the respective amounts owed to such Persons pursuant to such clause.

(c) Operating Account.

(i) Deposits into the Operating Account. Amounts shall be deposited into the Operating Account in accordance with Section 5.29(b)(ii)(A)(1).

(ii) Transfers from the Operating Account. Borrower shall cause amounts on deposit in the Operating Account to be applied to Operating Expenses and Capital Expenditures then due and payable in accordance with the Operating Budget (and the Administrative Agent shall countersign any withdrawal certificates required under any Control Agreements to allow such application).

(d) Liquidity and Capex Project Account.

(i) Deposits into the Liquidity and Capex Project Account. Amounts shall be deposited into the Liquidity and Capex Project Account in accordance with Section 5.29(b)(ii)(A)(2).

(ii) Transfers from the Liquidity and Capex Project Account. Borrower shall cause amounts on deposit in the Liquidity and Capex Project Account to be used by Borrower to pay Operating Expenses or Capital Expenditures then due and payable (in accordance with the then applicable Operating Budget, in each case, for the Project in accordance with Prudent Industry Practice and subject to Administrative Agent's reasonable discretion).

(e) Debt Service Reserve Account.

(i) Deposits into the Debt Service Reserve Account. Amounts shall be deposited into the Debt Service Reserve Account in accordance with Section 5.29(b)(ii)(E).

(ii) Transfers from the Debt Service Reserve Account.

(A) If Borrower determines that the cash on deposit in the Revenue Account is not anticipated to be adequate to pay all amounts due and payable to the Secured Parties required to be paid pursuant to the Financing Documents on any Quarterly Date (such insufficiency, the "Debt Payment Deficiency"), Borrower shall promptly direct the applicable Depositary Bank to transfer an aggregate amount equal to the Debt Payment Deficiency (or, if less, the aggregate amount of cash then on deposit in the Debt Service Reserve Account) from the Debt Service Reserve Account to Agent to pay, on behalf of Borrower, the Debt Payment Deficiency.

(B) If on any Quarterly Date following the Term Conversion Date the aggregate amount of cash then on deposit in the Debt Service Reserve Account is in excess of the Debt Service Reserve Funding Amount at such time, Borrower shall be entitled to direct the applicable Depositary Bank to transfer such excess to the Revenue Account.

(f) Extraordinary Receipts Account.

(i) Deposits into the Extraordinary Receipts Account.

(A) After the Closing Date, Borrower shall deposit, and shall use all reasonable efforts to cause third parties that would otherwise make payments directly to Borrower to deposit, into the Extraordinary Receipts Account (1) the Net Available Amount of any Disposition (or series of related Dispositions), (2) the Net Available Amount of any Event of Loss, (3) the Net Available Amount of any Extraordinary MPD Proceeds and/or (4) the proceeds of any Indebtedness (other than Permitted Indebtedness) (such amounts described in this clause (A), "Extraordinary Receipts").

(B) Other than Extraordinary Receipts described in clause (4) of the definition thereof, if Borrower receives Net Available Amount of any

Extraordinary Receipts in an amount less than $1,000,000 in the aggregate, Borrower shall be permitted to transfer such amounts to the Revenue Account and use such Net Available Amount as permitted under Section 5.29(a).

(C) If Borrower receives Net Available Amount of any Extraordinary Receipts in an amount equal to or in excess of $1,000,000 in the aggregate, Borrower shall either:

(I) other than in the case of the proceeds of Extraordinary Receipts described in clause (A)(4) above, submit to Administrative Agent and the Lenders a Reinvestment Notice setting forth, in reasonable detail, a reinvestment plan in respect of such Net Available Amount (such plan, a "Reinvestment Plan") within the earlier of (x) fifteen (15) days following the receipt of such Net Available Amount and (y) forty-five (45) days following the Disposition or Event of Loss, as applicable; or

(II) use such Net Available Amount to repay the Loans in accordance with Section 2.06(b).

(ii) Transfers from the Extraordinary Receipts Account.

(A) If the events in clause (i)(C)(I) above occur and the Administrative Agent, acting at the direction of the Required Lenders (and in consultation with the Independent Engineer) approves the applicable Reinvestment Plan (such approval not to be unreasonably withheld, conditioned or delayed), then Borrower shall be permitted to cause such Net Available Amount to be transferred from the Extraordinary Receipts Account from time to time to use in accordance with such Reinvestment Plan (and the Administrative Agent shall, to the extent the conditions (if any) set forth in the Reinvestment Plan for such transfers have been satisfied, countersign any withdrawal certificates required under any Control Agreements to allow such transfers). In the event any Reinvestment Plan is not approved by the Administrative Agent, acting at the direction of the Required Lenders, Borrower may elect to re-submit Reinvestment Plans until a Reinvestment Plan is approved or to use such Net Available Amount to repay the Loans in accordance with Section 2.06(b); provided that, Borrower shall not be permitted to re-submit the Reinvestment Notice following the date on which the Administrative Agent, acting at the direction of the Required Lenders, has rejected the third (3rd) Reinvestment Notice submitted by Borrower.

(B) If funds remain on deposit in the Extraordinary Receipts Account following Borrower's certification to Administrative Agent of its completion of the reinvestment activities described in such Reinvestment Plan (as confirmed to the Administrative Agent by Independent Engineer), Borrower shall promptly cause such funds to be transferred to the Revenue Account (and the Administrative Agent shall countersign any withdrawal certificates required under any Control Agreements to allow such transfers).

(g) Distribution Suspense Account.

(i) Deposits into the Distribution Suspense Account.

(A) The Distribution Suspense Account shall be unfunded on the Closing Date.

(B) Amounts shall be deposited into the Distribution Suspense Account in accordance with Section 5.29(b)(ii)(H).

(ii) Transfers from the Distribution Suspense Account. So long as (1) no Default or Event of Default has occurred and is continuing, or would result therefrom (as certified by an Authorized Representative of Borrower at least five (5) days prior to the proposed date of such Restricted Payment) and (2) such Restricted Payment occurs on the earlier of (a) the date that is thirteen (13) Business Days after each Quarterly Date and (b) the date that the ECF Prepayment Offer for the applicable quarter has been accepted or rejected in accordance with Section 2.06(c), and in any event, not more than forty-five (45) days after any Quarterly Date, then Borrower shall be permitted to cause amounts then on deposit in the Distribution Suspense Account to be transferred in the amounts, and to the recipients, specified by Borrower (and the Administrative Agent shall countersign any withdrawal certificates required under any Control Agreements to allow such transfers).

ARTICLE VI

NEGATIVE COVENANTS

Each Loan Party hereby agrees that (i) from and after the Closing Date and prior to the Tranche A Funding Date, to the extent applicable (it being acknowledged and agreed that, prior to the Tranche A Funding Date, the Acquisition has not occurred, Project Company is not a Loan Party, and neither Borrower nor Holdings have rights to the Site or the Project or under any Material Project Document) (other than any Material Project Document to which Borrower is a party on the Closing Date) and (ii) on the Tranche A Funding Date (following the Acquisition) and thereafter, in all respects:

Section 6.01 Subsidiaries; Equity Issuances. No Loan Party shall (a) form or have any Subsidiary (other than (i) in the case of Holdings, Borrower and (ii) in the case of Borrower, Project Company) or (b) subject to Section 6.04 hereof, own, or otherwise Control any Capital Stock in, any other Person.

Section 6.02 Indebtedness. Each Loan Party shall not create, incur, assume or suffer to exist any Indebtedness, other than (without duplication) (each of the following, "Permitted Indebtedness"):

(a) Indebtedness incurred under the Financing Documents;

(b) (i) Capital Lease Obligations to the extent incurred in the ordinary course of business or (ii) purchase money obligations to the extent incurred in the ordinary course of business to finance the acquisition or licensing of intellectual property or discrete items of equipment or

assets; provided that the aggregate principal amount and the capitalized portion of each such lease or purchase money obligation do not at any one time exceed $5,000,000 in the aggregate for the Loan Parties (in the aggregate) and any such obligation's collateral is limited to solely the equipment or asset being financed therewith;

(c) current accounts payable not more than ninety (90) days past due or which are being contested in accordance with the Permitted Contest Conditions, interest thereon, regulatory bonds, surety obligations and accrued expenses incurred, in the ordinary course of business;

(d) obligations to pay rent under a lease other than a capital lease (to the extent constituting Indebtedness) that do not require payments by such Loan Party in any calendar year in excess of $1,000,000;

(e) Indebtedness incurred under one or more Permitted Working Capital Facilities not to exceed, in the aggregate, the amount set forth in the definition thereof;

(f) (i) Indebtedness incurred under any Permitted Hedging Activities approved by the Administrative Agent pursuant to Section 6.14 and (ii) on and after the Commodity Hedging Program Date, Indebtedness permitted under the Commodity Hedging Program (up to the amount approved by the Required Lenders pursuant to its approval right in the definition thereof);

(g) Indebtedness between the Loan Parties; provided that all such Indebtedness shall be fully subordinated in priority and payment to the Obligations on terms that are reasonably acceptable to the Required Lenders;

(h) other Indebtedness that does not constitute debt for borrowed money not to exceed $1,000,000 in the aggregate at any time outstanding;

(i) (i) Indebtedness associated with bonds or other surety obligations required by Governmental Authorities in connection with the operation of the business of Loan Parties in the ordinary course of business and (ii) reimbursement obligations with respect to letters of credit issued to support such Indebtedness, such reimbursement obligations not to exceed $600,000 in the aggregate;

(j) Guarantees by a Loan Party of Indebtedness of another Loan Party that is otherwise permitted to be incurred under this Section 6.02;

(k) obligations in respect of rights-of-way, easements and servitudes, in each case, to the extent permitted hereunder; and

(l) unsecured Indebtedness in an aggregate principal amount not exceeding $250,000 at any time outstanding.

Section 6.03 Liens, Etc. No Loan Party shall create, incur, assume or suffer to exist any Lien upon or with respect to any of its properties of any character (including accounts receivables) whether now owned or hereafter acquired, or assign any accounts or other right to receive income, other than Permitted Liens.

Section 6.04

Investments, Advances, Loans. Each Loan Party shall not make any advance, loan or extension of credit to, or make any acquisitions of or Investments (whether by way of transfers of property, contributions to capital, acquisitions of stock, securities, evidences of Indebtedness or otherwise) in, or purchase any stock, bonds, notes, debentures or other securities of, any other Person, other than:

(a) a Loan Party (other than Holdings);

(b) (i) Cash Equivalents and (ii) the investments, if any, made by, or with the consent of, the Administrative Agent under, and in accordance with, any Control Agreement with respect to the accounts on deposit in the applicable Collateral Account subject to such Control Agreement;

(c) extensions of trade credit in the ordinary course of business to the extent otherwise permitted under the Financing Documents; and

(d) to the extent constituting investments, investments in contracts to the extent otherwise permitted under the Financing Documents.

Section 6.05 Principal Place of Business; Business Activities.

(a) Each Loan Party shall not change its principal place of business from the State of California and shall not maintain any place of business outside of the State of California respectively unless it has given at least thirty (30) days' prior notice thereof to the Administrative Agent and the Collateral Agent, and each Loan Party has taken all steps then required pursuant to the Security Documents to ensure the maintenance and perfection of the security interests created or purported to be created thereby. Each Loan Party shall maintain at its principal place of business originals or copies of its principal books and records.

(b) No Loan Party shall at any time conduct any activities other than those related to the Project and the other Material Project Documents and any activities incidental to the foregoing.

Section 6.06 Restricted Payments. Each Loan Party shall not declare or make, or agree to pay or make, directly or indirectly, any Restricted Payment, other than:

(a) Restricted Payments to Borrower or Project Company;

(b) Restricted Payments to the extent permitted under Section 6.10;

(c) Restricted Payments to GCE Holdings in accordance with (i) Section 5.13(a)(iii) and (ii) Section 5.29(b)(ii)(H);

(d) Restricted Payments to the extent permitted under Section 5.29(b)(ii)(C)(II); and

(e) Restricted Payments to the extent permitted under Section 5.29(g)(ii).

Section 6.07 Fundamental Changes; Asset Dispositions and Acquisitions. Each Loan Party shall not:

(a) in one transaction or a series of transactions, merge into or consolidate with, or acquire all or any substantial part of the assets or any class of stock or other ownership interests of, any other Person or sell, transfer or otherwise dispose of all or substantially all of its assets to any other Person;

(b) change its legal form, liquidate or dissolve; provided that, for a period ending thirty (30) Business Days following the Tranche A Funding Date, Borrower shall be permitted to (i) convert Project Company to a Delaware limited liability company and (ii) change the name of Project Company, in each case, with five (5) Business Days' prior written notice to the Administrative Agent;

(c) make or agree to make any amendment to its Organizational Documents to the extent that such amendment could reasonably be expected to be materially adverse to the interests of the Agents or the Lenders;

(d) with respect to any Loan Party, purchase, acquire or lease any assets other than: (i) the purchase or lease of assets reasonably required for the Project in accordance with, as applicable, the Construction Budget or Operating Budget (as adjusted in accordance with the provisions of this Agreement) or required under the Material Project Documents to which it is a party, (ii) the purchase or lease of assets reasonably required in connection with the Restoration of the Project in accordance with the this Agreement, (iii) any Capital Expenditures or otherwise investments in assets necessary or useful for the business of the Project from the proceeds of any Disposition to the extent permitted hereunder, (iv) the purchase or lease of assets otherwise permitted by the Material Project Documents to which it is a party that do not in the aggregate exceed the amount budgeted for such purchases or leases in the most recently approved Construction Budget or Operating Budget, as applicable, (v) additional purchases, leases of assets or other Capital Expenditures not to exceed $5,000,000 in the aggregate prior to the Maturity Date, (vi) any assignment of an Initial Material Project Document by GCE Holdings or Borrower (as applicable) to Borrower or Project Company (as applicable) and (vii) any Permitted Account Transfer;

(e) with respect to any Loan Party, convey, sell, lease, transfer or otherwise dispose of, in one transaction or a series of transactions, all or any part of its property in excess of $1,000,000 per year in the aggregate other than: (i) sales or other Dispositions of worn out or defective equipment, or other equipment no longer used or useful to the Project that is, in each case (other than in respect of equipment no longer used or useful to the Project), promptly replaced by such Loan Party with suitable substitute equipment of substantially the same character and quality and at least equivalent useful life and utility to the extent required by the Project or for performance under the Material Project Documents to which it is a party; provided that if the aggregate fair market value of all such Dispositions exceeds $1,000,000 in any fiscal year, the Administrative Agent and the Collateral Agent shall have received a certificate of an Authorized Representative of Borrower certifying that such assets are worn out, defective or no longer used or useful in the Project prior to the consummation of any such Disposition, (ii) sales or other Dispositions of equipment or other property in the ordinary course of the business of such Loan Party in accordance with the Material Project Documents to which it is a party and the Financing Documents, (iii) Dispositions resulting from any taking or condemnation of any property of any Loan Party by any Governmental Authority, or any assets subject to a casualty, (iv) Dispositions of assets by any Loan Party to Borrower or Project Company (as applicable), (v) Restricted

Payments permitted under Section 6.06, (vi) the granting of any Permitted Liens permitted by Section 6.03, (vii) any assignment a Material Project Document by GCE Holdings or Borrower (as applicable) to Borrower or Project Company (as applicable) and (viii) any Permitted Account Transfer; or

(f) convey, sell, lease, transfer or otherwise dispose of equipment or other Property directly purchased by Borrower using the proceeds of loans and credit extensions under any Permitted Working Capital Facility so long as such proceeds are applied to the repayment of obligations under such Permitted Working Capital Facility.

Section 6.08 Accounting Changes. Each Loan Party shall not change its fiscal year.

Section 6.09 Amendment or Termination of Material Project Documents; Other Restrictions on Material Project Documents.

(a) No Loan Party shall:

(i) without the prior written consent of the Administrative Agent (acting at the reasonable direction of the Required Lenders, in consultation with the Independent Engineer), directly or indirectly amend, modify, supplement or grant a consent, approval or waiver under, or permit or consent to the amendment, modification, supplement, consent, approval or waiver of any provision of any Material Project Document (each such amendment, modification, supplement, consent, approval or waiver, a "Project Document Modification"), except any Project Document Modification which, taken as a whole (and together with each other contemporaneous Project Document Modification), could not reasonably be expected to be materially adverse to the Loan Parties or the Lenders; provided that any Project Document Modification which (1) extends or postpones the date of or amends the definition of "Mechanical Completion", "Substantial Completion", "Final Acceptance", "Guaranteed Substantial Completion Date", "Guaranteed Final Acceptance Date" or any related concepts under the Material Construction Contracts, (2) extends the deadline for payment of any liquidated damages under the Material Construction Contracts, (3) modifies any performance guarantee to reduce the level of such guaranteed performance thereunder, (4) reduces any liquidated damage amount under the Material Construction Contracts, (5) changes the definition of, procedures for or results of the Performance Tests, (6) amends or modifies the Material Construction Contracts or the ExxonMobil Offtake Agreement (other than (x) ministerial or administrative amendments, modifications, waivers, consents and approvals and (y) in the case of any amendment or modification of the Material Construction Contracts, any Change Order permitted under clause (b) below) or (7) could otherwise reasonably be expected to have a Material Adverse Effect shall, in each case, require the consent of the Administrative Agent (acting at the reasonable direction of the Required Lenders, in consultation with the Independent Engineer);

(ii) directly or indirectly transfer, terminate, cancel or permit or consent to the transfer, termination or cancellation of any Material Project Document (including by exercising any contractual option to terminate, or failing to exercise any contractual option to extend); or

(iii) enter into an Additional Material Project Document, unless (A) such Additional Material Project Document could not reasonably be expected to be materially adverse to the Loan Parties or the Lenders and (B) in connection therewith, such Loan Party shall use commercially reasonable efforts to enter into a Consent to Assignment within thirty (30) days of entering into the relevant Material Project Document substantially on the terms and provisions set forth in Exhibit D with the relevant Material Project Counterparty and the Collateral Agent or upon such other terms and provisions as are reasonably satisfactory to the Administrative Agent.

(b) Notwithstanding anything to the contrary in Section 6.09(a)(i), no Loan Party shall be permitted to accept, approve or otherwise enter into any change order or similar document or instrument under any Material Project Document (each a "Change Order") without the prior written consent of the Administrative Agent (acting at the reasonable direction of the Required Lenders in consultation with the Independent Engineer), unless such Change Order (i) does not utilize any of the contingency specified in the Construction Budget and (ii) does not adversely affect or delay the reasonably anticipated timing of the completion of any Significant Milestone or Substantial Completion.

Notwithstanding anything to the contrary in this Section 6.09, each assignment of an Initial Material Project Document by GCE Holdings or Borrower (as applicable) to Borrower or Project Company (as applicable) as contemplated by Article IV shall be permitted.

Section 6.10 Transactions with Affiliates. Each Loan Party shall not directly or indirectly enter into any transaction or series of related transactions with an Affiliate of such Loan Party without the prior written consent of the Administrative Agent (such consent not to be unreasonably withheld, conditioned or delayed), except for (i) transactions set forth on Schedule 3.23, (ii) Restricted Payments permitted under Section 6.06, (iii) equity contributions from one or more parent companies of Pledgor and (iv) transactions in the ordinary course of such Loan Party's (and such Affiliate's) business and upon fair and reasonable terms no less favorable to such Loan Party than it would obtain in comparable arm's-length transactions with a Person acting in good faith which is not an Affiliate; provided, solely with respect to the foregoing clause (iv), any transaction or series of related transactions with any Affiliate on or after the Closing Date that are not set forth on Schedule 3.23 or contemplated by Article IV shall require the consent of the Administrative Agent.

Notwithstanding anything to the contrary in this Section 6.10, each assignment of an Initial Material Project Document by GCE Holdings or Borrower (as applicable) to Borrower or Project Company (as applicable) as contemplated by Article IV shall be permitted.

Section 6.11 Other Accounts. No Loan Party shall open, or instruct the Depositary Bank or any other Person to open, any bank accounts other than the Collateral Accounts and any other account permitted under this Agreement.

Section 6.12 Guarantees. Each Loan Party shall not assume, guarantee, endorse, contingently agree to purchase or otherwise become liable for Indebtedness or obligations of any other Person except as otherwise permitted under the terms of the Financing Documents.

Section 6.13

Hazardous Materials. Each Loan Party will not cause any Releases of Hazardous Materials at, on or under the Site except to the extent such Release (a) is otherwise in compliance in all material respects with all Applicable Laws, including Environmental Laws, and applicable insurance policies or (b) could not otherwise reasonably be expected to have a Material Adverse Effect.

Section 6.14 No Speculative Transactions. No Loan Party shall (a) enter into any Swap Agreement, foreign currency trading or other speculative transactions other than (i) with the prior written consent of the Required Lenders, Permitted Hedging Activities and (ii) on and after the Commodity Hedging Program Date, as contemplated by the Commodity Hedging Program approved by the Required Lenders and (b) directly or indirectly amend, modify, supplement or grant a consent, approval or waiver under, or permit or consent to the amendment, modification, supplement, consent, approval or waiver of any provision of the Commodity Hedging Program approved by the Required Lenders (i) with respect to any approval of any such amendment, modification, supplement, consent, approval or waiver that is material, in its sole discretion and (ii) with respect to any approval of any such amendment, modification, supplement, consent, approval or waiver that is material, such approval not to be unreasonably withheld, conditioned or delayed.

Section 6.15 Change of Auditors. No Loan Party shall, without the prior written consent of the Administrative Agent, change its Independent Auditor.

Section 6.16 Purchase of Capital Stock. Each Loan Party shall not, nor shall it permit any party to, purchase, redeem or otherwise acquire any of such Loan Party's issued Capital Stock (other than (i) in connection with Borrower's acquisition of the Capital Stock of Project Company in accordance with the SPA and (ii) in connection with the contribution of equity to Borrower by Holdings (as long as such equity remains subject to the Security Documents) and, following the consummation of the Acquisition, by Borrower to Project Company) or otherwise reduce its Capital Stock; provided that the foregoing shall in no way be construed to limit such Loan Party's ability to make Restricted Payments.

Section 6.17 Collateral Accounts. No Loan Party shall make any withdrawals from the Collateral Accounts that are not in accordance with the Operating Budget, or Financial Model or as otherwise contemplated in the Financing Documents. No Loan Party shall open a deposit account or securities account, or change the account number of any Collateral Account, without first obtaining a Control Agreement in respect of such account in favor of the Collateral Agent.

Section 6.18 Performance Tests and Substantial Completion. Borrower shall not materially revise any procedures in respect of the Performance Tests or accept the results of any Performance Test or any notice of Substantial Completion under the EPC Agreements without the prior consent of the Required Lenders in consultation with the Independent Engineer.

Section 6.19 Permitted Working Capital Facility and Commodity Hedging Documentation. Borrower shall not amend, restate, modify or otherwise supplement any documentation of any Permitted Working Capital Facility or the Commodity Hedging Documentation in any way prohibited by the Intercreditor Agreements during the period following the execution thereof; provided that (A) any such amendment, modification or supplement does

not increase the Indebtedness thereunder to an aggregate principal amount greater than the amount permitted pursuant to Section 6.02(e) or Section 6.02(f), respectively, (B) such amendment, modification or supplement maintains a final maturity later than, and has a weighted average life that is longer than or at least equal to, as in effect on the Closing Date (or, in the case of the Permitted Working Capital Facility, the date on which the definitive documentation in respect thereof is executed), (C) such Permitted Working Capital Facility and/or the Commodity Hedging Documentation, as amended, modified or supplemented, shall not be secured by any Liens on any Collateral unless such Liens shall be subject to the Intercreditor Agreements, (D) such Permitted Working Capital Facility and/or the Commodity Hedging Documentation, as amended, modified or supplemented, shall not be guaranteed by any Person unless such Person also guarantees the Indebtedness hereunder and under the other Financing Documents, (E) Borrower has provided to the Administrative Agent a copy of the proposed amendment, modification or supplement at least two (2) Business Days prior to the effectiveness thereof and (F) in the reasonable judgment of the Required Lenders, the representations and warranties, covenants, events of default, and other provisions thereof (including any guarantees thereof and mandatory prepayment and cash dominion provisions thereof) shall be, in the aggregate, not materially less favorable to the Lenders than those contained in the documentation of such Permitted Working Capital Facility and/or the Commodity Hedging Documentation as in effect on the Closing Date (or, in the case of the Permitted Working Capital Facility, the date on which the definitive documentation in respect thereof is executed).

Section 6.20 Qualified President. No Loan Party shall cause any Qualified President to cease to serve as the president of Borrower (other than by termination for cause (as reasonably determined by such Loan Party)), in each case, without the prior written consent of the Required Lenders.

ARTICLE VII

EVENTS OF DEFAULT

Section 7.01 Events of Default. If any of the following events ("Events of Default") shall occur:

(a) Borrower shall fail to pay any principal of any Loan (including any Accrued Interest that has been added to principal) when and as the same shall become due and payable, whether at the due date thereof or, in the case of payments of principal due pursuant to Section 2.06(b), at a date fixed for prepayment thereof; or

(b) Borrower shall fail to pay, when the same shall be due and payable, (i) any interest on any Loan and such failure is not cured within five (5) Business Days or (ii) any fee or any other amount (other than an amount referred to in clause (a) or (b)(i) of this Section) payable under this Agreement or under any other Financing Document when and as the same shall become due and payable, and such failure shall continue unremedied for a period of ten (10) Business Days; or

(c) any representation or warranty made by or deemed made by any Loan Party in this Agreement or any other Financing Document, or in any certificate or other document furnished to any Secured Party by or on behalf of such Loan Party in accordance with the terms hereof or

thereof shall prove to have been incorrect in any material respect as of the time made or deemed made, confirmed or furnished; provided that such misrepresentation or such incorrect statement shall not constitute an Event of Default if (i) such condition or circumstance is not reasonably expected to result in a Material Adverse Effect and (ii) the facts or conditions giving rise to such misstatement are cured in such a manner as to eliminate such misstatement (or as to cure the adverse effects of such misstatement) within ten (10) Business Days after obtaining notice of such Default; or

(d) any Loan Party shall fail to observe or perform any covenant or agreement, as applicable, contained in:

(i) Sections 5.01 (as to existence), 5.11(f), 5.13 or Article VI; or

(ii) (A) Section 5.10(a), 5.10(b) or 5.10(c), and such failure has continued unremedied for a period of ten (10) Business Days, or (B) Section 5.06(a), and such failure has continued unremedied for a period of fifteen (15) Business Days; or

(iii) Section 5.10(f) and such failure has continued unremedied for thirty (30) days; or

(e) any Loan Party shall fail to observe or perform any covenant, condition or agreement contained in this Agreement or any other Financing Document (other than those specified in clause (a), (b), (c) or (d) of this Section) and such failure shall continue unremedied for a period of thirty (30) days; provided that, if (A) such failure is not reasonably susceptible to cure within such thirty (30) days, (B) such Loan Party is proceeding with diligence and good faith to cure such Default and such Default is susceptible to cure and (C) the existence of such failure has not resulted in a Material Adverse Effect, such thirty (30) day period shall be extended as may be necessary to cure such failure, such extended period not to exceed sixty (60) days in the aggregate (inclusive of the original thirty (30) day period); or

(f) a Bankruptcy occurs with respect to any Loan Party; or

(g) a final non-appealable judgment or order for the payment of money is entered against any Loan Party in an amount exceeding $2,000,000 (exclusive of judgment amounts covered by insurance or bond where the insurer or bonding party has admitted liability in respect of such judgment), and such judgment remains unsatisfied without any procurement of a stay of execution for a period of sixty (60) days or more after the date of entry of judgment; or

(h) (i) any Security Document (A) is revoked, terminated or otherwise ceases to be in full force and effect (except in connection with its expiration in accordance with its terms in the ordinary course (and not related to any default thereunder)), or the enforceability thereof shall be challenged in writing by any Loan Party, (B) ceases to provide (to the extent permitted by law and to the extent required by the Financing Documents) a first priority perfected Lien on the assets purported to be covered thereby in favor of the Collateral Agent, free and clear of all other Liens (other than Permitted Liens), or (C) becomes unlawful or is declared void or (ii) any Financing Document (A) is revoked, terminated or otherwise ceases to be in full force and effect (except in connection with its expiration in accordance with its terms in the ordinary course (and not related to any default thereunder)), or (B) becomes unlawful or is declared void; or

(i) an ERISA Event has occurred which, either individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect; or

(j) a Change of Control has occurred; or

(k) (i) Borrower shall be in breach in any material respect of, or in default in any material respect under, a Material Project Document and such breach or default shall continue unremedied for the period of time (without giving effect to any extension given to Collateral Agent under any applicable Consent to Assignment with respect thereto) under such Material Project Document which Borrower has available to it in which to remedy such breach or default; provided that, if (A) such breach or default cannot be cured within the period of time provided in the applicable Material Project Document, (B) such breach or default is susceptible of cure within thirty (30) days after such breach or default, (C) Borrower is proceeding with diligence and in good faith to cure such breach or default, (D) the existence of such breach or default has not had and could not, after considering the nature of the cure, be reasonably expected to give rise to a Material Adverse Effect, and (E) Administrative Agent shall have received a certificate of an Authorized Representative of Borrower to the effect of clauses (A), (B), (C) and (D) above and stating what action Borrower is taking to cure such breach or default, then such thirty (30) day cure period (or such lesser period of time, as the case may be) shall be extended to such date, not to exceed a total of sixty (60) days, as shall be necessary for Borrower diligently to cure such breach or default;

(ii) (A) any Material Project Counterparty shall be in breach of, or in default under, a Material Project Document and such breach or default could reasonably be expected to have a Material Adverse Effect; (B) any Material Project Counterparty shall disaffirm or repudiate in writing its material obligations under any Consent to Assignment and such disaffirmation or repudiation is not rescinded and revoked in writing by such Material Project Counterparty within ninety (90) days thereof; (C) any representation or warranty made by any Material Project Counterparty in a Consent to Assignment shall be untrue or misleading in any material respect as of the time made and such untrue or misleading representation or warranty could reasonably be expected to result in a Material Adverse Effect; or (D) a Material Project Counterparty shall breach any material covenant of a Consent to Assignment and such breach could reasonably be expected to have a Material Adverse Effect;

(iii) (x) any Material Project Document shall terminate or shall be declared null and void (except upon fulfillment of such party's obligations thereunder or the scheduled expiration of the term of such Material Project Document) or (y) any provision of any Material Project Document shall for any reason cease to be valid and binding on any party thereto (other than Borrower), other than any such failure to be valid and binding which could not reasonably be expected to have a Material Adverse Effect; or

(iv) a Bankruptcy occurs with respect to any Material Project Counterparty;

provided that no Event of Default shall have occurred under this Section 7.01(k) if (i) to the extent the Term Conversion Date has occurred, the applicable Material Project

Counterparty has finished performing all of its material obligations under such Material Project Document or (ii) Borrower shall have replaced the applicable Material Project Document with a Replacement Project Document within ninety (90) days.

(l) any Authorization necessary for the execution, delivery and performance of any material obligation under the Transaction Documents is terminated or ceases to be in full force or is not obtained, maintained, or complied with, unless such failure (i) could not reasonably be expected to result in a Material Adverse Effect or (ii) is remedied within ninety (90) days;

(m) an uninsured Event of Loss or a Condemnation in an amount exceeding $2,000,000, in each case with respect to a material portion of the Site, shall occur;

(n) an Event of Abandonment shall occur;

(o) (i) Term Conversion shall not have occurred by the Date Certain or (ii) any Significant Milestone shall have not been achieved by the date relating thereto in the Construction Schedule;

(p) any Loan Party shall (i) default in making any payment of any principal, interest or premium of any Indebtedness (excluding the Loans and other Obligations) on the scheduled or original due date with respect thereto, in each case, beyond any grace periods applicable thereto; or (ii) default in the observance or performance of any other agreement or condition relating to any such Indebtedness (excluding the Obligations) or contained in any instrument or agreement evidencing, securing or relating thereto, or any other event shall occur or condition exist, in each case, beyond any grace periods applicable thereto, the effect of which default or other event or condition is to cause, or to permit the holder or beneficiary of such Indebtedness (or a trustee or agent on behalf of such holder or beneficiary) to cause, with or without the giving of notice, the lapse of time or both, such Indebtedness to become due prior to its stated maturity or to become subject to a mandatory offer to purchase by the obligor thereunder or (in the case of any such Indebtedness constituting a Guarantee) to become payable; provided that a default, event or condition described in clause (i) or (ii) of this paragraph (p) shall not at any time constitute an Event of Default unless, at such time, one or more defaults, events or conditions of the type described in clauses (i) and (ii) of this paragraph (p) shall have occurred and be continuing with respect to Indebtedness the outstanding principal amount of which exceeds in the aggregate $1,000,000; provided that a breach or default by any Loan Party with respect to any Permitted Working Capital Facility of the type described above will not constitute an Event of Default unless (A) such breach or default has continued for sixty (60) consecutive days without being cured, waived or otherwise resolved or (B) the agent and/or the lenders thereunder have accelerated any of the Indebtedness or other obligations thereunder (and terminated the commitments thereunder); provided, further, that clause (ii) of this paragraph (p) will not apply to secured Indebtedness that becomes due as a result of the voluntary sale or transfer of the property securing such Indebtedness if such sale or transfer is permitted hereunder;

then, and in every such event (other than an event with respect to a Loan Party described in clause (f) of this Section), and at any time thereafter during the continuance of such event, the Administrative Agent shall by notice to Borrower, take any or all of the following actions, at the same or different times: (i)terminate the Commitments, and thereupon the

Commitments shall terminate immediately; and (ii) declare the Loan and all other amounts due under the Financing Documents (including the Prepayment Premium) then outstanding to be due and payable in whole (or in part, in which case any principal not so declared to be due and payable may thereafter be declared to be due and payable), and thereupon the principal of the Loan so declared to be due and payable, together with accrued interest thereon and all fees and other obligations of Borrower accrued hereunder or under the Financing Documents (including the Prepayment Premium), shall become due and payable immediately, without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Loan Parties; and in case of any event with respect to a Loan Party described in clause (f) of this Section, the Commitments shall automatically terminate and the principal of the Loan then outstanding, together with accrued interest thereon and all fees and other obligations of Borrower accrued hereunder and under the Financing Documents (including the Prepayment Premium), shall automatically become due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Loan Parties. Upon the occurrence and during the continuance of any Event of Default, in addition to the exercise of remedies set forth in clauses (i) and (ii) above, each Secured Party shall be, subject to the terms of the Security Documents, entitled to exercise the rights and remedies available to such Secured Party under and in accordance with the provisions of the other Financing Documents to which it is a party or any Applicable Law.

ARTICLE VIII

THE AGENTS

Section 8.01 Appointment and Authorization of the Agents.

(a) Each of the Lenders hereby irrevocably appoints each Agent to act on its behalf as its agent hereunder and under the other Financing Documents and authorizes each Agent in such capacity, to take such actions on its behalf and to exercise such powers as are delegated to it by the terms hereof or thereof, together with such actions and powers as are reasonably incidental thereto. Each Agent, by executing this Agreement, hereby accepts such appointment. The provisions of this Article are solely for the benefit of the Agents and the Lenders (other than the express rights of Borrower under Section 8.07), and none of the Loan Parties shall have rights as a third party beneficiary of any of such provisions.

(b) Each Agent is hereby authorized to execute, deliver and perform each of the Financing Documents to which such Agent is intended to be a party. Each Agent hereby agrees, and each Lender hereby authorizes such Agent, to enter into the amendments and other modifications of the Security Documents (subject to Section 10.02(b)). In addition, prior to the Discharge of Secured Obligations (as defined in the Security Agreement), without further written consent or authorization from the Lenders, the Collateral Agent may execute any documents or instruments necessary in connection with a sale or disposition of assets permitted by this Agreement and permitted by the other applicable Secured Obligation Documents (as defined in the Security Agreement), to release any Lien encumbering any item of Collateral that is the subject of such sale or other disposition of assets or to which the requisite Lenders have otherwise consented.

Section 8.02

Rights as a Lender. Each Agent shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not an Agent, and such Person and its Affiliates may accept deposits from, lend money to and generally engage in any kind of business with Borrower or any of Subsidiary or other Affiliate thereof as if it were not an Agent hereunder.

Section 8.03 Duties of Agent; Exculpatory Provisions. No Agent shall have any duties or obligations except those expressly set forth herein and in the other Financing Documents. All communications, notices, financial statements, projections, reports and other information received by any Agent in relation to Financing Documents must be provided to each Lender within one (1) Business Day after receipt. Without limiting the generality of the foregoing, no Agent (a) shall be subject to any fiduciary or other implied duties, regardless of whether a Default or Event of Default has occurred and is continuing, (b) shall have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Financing Documents that such Agent is required to exercise, and (c) shall, except as expressly set forth herein and in the other Financing Documents, have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to Borrower or any of its Subsidiaries that is communicated to or obtained by the financial institution serving as an Agent or any of its Affiliates in any capacity. No Agent shall be liable for any action taken or not taken by it with the consent or at the request of the Lenders or in the absence of its own gross negligence or willful misconduct as determined by a court of competent jurisdiction in a final, non-appealable decision. No Agent shall be deemed to have knowledge of any Default or Event of Default unless and until written notice thereof is given to such Agent by Borrower or a Lender, and no Agent shall be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with this Agreement or any other Financing Document, (ii) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or therein, (iv) the validity, enforceability, effectiveness or genuineness of this Agreement, any other Financing Document or any other agreement, instrument or document, or (v) the satisfaction of any condition set forth in Article IV or elsewhere herein or therein, other than to confirm receipt of items expressly required to be delivered to such Agent.

Section 8.04 Reliance by Agent. Each Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing believed by it to be genuine and to have been signed or sent by the proper Person. Each Agent also may rely upon any statement made to it orally or by telephone and believed by it to be made by the proper Person, and shall not incur any liability for relying thereon. Each Agent may consult with legal counsel, independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.

Section 8.05 Delegation of Duties. Each Agent may perform any and all its duties and exercise its rights and powers by or through any one or more sub-agents appointed by such Agent. Each Agent and any such sub-agent may perform any and all its duties and exercise its rights and powers through their respective Related Parties. The exculpatory provisions of the preceding

paragraphs shall apply to any such sub-agent and to the Related Parties of each Agent and any such sub-agent, and shall apply to their respective activities as well as activities as each Agent.

Section 8.06 Withholding of Taxes by the Administrative Agent; Indemnification. To the extent required by any Applicable Law, the Administrative Agent may withhold from any payment to any Lender an amount equivalent to any applicable withholding Taxes. If any Governmental Authority asserts a claim that the Administrative Agent did not properly withhold Taxes from amounts paid to or for the account of any Lender because the appropriate form was not delivered or was not properly executed or because such Lender failed to notify the Administrative Agent of a change in circumstance which rendered the exemption from, or reduction of, withholding Taxes ineffective or for any other reason, or if the Administrative Agent reasonably determines that a payment was made to a Lender pursuant to this Agreement without deduction of applicable withholding tax from such payment, such Lender shall promptly indemnify the Administrative Agent fully for all amounts paid, directly or indirectly, by Administrative Agent as Taxes or otherwise, including any penalties or interest and together with all expenses (including legal expenses, allocated internal costs and out-of-pocket expenses) incurred. Each Lender shall severally indemnify the Administrative Agent, within ten days after demand therefor, for (i) any Indemnified Taxes or Other Taxes attributable to such Person (but only to the extent that Borrower has not already indemnified the Administrative Agent for such Indemnified Taxes or Other Taxes and without limiting the obligation of Borrower to do so), (ii) any Taxes attributable to such Person's failure to comply with the provisions of Section 10.04(f) relating to the maintenance of a Participant Register and (iii) any Excluded Taxes attributable to such Person, in each case, that are payable or paid by the Administrative Agent in connection with any Financing Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error. Each Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender under any Financing Document or otherwise payable by the Administrative Agent to the Lender from any other source against any amount due to the Administrative Agent under this Section 8.06.

Section 8.07 Resignation of Agent. Each Agent may resign at any time upon thirty days' notice by notifying the Lenders and Borrower, and any Agent may be removed at any time by the Required Lenders (with a prior written notice to Borrower). Upon any such resignation or removal, the Required Lenders shall have the right, with the consent of Borrower (such consent not to be unreasonably withheld), to appoint a successor Agent. If no successor shall have been so appointed by the Required Lenders and approved by Borrower and shall have accepted such appointment within thirty (30) days after the retiring Agent gives notice of its resignation or after the Administrative Agent's removal of the retiring Agent, then the retiring Agent may, on behalf of the Lenders, appoint a successor Agent, which shall be a Lender with an office in New York, New York, an Affiliate of a Lender or a financial institution with an office in New York, New York having a combined capital and surplus that is not less than $250,000,000. Upon the acceptance of its appointment as Agent hereunder by a successor, such successor shall succeed to and become vested with all the rights, powers, privileges and duties of the retiring (or retired) Agent and the retiring Agent shall be discharged from its duties and obligations hereunder (if not already discharged therefrom as provided above in this Section 8.07). The fees payable by Borrower to a successor Agent shall be the same as those payable to its predecessor unless

otherwise agreed between Borrower and such successor. After the Agent's resignation or removal hereunder, the provisions of this Article and Section 10.03 shall continue in effect for its benefit in respect of any actions taken or omitted to be taken by it while it was acting as Agent.

Section 8.08 Non-Reliance on Agent or Other Lenders. Each Lender acknowledges that it has, independently and without reliance upon any Agent, the Affiliates of any Agent or any other Lender and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each Lender also acknowledges that it will, independently and without reliance upon any Agent, the Affiliates of any Agent or any other Lender and based on such documents and information as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any other Financing Document or any related agreement or any document furnished hereunder or thereunder.

Section 8.09 No Other Duties; Etc. The parties agree that neither the Administrative Agent nor the Collateral Agent shall have any obligations, liability or responsibility under or in connection with this Agreement and the other Financing Documents and that none of the Agents shall have any obligations, liabilities or responsibilities except for those expressly set forth herein and in the other Financing Documents. The Collateral Agent shall have all of the rights (including indemnification rights), powers, benefits, privileges, exculpations, protections and immunities granted to the Collateral Agent under the other Financing Documents, all of which are incorporated herein mutatis mutandis.

Section 8.10 Certain ERISA Matters.

(a) Each Lender (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of the Administrative Agent, the Collateral Agent and each of their respective Affiliates, and not, for the avoidance of doubt, to or for the benefit of Borrower or any other Loan Party, that at least one of the following is and will be true:

(i) such Lender is not using "plan assets" (within the meaning of 29 CFR § 2510.3-101, as modified by Section 3(42) of ERISA) of one or more employee benefit plans (as defined in Section 3(2) of ERISA) in connection with the Loans or the Commitments;

(ii) the prohibited transaction exemption set forth in one or more PTEs, such as PTE 84-14 (a class exemption for certain transactions determined by independent qualified professional asset managers), PTE 95-60 (a class exemption for certain transactions involving insurance company general accounts), PTE 90-1 (a class exemption for certain transactions involving insurance company pooled separate accounts), PTE 91-38 (a class exemption for certain transactions involving bank collective investment funds) or PTE 96-23 (a class exemption for certain transactions determined by in-house asset managers), is applicable so as to exempt from the prohibitions of ERISA Section 406 and Code Section 4975, such Lender's entrance into, participation in, administration of and performance of the Loans, the Commitments and this Agreement;

(iii) (A) such Lender is an investment fund managed by a "Qualified Professional Asset Manager" (within the meaning of Part VI of PTE 84-14), (B) such Qualified Professional Asset Manager made the investment decision on behalf of such Lender to enter into, participate in, administer and perform the Loans, the Commitments and this Agreement, (C) the entrance into, participation in, administration of and performance of the Loans, the Commitments and this Agreement satisfies the requirements of sub-sections (b) through (g) of Part I of PTE 84-14 and (D) to the best knowledge of such Lender, the requirements of subsection (a) of Part I of PTE 84-14 are satisfied with respect to such Lender's entrance into, participation in, administration of and performance of the Loans, the Commitments and this Agreement; or

(iv) such other representation, warranty and covenant as may be agreed in writing between the Administrative Agent, in its sole discretion, and such Lender.

(b) In addition, unless sub-clause (i) in the immediately preceding clause (a) is true with respect to a Lender or such Lender has not provided another representation, warranty and covenant as provided in sub-clause (iv) in the immediately preceding clause (a), such Lender further (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of the Administrative Agent, the Collateral Agent and each of their respective Affiliates, and not, for the avoidance of doubt, to or for the benefit of Borrower or any other Loan Party, that none of the Administrative Agent, the Collateral Agent or their respective Affiliates is a fiduciary with respect to the assets of such Lender (including in connection with the reservation or exercise of any rights by the Administrative Agent under this Agreement, any Financing Document or any documents related to hereto or thereto).

ARTICLE IX

GUARANTY

Section 9.01 Guaranty.

(a) For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, each of Holdings and, following the execution of the Project Company Joinder, Project Company (together with Holdings, the "Guarantors"), jointly and severally, hereby unconditionally and irrevocably guarantees the full and punctual payment and performance (whether at stated maturity, upon acceleration or otherwise) of all Guaranteed Obligations, in each case as primary obligor and not merely as surety and with respect to all such Guaranteed Obligations howsoever created, arising or evidenced, whether direct or indirect, absolute or contingent, now or hereafter existing, or due or to become due. This is a guaranty of payment and not merely of collection.

(b) All payments made by the Guarantors under this Article IX shall be payable in the manner required for payments by Borrower hereunder, including: (i) the obligation to make all such payments in Dollars, free and clear of, and without deduction for, any Taxes (including withholding taxes), (ii) the obligation to pay interest at the Post-Default Rate and (iii) the obligation to pay all amounts due under the Loan in Dollars.

(c) Any term or provision of this guaranty to the contrary notwithstanding the aggregate maximum amount of the Guaranteed Obligations for which any Guarantor shall be liable (in the case of Holdings, subject to Section 9.07) under this guaranty shall not exceed the maximum amount for which such Guarantor can be liable without rendering this guaranty or any other Financing Document, as it relates to such Guarantor void or voidable under Applicable Law relating to fraudulent conveyance or fraudulent transfer.

Section 9.02 Guaranty Unconditional. The Guaranteed Obligations shall be unconditional and absolute and, without limiting the generality of the foregoing, shall not be released, discharged or otherwise affected by:

(a) any extension, renewal, settlement, compromise, waiver or release in respect of any obligations of any Loan Party under the Financing Documents and/or any Commitments under the Financing Documents, by operation of law or otherwise (other than with respect to any such extension, renewal, settlement, compromise, waiver or release agreed in accordance with the terms hereunder as expressly applying to the Guaranteed Obligations);

(b) any modification or amendment of or supplement to this Agreement or any other Financing Document (other than with respect to any modification, amendment or supplement agreed in accordance with the terms hereunder as expressly applying to the Guaranteed Obligations);

(c) any release, impairment, non-perfection or invalidity of any Collateral;

(d) any change in the corporate existence, structure or ownership of any Loan Party or any other Person, or any event of the type described in Sections 5.01, 6.01 or 6.07 with respect to any Person;

(e) the existence of any claim, set-off or other rights that the Guarantors may have at any time against any Loan Party, any Secured Party or any other Person, whether in connection herewith or with any unrelated transactions;

(f) any invalidity or unenforceability relating to or against any Loan Party for any reason of any Financing Document, or any provision of Applicable Law purporting to prohibit the performance by any Loan Party of any of its obligations under the Financing Documents (other than any such invalidity or unenforceability with respect solely to the Guaranteed Obligations);

(g) the failure of any Material Project Counterparty to make payments owed to any Loan Party; or

(h) any other act or omission to act or delay of any kind by any Loan Party, any Secured Party or any other Person or any other circumstance whatsoever that might, but for the provisions of this Section 9.02, constitute a legal or equitable discharge of the obligations of any Loan Party under the Financing Documents.

Section 9.03 Discharge Only Upon Payment in Full; Reinstatement in Certain Circumstances. The Guaranteed Obligations shall remain in full force and effect until all of Borrower's obligations under the Financing Documents shall have been paid or otherwise

performed in full and all of the Commitments shall have terminated. If at any time any payment made under this Agreement or any other Financing Document is rescinded or must otherwise be restored or returned upon the insolvency, bankruptcy, reorganization or similar event of any Loan Party or any other Person or otherwise, then the Guaranteed Obligations with respect to such payment shall be reinstated at such time as though such payment had been due but not made at such time.

Section 9.04 Waiver by the Guarantors.

(a) Each Guarantor hereby irrevocably and unconditionally waives, to the fullest extent permitted by Applicable Law: (i) notice of acceptance of the guaranty provided in this Article IX and notice of any liability to which this guaranty may apply, (ii) all notices that may be required by Applicable Law or otherwise to preserve intact any rights of any Secured Party against any Loan Party, including any demand, presentment, protest, proof of notice of non-payment, notice of any failure on the part of any Loan Party to perform and comply with any covenant, agreement, term, condition or provision of any agreement and any other notice to any other party that may be liable in respect of the Guaranteed Obligations (including any Loan Party) except any of the foregoing as may be expressly required hereunder, (iii) any right to the enforcement, assertion or exercise by any Secured Party of any right, power, privilege or remedy conferred upon such Person under the Financing Documents or otherwise and (iv) any requirement that any Secured Party exhaust any right, power, privilege or remedy, or mitigate any damages resulting from a default, under any Financing Document, or proceed to take any action against any Collateral or against any Loan Party or any other Person under or in respect of any Financing Document or otherwise, or protect, secure, perfect or ensure any Lien on any Collateral.

(b) Each Guarantor agrees and acknowledges that the Administrative Agent and each holder of any Guaranteed Obligations may demand payment of, enforce and recover from each Guarantor or any other Person obligated for any or all of such Guaranteed Obligations in any order and in any manner whatsoever, without any requirement that the Administrative Agent or such holder seek to recover from any particular Guarantor or other Person first or each Guarantor or other Persons *pro rata* or on any other basis.

Section 9.05 Subrogation. Upon any Guarantor making any payment under this Article IX, such Guarantor, as applicable, shall be subrogated to the rights of the payee against Borrower with respect to such obligation; provided that no Guarantor shall enforce any payment by way of subrogation, indemnity, contribution or otherwise, or exercise any other right, against any other Loan Party (or otherwise benefit from any payment or other transfer arising from any such right) so long as any obligations under the Financing Documents (other than on-going but not yet incurred indemnity obligations) remain unpaid and/or unsatisfied.

Section 9.06 Acceleration. All amounts subject to acceleration under this Agreement shall be payable by the Guarantors hereunder immediately upon demand by the Administrative Agent.

Section 9.07 Limited Recourse Against Holdings. Notwithstanding anything to the contrary in this Article IX, the obligations of Holdings under, and recourse against Holdings for,

the Guaranteed Obligations shall be limited to the Collateral pledged by Holdings pursuant to the Security Agreement.

ARTICLE X

MISCELLANEOUS

Section 10.01 Notices. Except as otherwise expressly provided herein or in any Financing Document, all notices and other communications provided for hereunder or thereunder shall be (i) in writing (including facsimile and email) and (ii) sent by facsimile, email or overnight courier (if for inland delivery) or international courier (if for overseas delivery) to a party hereto at its address and contact number specified below, or at such other address and contact number as is designated by such party in a written notice to the other parties hereto:

(a) Borrower:

BKRF OCB, LLC
c/o Global Clean Energy Holdings, Inc.
2790 Skypark Drive, Suite 105
Torrance, CA 90505
Attention: General Counsel

(b) Holdings:

BKRF OCP, LLC
c/o Global Clean Energy Holdings, Inc.
2790 Skypark Drive, Suite 105
Torrance, CA 90505
Attention: General Counsel

(c) Project Company (following the execution of the Project Company Joinder):

Bakersfield Renewable Fuels, LLC
c/o Global Clean Energy Holdings, Inc.
2790 Skypark Drive, Suite 105
Torrance, CA 90505
Attention: General Counsel

In each of the foregoing (a) through (c), with a copy to:

TroyGould PC
1801 Century Park East, Suite 1600
Los Angeles, CA 90067
Attention: Istvan Benko
Email: ibenko@troygould.com

(d) Administrative Agent and Collateral Agent:

Orion Energy Partners TP Agent, LLC
350 5th Ave #6740
New York, NY 10118
Attention: Ethan Shoemaker and Mark Friedland
Email: Ethan@OrionEnergyPartners.com; Mark@OrionEnergyPartners.com;
ProjectGoldenBear@orionenergypartners.com

(e) If to a Lender, to it at its address (or facsimile number) set forth in its Administrative Questionnaire.

All notices and communications shall be effective when received by the addressee thereof during business hours on a Business Day in such Person's location as indicated by such Person's address in paragraphs (a) to (e) above, or at such other address as is designated by such Person in a written notice to the other parties hereto.

Section 10.02 Waivers; Amendments.

(a) No Deemed Waivers; Remedies Cumulative. No failure or delay on the part of any Agent or any Lender in exercising any right, power or privilege hereunder or under any other Financing Document and no course of dealing between any Loan Party, or any of Borrower's Affiliates, on the one hand, and any Agent or Lender on the other hand, shall impair any such right, power or privilege or operate as a waiver thereof; nor shall any single or partial exercise of any right, power or privilege hereunder or under any other Financing Document preclude any other or further exercise thereof or the exercise of any other right, power or privilege hereunder or thereunder. The rights, powers and remedies herein or in any other Financing Document expressly provided are cumulative and not exclusive of any rights, powers or remedies which any party thereto would otherwise have. No notice to or demand on Borrower in any case shall entitle Borrower to any other or further notice or demand in similar or other circumstances or constitute a waiver of the rights of any Agent or any Lender to any other or further action in any circumstances without notice or demand.

(b) Amendments. No amendment or waiver of any provision of this Agreement or any other Financing Document (other than (i) following the execution of the Term Intercreditor Agreement, any Security Document, each of which may only be waived, amended or modified in accordance with the Term Intercreditor Agreement and (ii) the Agent Reimbursement Letter and any fee letter between one or more Loan Parties and a Lender, each of which may be waived, amended or modified by the parties thereto in accordance with the terms thereof), and no consent to any departure by Borrower shall be effective unless in writing signed by the Administrative Agent, the Required Lenders and Borrower; provided that no such amendment, waiver or consent shall:

(i) change the *pro rata* agreements in Sections 2.06(b)(v), 2.12(c), 2.12(d) or 5.29(b)(ii) without the consent of each Lender affected thereby;

(ii) increase the aggregate amount of any Loans required to be made by any Lender pursuant to its Commitments, extend the Availability Period of Loans made by a Lender, extend any Maturity Date for any Lender's Loan, extend the maturity of any scheduled principal

payment date, or reduce any fees described in Article II payable to any Lender, in each case without the consent of such Lender (it being agreed, however, that any vote to rescind any acceleration made pursuant to Article VII of amounts owing with respect to the Loans and other Obligations shall only require the vote of the Required Lenders) (it being understood that waivers or modifications of conditions precedent, covenants, Defaults or Events of Default or of a mandatory reduction in the aggregate Commitments shall not constitute an increase of the Commitments of any Lender);

(iii) reduce or forgive the principal amount of or reduce the rate of interest on any Lender's Loan or extend the date on which interest, fees, or premium are payable to any Lender, in each case without the consent of such Lender (*provided* that, the vote of Required Lenders shall be sufficient to waive the payment, or reduce the increased portion, of interest accruing under Section 2.08(b));

(iv) except as otherwise expressly provided in a Financing Document, release (i) a Loan Party from its Obligations under the Financing Documents (including any guaranty) or (ii) all or substantially all of the Collateral, in each case without the consent of all Lenders; or

(v) waive the conditions precedent set forth in Section 4.03(b) or Section 4.03(g) without the consent of all Lenders affected thereby;

provided further that (A) no amendment, waiver or consent shall, without the written consent of the relevant Agent, affect the rights or duties of such Agent under this Agreement or any other Financing Document and (B) any separate fee agreement between Borrower and the Administrative Agent in its capacity as such or between Borrower and the Collateral Agent in its capacity as such may be amended or modified by such parties. Notwithstanding anything herein or in any other Financing Document to the contrary, the Loan Parties and the Agents may (but shall not be obligated to) amend or supplement any Security Document without the consent of any Lender to cure any ambiguity, defect or inconsistency which is not material, or to make any change that would provide any additional rights or benefits to the Lenders.

Notwithstanding anything to the contrary in any Loan Document, the Borrower, the Administrative Agent and the Collateral Agent may, without the need to obtain consent of any other Lender, enter into an amendment to this Agreement and the other Loan Documents to (i) correct or cure any ambiguities, errors, omissions, mistakes, inconsistencies or defects jointly identified by the Borrower and the Administrative Agent, (ii) to effect administrative changes of a technical or immaterial nature, or (iii) to fix incorrect cross-references or similar inaccuracies in this Agreement or the applicable Loan Document.

Section 10.03 Expenses; Indemnity; Etc.

(a) Costs and Expenses.

(i) Borrower agrees to pay or reimburse each of the Agents and the Lenders for: (I) all reasonable and documented out-of-pocket costs and expenses of the Agents and the Lenders (including the reasonable fees and expenses of Latham & Watkins LLP, New York counsel to the Administrative Agent and the Collateral Agent (or such other external counsel that the Agents may select from time to time) and experts engaged by the

Agents or the Lenders from time to time in connection with (A) the negotiation, preparation, execution, delivery and performance of this Agreement and the other Financing Documents and the extension of credit under this Agreement (whether or not the transaction contemplated hereby and thereby shall be consummated) or (B) any amendment, modification or waiver of any of the terms of this Agreement or any other Financing Documents); (II) all reasonable costs and expenses of the Lenders (including payment of the fees provided for herein) and the Agents (including external counsels' fees and expenses and reasonable experts' fees and expenses) in connection with (A) any Default or Event of Default and any enforcement or collection proceedings resulting from such Default or Event of Default or in connection with the negotiation of any restructuring or "work-out" (whether or not consummated) of the obligations of the Loan Parties under this Agreement or any other Financing Document or Material Project Documents and (B) the enforcement of this Section 10.03 or the preservation of their respective rights; and (III) all costs, expenses, Taxes, assessments and other charges incurred in connection with any filing, registration, recording or perfection of any security interest contemplated by any Security Document or any other document referred to therein (including all costs, expenses and other charges procured with respect to the Liens created pursuant to the Mortgage). Notwithstanding anything to the contrary in this Agreement, the costs and expenses reimbursable pursuant to this Section 10.03(a)(i) shall be subject to the limitations set forth in the Agent Reimbursement Letter.

(ii) Borrower agrees to pay all reasonable and documented out-of-pocket fees and expenses of (a) the Independent Engineer and (b) any other project/construction management consultants selected by the Administrative Agent (collectively with Independent Engineer, the "Consultants"), in each case subject to the applicable engagement letter to be executed with such Consultant; provided that Borrower's payment of any reasonable fees incurred by any Consultant to provide services required under the Financing Documents but not otherwise within the scope of work under such Consultant's engagement letter shall be subject to certain annual limits, if any, to be specified in such engagement letter (except that such annual limits shall not apply in relation to any work (x) investigating a Default or Event of Default, or (y) in respect of any waiver request by Borrower, both of which instead shall be subject to reasonable work plans, budgets and compensation limits to be agreed by the Independent Engineer and Borrower); provided further that except in the cases of the foregoing clauses (x) and (y), the consent of Borrower (such consent not to be unreasonably withheld, conditioned or delayed) shall be required for the Consultant to perform additional work not otherwise contemplated by the terms of such Consultant's engagement letter or that would otherwise cause the reasonable fees and expenses of such Consultant to exceed the annual limits set forth in such engagement letter (once executed).

(b) Indemnification by Borrower. Each Loan Party agrees to indemnify and hold harmless each of the Agents and the Lenders and their affiliates and their respective directors, officers, employees, administrative agents, attorneys-in-fact and controlling persons (each, an "Indemnified Party") from and against any and all losses, claims, damages and liabilities (other than Excluded Taxes, Indemnified Taxes and Other Taxes), joint or several, to which such Indemnified Party may become subject related to or arising out of any transaction contemplated by the Financing Documents or the execution, delivery and performance of the Financing

Documents or any other document in any way relating to the Financing Documents and the transactions contemplated by the Financing Documents (including, for avoidance of doubt, any liabilities arising under or in connection with Environmental Law) and will reimburse any Indemnified Party for all expenses (including reasonable and documented out-of-pocket external counsel fees and expenses) as they are incurred in connection therewith. Borrower will not be liable under the foregoing indemnification provision to an Indemnified Party to the extent that any loss, claim, damage, liability or expense (x) is found in a final non-appealable judgment by a court of competent jurisdiction to have resulted directly and primarily from such Indemnified Party's gross negligence or willful misconduct or (y) is found in a final non-appealable judgment by a court of competent jurisdiction to have resulted from disputes among Indemnified Parties (other than any claims arising out of any act or omission on the part of any Loan Party or its respective Affiliates). Borrower also agrees that no Indemnified Party shall have any liability (whether direct or indirect, in contract or tort or otherwise) to it, or any of its security holders or creditors related to or arising out of the execution, delivery and performance of any Financing Document or any other document in any way relating to the Financing Documents or the other transactions contemplated by the Financing Documents, except to the extent that any loss, claim, damage or liability is found in a final non-appealable judgment by a court to have resulted directly and primarily from such Indemnified Party's gross negligence or willful misconduct as determined by a court of competent jurisdiction in a final, non-appealable decision. To the extent permitted by Applicable Law, Borrower shall not assert and hereby waives, any claim against any Indemnified Party, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any Financing Document or any agreement or instrument contemplated hereby, any Loan or the use of the proceeds thereof.

(c) Indemnification by Lenders. To the extent that Borrower fails to pay any amount required to be paid to any Agent, their affiliates or agents under Section 10.03(a) or 10.03(b), each Lender severally agrees to pay ratably in accordance with the aggregate principal amount of the Loan held by the Lender to such Agent, affiliate or agent such unpaid amount; provided that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against such Agent, affiliate or agent in its capacity as such.

(d) Settlements; Appearances in Actions. Borrower agrees that, without each Indemnified Party's prior written consent, it will not settle, compromise or consent to the entry of any judgment in any pending or threatened claim, action or proceeding in respect of which indemnification could be sought by or on behalf of such Indemnified Party under this Section (whether or not any Indemnified Party is an actual or potential party to such claim, action or proceeding), unless such settlement, compromise or consent includes an unconditional release of such Indemnified Party from all liability arising out of such claim, action or proceeding. In the event that an Indemnified Party is requested or required to appear as a witness in any action brought by or on behalf of or against Borrower or any Affiliate thereof in which such Indemnified Party is not named as a defendant, Borrower agrees to reimburse such Indemnified Party for all reasonable expenses incurred by it in connection with such Indemnified Party's appearing and preparing to appear as such a witness, including the reasonable and documented out-of-pocket fees and disbursements of its external legal counsel. In the case of any claim brought against an Indemnified Party for which Borrower may be responsible under this Section 10.03, the Agents and Lenders agree (at the expense of Borrower) to execute such instruments and documents and

cooperate as reasonably requested by Borrower in connection with Borrower's defense, settlement or compromise of such claim, action or proceeding.

Section 10.04 Successors and Assigns.

(a) Assignments Generally. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that (i) the Loan Parties may not assign or otherwise transfer, directly or indirectly, any of their respective rights or obligations hereunder or under any other Financing Document without the prior written consent of each Lender (and any attempted assignment or transfer by such Loan Party without such consent shall be null and void) and (ii) no Lender may assign or otherwise transfer, directly or indirectly, any of its rights or obligations hereunder except in accordance with this Section 10.04. Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants (to the extent provided in Section 10.04(f)) and, to the extent expressly contemplated hereby, the Indemnified Parties referred to in Section 10.03(b) and the Related Parties of each of the Administrative Agent and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) Assignments by Lenders. Any Lender may assign to one or more Persons all or a portion of its rights and obligations under this Agreement (including all or a portion of its Loan at the time owing to it); provided that:

(i) except in the case of an assignment to a Lender or an Affiliate or Related Fund of a Lender, the amount of the Loan of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent) shall not be less than $500,000 unless Borrower and the Administrative Agent otherwise consent;

(ii) except in the case of an assignment to a Lender or an Affiliate or Related Fund of a Lender, the Administrative Agent must give its prior written consent to such assignment, not to be unreasonably withheld, conditioned or delayed;

(iii) each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement;

(iv) except in the case of an assignment to an Affiliate, the parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with a processing and recordation fee of $3,500;

(v) the assignee, if it shall not be a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire; and

(vi) the Borrower's consent shall be required if the assignee is (x) a direct competitor of ExxonMobil (or any Person that owns, directly or indirectly, at least majority of the Capital Stock of any such direct competitor) or (y) any Person whose primary investment strategy is purchasing credits of companies in financial distress, including any

such Person that is or would reasonably be recognized or categorized as a vulture fund by reputable institutions that are participants in the financial markets;

provided further that any consent of Borrower otherwise required under this clause (b) shall not be required if any Event of Default under paragraphs (a), (b) or, solely with respect to Borrower, (f) has occurred and is continuing and shall be deemed given if Borrower has not responded to a request for such consent within five (5) Business Days of the request. Upon acceptance and recording pursuant to Section 10.04(d), from and after the effective date specified in each Assignment and Assumption, the assignee thereunder shall be a party hereto and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Sections 2.11, 2.12 and 10.03). Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this Section 10.04(b) shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with Section 10.04(f).

(c) Maintenance of Register by the Administrative Agent. The Administrative Agent, acting for this purpose as an agent of Borrower, shall maintain at one of its offices in New York City a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, principal amount of the Loan owing to each Lender pursuant to the terms hereof from time to time and the amount of any Accrued Interest owing from time to time (the "Register"). The entries in the Register shall be conclusive absent manifest error, and Borrower, the Administrative Agent and the Lenders may treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by Borrower and any Lender, at any reasonable time and from time to time upon reasonable prior notice. The Administrative Agent shall give to any Lender promptly upon request therefor, a complete and correct copy of the names and addresses of all registered Lenders.

(d) Effectiveness of Assignments. Upon its receipt of a duly completed Assignment and Assumption executed by an assigning Lender and an assignee, the assignee's completed Administrative Questionnaire (unless the assignee shall already be a Lender hereunder), the processing and recordation fee referred to in Section 10.04(b) and any written consent to such assignment required by Section 10.04(b), the Administrative Agent shall accept such Assignment and Assumption and record the information contained therein in the Register. No assignment shall be effective for purposes of this Agreement unless it has been recorded in the Register as provided in this Section 10.04(d).

(e) Limitations on Rights of Assignees. An assignee Lender shall not be entitled to receive any greater payment under Section 2.11 or 2.12 than the assigning Lender would have been entitled to receive with respect to the interest assigned to such assignee (based on the circumstances existing at the time of the assignment), unless Borrower's prior written consent has been obtained therefor.

(f) Participations. Any Lender may, without the consent of Borrower or the Administrative Agent, sell participations to one or more banks or other entities (a "Participant") in all or a portion of such Lender's rights and obligations under this Agreement and the other Financing Documents (including all or a portion of the Loan owing to it); provided that (i) such Lender's obligations under this Agreement and the other Financing Documents shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (iii) the Loan Parties, the Administrative Agent and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement and the other Financing Documents. Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and the other Financing Documents and to approve any amendment, modification or waiver of any provision of this Agreement or any other Financing Document; provided that, such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver described in the first proviso to Section 10.02(b) that affects such Participant. Subject to Section 10.04(g), Borrower agrees that each Participant shall be entitled to the benefits of Sections 2.11 and 2.12 to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to Section 10.04(b). Each Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of Borrower, maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest) of each Participant's interest in the Loan or other obligations under the Financing Documents held by it (the "Participant Register"); provided that no Lender shall have any obligation to disclose all or any portion of the Participant Register (including the identity of any Participant or any information relating to a Participant's interest in any Commitments, Loan or its other obligations under any Financing Document) to any Person except to the extent that such disclosure is necessary to establish that such participation complies with this Section 10.04 and that such commitment, loan, letter of credit or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations and Section 1.163-5(b) of the proposed United States Treasury Regulations (or any amended or successor version thereof). The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. For the avoidance of doubt, the Administrative Agent (in its capacity as Administrative Agent) shall have no responsibility for maintaining a Participant Register.

(g) Limitations on Rights of Participants. A Participant shall not be entitled to receive any greater payment under Sections 2.11 or 2.12 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, unless (i) the sale of the participation to such Participant is made with Borrower's prior written consent, or (ii) such entitlement to receive a greater payment results from a Change in Law that occurs after the Participant acquired the applicable participation. A Participant shall not be entitled to the benefits of Section 2.11 unless the Participant agrees, for the benefit of Borrower, to comply with Section 2.11(e) as though it were a Lender (it being understood that the documentation required under Section 2.11(e) shall be delivered to the participating Lender).

(h) Certain Pledges.

(i) Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, including any such pledge or assignment to a Federal Reserve Bank, the European Central Bank or any other central bank or similar monetary authority in the jurisdiction of such Lender, and this Section shall not apply to any such pledge or assignment of a security interest; provided that no such pledge or assignment of a security interest shall release a Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto; and provided further that any payment in respect of such pledge or assignment made by any Loan Party to or for the account of the pledging or assigning Lender in accordance with the terms of this Agreement shall satisfy such Loan Party's obligations hereunder in respect of such pledged or assigned Loan to the extent of such payment.

(ii) Notwithstanding any other provision of this Agreement, any Lender may, without informing, consulting with or obtaining the consent of any other party to the Financing Documents and without formality under any Financing Documents, assign by way of security, mortgage, charge or otherwise create security by any means over, its rights under any Financing Document to secure the obligations of that Lender to any Person that would be a permitted assignee (without the consent of Borrower or any Agent) pursuant to Section 10.04(b) including (A) to the benefit of any of its Affiliates and/or (B) within the framework of its, or its Affiliates, direct or indirect funding operations.

(i) No Assignments to Borrower or Affiliates. Anything in this Section to the contrary notwithstanding, no Lender may assign or participate any interest in any Loan held by it hereunder to any Loan Party or any Affiliate of Borrower without the prior written consent of each other Lender.

Section 10.05 Survival. All covenants, agreements, representations and warranties made by the Loan Parties herein and in the certificates or other instruments delivered in connection with or pursuant to this Agreement shall be considered to have been relied upon by the other parties hereto and shall survive the execution and delivery of this Agreement and the making of any Loan, regardless of any investigation made by any such other party or on its behalf and notwithstanding that the Administrative Agent or any Lender may have had notice or knowledge of any Default or Event of Default or incorrect representation or warranty at the time any credit is extended hereunder, and shall continue in full force and effect as long as the principal of or any accrued interest on any Loan or any fee or any other amount payable under this Agreement is outstanding and unpaid. The provisions of Sections 2.09, 2.11, 2.12, 10.03, 10.05, 10.12, 10.13, 10.14, 10.15 and Article VIII shall survive and remain in full force and effect regardless of the consummation of the transactions contemplated hereby, the repayment of the Loan, the expiration or termination of the Commitments or the termination of this Agreement or any provision hereof.

Section 10.06 Counterparts; Integration; Effectiveness. This Agreement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement and the other Financing Documents to which a Loan Party is party constitute the entire contract between and among the parties relating to the subject matter hereof and thereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Except as provided in Section 4.01, this Agreement shall become effective

when it shall have been executed by the Administrative Agent and when the Administrative Agent shall have received counterparts hereof which, when taken together, bear the signatures of each of the other parties hereto, and thereafter shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns. Delivery of an executed counterpart of a signature page to this Agreement by telecopy or scanned electronic transmission shall be effective as delivery of a manually executed counterpart of this Agreement.

Section 10.07 Severability. Any provision of this Agreement held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions hereof; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction.

Section 10.08 Right of Setoff. If an Event of Default shall have occurred and be continuing, each Lender and any of its Affiliates is hereby authorized at any time and from time to time, to the fullest extent permitted by law, to set off and apply any and all deposits (general or special, time or demand, provisional or final) at any time held, and any other indebtedness at any time owing, by such Lender or any such Affiliate to or for the credit or the account of Borrower against any of and all the obligations of Borrower now or hereafter existing under this Agreement held by such Lender, irrespective of whether or not such Lender shall have made any demand under this Agreement and although such obligations may be unmatured or denominated in a currency other than Dollars. The rights of each Lender or any such Affiliate under this Section are in addition to other rights and remedies (including other rights of setoff) which such Lender may have.

Section 10.09 Governing Law; Jurisdiction; Etc.

(a) Governing Law. THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES UNDER THIS AGREEMENT AND ANY DISPUTE OF CLAIMS ARISING IN CONNECTION THEREWITH SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

(b) Submission to Jurisdiction. Any legal action or proceeding with respect to this Agreement or any other Financing Document to which a Loan Party is a party shall, except as provided in clause (d) below, be brought in the courts of the State of New York, or of the United States District Court for the Southern District of New York, in each case, seated in the County of New York and, by execution and delivery of this Agreement, each party hereto hereby irrevocably accepts for itself and in respect of its property, generally and unconditionally, the jurisdiction of the aforesaid courts. Each party hereto agrees that a judgment, after exhaustion of all available appeals, in any such action or proceeding shall be conclusive and binding upon it, and may be enforced in any other jurisdiction, including by a suit upon such judgment, a certified copy of which shall be conclusive evidence of the judgment.

(c) Waiver of Venue . Each party hereto hereby irrevocably waives any objection that it may now have or hereafter have to the laying of the venue of any suit, action or proceeding arising out of or relating to this Agreement or any other Financing Document to which it is a party brought in the Supreme Court of the State of New York or in the United States District Court for

the Southern District of New York, in each case, seated in the County of New York and hereby further irrevocably waives any claim that any such suit, action or proceeding brought in any such court has been brought in an inconvenient forum.

(d) Rights of the Secured Parties. Nothing in this Section 10.09 shall limit the right of the Secured Parties to refer any claim against a Loan Party to any court of competent jurisdiction in any State where any Collateral is located, nor shall the taking of proceedings by any Secured Party before the courts in one or more jurisdictions preclude the taking of proceedings in any other jurisdiction whether concurrently or not.

(e) WAIVER OF JURY TRIAL. EACH PARTY TO THIS AGREEMENT HEREBY EXPRESSLY WAIVES ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION ARISING UNDER ANY FINANCING DOCUMENT OR IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF THE PARTIES HERETO OR ANY OF THEM WITH RESPECT TO ANY FINANCING DOCUMENT, OR THE TRANSACTIONS RELATED THERETO, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER FOUNDED IN CONTRACT OR TORT OR OTHERWISE; AND EACH PARTY HEREBY AGREES AND CONSENTS THAT ANY SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY, AND THAT ANY PARTY TO THIS AGREEMENT MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS SECTION WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF THE SIGNATORIES HERETO TO THE WAIVER OF THEIR RIGHT TO TRIAL BY JURY.

(f) Waiver of Immunity. To the extent that a Loan Party has or hereafter may acquire any immunity from jurisdiction of any court or from any legal process (whether through service of notice, attachment prior to judgment, attachment in aid of execution, execution, sovereign immunity or otherwise) with respect to itself or its property, it hereby irrevocably waives such immunity, to the fullest extent permitted by law, in respect of its obligations under this Agreement and the other Financing Documents.

Section 10.10 Acknowledgment Regarding Any Supported QFCs. To the extent that the Financing Documents provide support, through a guarantee or otherwise, for Swap Agreements or any other agreement or instrument that is a QFC (such support, "QFC Credit Support" and each such QFC a "Supported QFC"), the parties acknowledge and agree as follows with respect to the resolution power of the Federal Deposit Insurance Corporation under the Federal Deposit Insurance Act and Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (together with the regulations promulgated thereunder, the "U.S. Special Resolution Regimes") in respect of such Supported QFC and QFC Credit Support (with the provisions below applicable notwithstanding that the Financing Documents and any Supported QFC may in fact be stated to be governed by the laws of the State of New York and/or of the United States or any other state of the United States).

(a) In the event a Covered Entity that is party to a Supported QFC (each, a "Covered Party") becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer of such Supported QFC and the benefit of such QFC Credit Support (and any interest and obligation in or under such Supported QFC and such QFC Credit Support, and any rights in property securing

such Supported QFC or such QFC Credit Support) from such Covered Party will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if the Supported QFC and such QFC Credit Support (and any such interest, obligation and rights in property) were governed by the laws of the United States or a state of the United States. In the event a Covered Party or a BHC Act Affiliate of a Covered Party becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights under the Financing Documents that might otherwise apply to such Supported QFC or any QFC Credit Support that may be exercised against such Covered Party are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if the Supported QFC and the Financing Documents were governed by the laws of the United States or a state of the United States. Without limitation of the foregoing, it is understood and agreed that rights and remedies of the parties with respect to a defaulting Lender shall in no event affect the rights of any Covered Party with respect to a Supported QFC or any QFC Credit Support.

(b) As used in this Section 10.10, the following terms have the following meanings:

(i) "BHC Act Affiliate" of a party means an "affiliate" (as such term is defined under, and interpreted in accordance with, 12 U.S.C. 1841(k)) of such part.

(ii) "Covered Entity" means any of the following:

(A) a "covered entity" as that term is defined in, and interpreted in accordance with, 12 C.F.R. §252.82(b);

(B) a "covered bank" as that term is defined in, and interpreted in accordance with, 12 C.F.R. §47.3(b); or

(C) a "covered FSI" as that term is defined in, and interpreted in accordance with, 12 C.F.R. §382.2(b).

(iii) "Default Right" has the meaning assigned to that term in, and shall be interpreted in accordance with, 12 C.F.R. §§ 252.81, 47.2 or 382.1, as applicable.

(iv) "QFC" has the meaning assigned to the term "qualified financial contract" in, and shall be interpreted in accordance with, 12 U.S.C. 5390(c)(8)(D).

Section 10.11 Headings. Article and Section headings and the Table of Contents used herein are for convenience of reference only, are not part of this Agreement and shall not affect the construction of, or be taken into consideration in interpreting, this Agreement.

Section 10.12 Confidentiality. Each of the Agents and the Lenders agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (i) to its and its Affiliates' directors, officers, employees, board members (and members of committees thereof), managers, members, partners, equity holders, agents, consultants, Persons providing administration and settlement services and other professional advisors, including accountants, auditors, legal counsel, investment advisers or managers (to the extent providing investment advice relating to the transactions contemplated by this Agreement) and other advisors with a need to know (it being understood that the Persons to whom such disclosure is made will

be informed of the confidential nature of such Information and instructed to keep such Information confidential), (ii) to the extent requested by any applicable regulatory or supervisory body or authority (including, without limitation, the National Association of Insurance Commissioners, the SVO or any similar organization, and any nationally recognized rating agency that requires access to information about any Lender's investment portfolio), by Applicable Laws or regulations or by any subpoena, oral question posed at any deposition, interrogatory or similar legal process (including, for the avoidance of doubt, to the extent requested in connection with any pledge or assignment pursuant to Section 10.04(h)); provided that the party from whom disclosure is being required shall give notice thereof to Borrower as soon as practicable (unless restricted from doing so and except where disclosure is to be made to a regulatory or supervisory body or authority during the ordinary course of its supervisory or regulatory function), (iii) to any other party to this Agreement, (iv) subject to an agreement containing provisions substantially the same as those of this Section 10.12, to any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights or obligations under this Agreement, (v) with the consent of Borrower, (vi) to the extent such Information (A) becomes publicly available other than as a result of a breach of this Section 10.12 or (B) becomes available to any Agent or any Lender on a nonconfidential basis from a source other than Borrower or (vii) to any Person with whom Borrower, an Agent or a Lender has entered into (or potentially may enter into), whether directly or indirectly, any transaction under which payments are to be made or may be made by reference to, one or more Financing Documents and/or Borrower and/or Holdings and/or Project Company or to any of such Person's Affiliates, representatives, agents or professional advisors. For the purposes of this Section 10.12, "Information" means all information received from the Loan Parties relating to such Loan Party's business or otherwise furnished pursuant to this Agreement or any other Financing Document, other than any such information that is available to the Agents or any Lender on a nonconfidential basis prior to disclosure by Borrower. Any Person required to maintain the confidentiality of Information as provided in this Section shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.

Section 10.13 Non-Recourse. Anything herein or in any other Financing Document to the contrary notwithstanding, the obligations of the Loan Parties under this Agreement and each other Financing Document to which each Loan Party is a party, and any certificate, notice, instrument or document delivered pursuant hereto or thereto, are obligations solely of such Loan Party and do not constitute a debt, liability or obligation of (and no recourse shall be made with respect to) any of their respective Affiliates (including Sponsor and its Affiliates (other than any Loan Party or any party to, or guarantor in respect of, the HoldCo Lender Backstop Agreement)), or any shareholder, partner, member, officer, director or employee of the Loan Parties or such Affiliates (collectively, the "Non-Recourse Parties"), except that the foregoing shall not limit the obligations or liabilities of any Non-Recourse Party under any Financing Document to which such Non-Recourse Party is a party. No action under or in connection with this Agreement or any other Financing Document to which each Loan Party is a party shall be brought against any Non-Recourse Party, and no judgment for any deficiency upon the obligations hereunder or thereunder shall be obtainable by any Secured Party against any Non-Recourse Party, except that the foregoing shall not limit the obligations or liabilities of any Non-Recourse Party under any Financing Document to which such Non-Recourse Party is a party. Notwithstanding any of the foregoing, it is expressly understood and agreed that nothing contained in this Section shall in any

manner or way (i) restrict the remedies available to any Agent or Lender to realize upon the Collateral or under any Financing Document, or constitute or be deemed to be a release of the obligations secured by (or impair the enforceability of) the Liens and security interests and possessory rights created by or arising from any Financing Document or (ii) release, or be deemed to release, any Non-Recourse Party from liability for its own willful misrepresentation, fraudulent actions, gross negligence or willful misconduct or from any of its obligations or liabilities under any Financing Document to which such Non-Recourse Party is a party.

Section 10.14 No Third Party Beneficiaries. The agreement of the Lenders to make the Loan to Borrower on the terms and conditions set forth in this Agreement, is solely for the benefit of the Loan Parties, the Agents and the Lenders, and no other Person (including any Material Project Counterparty, contractor, subcontractor, supplier, workman, carrier, warehouseman or materialman furnishing labor, supplies, goods or services to or for the benefit of the Project) shall have any rights under this Agreement or under any other Financing Document or Material Project Document as against the Agent or any Lender or with respect to any extension of credit contemplated by this Agreement.

Section 10.15 Reinstatement. The obligations of Borrower under this Agreement shall be automatically reinstated if and to the extent that for any reason any payment by or on behalf of Borrower in respect of the Secured Obligations is rescinded or must be otherwise restored by any holder of any of the Secured Obligations, whether as a result of any proceedings in Bankruptcy or reorganization or otherwise, and Borrower agrees that it will indemnify each Secured Party on demand for all reasonable costs and expenses (including fees of external counsel) incurred by such Secured Party in connection with such rescission or restoration, including any such costs and expenses incurred in defending against any claim alleging that such payment constituted a preference, fraudulent transfer or similar payment under any Bankruptcy, insolvency or similar law.

Section 10.16 USA PATRIOT Act. Each Lender hereby notifies the Loan Parties that pursuant to the requirements of the USA PATRIOT Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the " USA PATRIOT Act "), it is required to obtain, verify and record information that identifies such Loan Party, which information includes the name and address of such Loan Party and other information that will allow such Lender to identify such Loan Party in accordance with the USA PATRIOT Act.

Section 10.17 Electronic Execution of Assignments and Certain Other Documents. The words "execution," "execute", "signed," "signature," and words of like import in or related to any document to be signed in connection with this Agreement and the transactions contemplated hereby (including without limitation Assignment and Assumptions, amendments or other Borrowing Requests, waivers and consents) shall be deemed to include electronic signatures, the electronic matching of assignment terms and contract formations on electronic platforms approved by the Administrative Agent, or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the day and year first above written.

BKRF OCB, LLC, as Borrower

By: **/s/** RICHARD PALMER
Name: Richard Palmer
Title: President

BKRF OCP, LLC, as Holdings

By: **/s/** RICHARD PALMER
Name: Richard Palmer
Title: President

ORION ENERGY PARTNERS TP AGENT, LLC
as Administrative Agent and Collateral Agent

By: **/s/** GERRIT NICHOLAS
Name: Gerrit Nicholas
Title: Managing Partner

LENDERS

ORION ENERGY CREDIT OPPORTUNITIES FUND II, L.P.,
a Delaware limited partnership
By: Orion Energy Credit Opportunities Fund II GP, L.P., its general partner
By: Orion Energy Credit Opportunities Fund II Holdings, LLC, its general partner
By: /s/ GERRIT NICHOLAS
Name: Gerrit Nicholas
Title: Managing Partner

ORION ENERGY CREDIT OPPORTUNITIES FUND II PV, L.P.,
a Delaware limited partnership
By: Orion Energy Credit Opportunities Fund II GP, L.P., its general partner
By: Orion Energy Credit Opportunities Fund II Holdings, LLC, its general partner
By: /s/ GERRIT NICHOLAS
Name: Gerrit Nicholas
Title: Managing Partner

ORION ENERGY CREDIT OPPORTUNITIES FUND II GPFA, L.P.,
a Delaware limited partnership
By: Orion Energy Credit Opportunities Fund II GP, L.P., its general partner
By: Orion Energy Credit Opportunities Fund II Holdings, LLC, its general partner
By: /s/ GERRIT NICHOLAS
Name: Gerrit Nicholas
Title: Managing Partner

ORION ENERGY CREDIT OPPORTUNITIES GCE CO-INVEST, L.P.,
a Delaware limited partnership
By: Orion Energy Credit Opportunities Fund II GP, L.P., its general partner
By: Orion Energy Credit Opportunities Fund II Holdings, LLC, its general partner
By: /s/ GERRIT NICHOLAS
Name: Gerrit Nicholas
Title: Managing Partner

VOYA RETIREMENT INSURANCE AND ANNUITY COMPANY
ReliaStar Life Insurance Company
By: Voya Investment Management LLC, as Agent
By: /s/ THOMAS EMMONS
Name: Thomas Emmons
Title: Senior Vice President

LABOR IMPACT FUND, L.P.
By: GCM Investments GP, LLC, its General Partner
By: /s/ TODD HENIGAN
Name: Todd Henigan
Title: Authorized Signature

Exhibit 10.25
Execution Version

CREDIT AGREEMENT

dated as of

May 4, 2020

among

BKRF HCB, LLC,
as Borrower,

BKRF HCP, LLC,
as Pledgor,

THE LENDERS FROM TIME TO TIME PARTY HERETO,

and

ORION ENERGY PARTNERS TP AGENT, LLC,
as Administrative Agent and Collateral Agent

$65,000,000 Senior Secured Term Loan Facility

TABLE OF CONTENTS

This CREDIT AGREEMENT (this "Agreement") is dated as of May 4, 2020, among BKRF HCB, LLC, a Delaware limited liability company ("Borrower"), BKRF HCP, LLC, a Delaware limited liability company ("Pledgor"), each LENDER from time to time party hereto (collectively, the "Lenders" and individually, a "Lender") and ORION ENERGY PARTNERS TP AGENT, LLC, as the Administrative Agent (as defined herein) and the Collateral Agent (as defined herein).

WHEREAS, GCE Holdings Acquisitions, LLC, a Delaware limited liability company ("GCE Holdings"), entered into that certain Share Purchase Agreement, dated as of April 29, 2019 (as amended, amended and restated, supplemented or otherwise modified from time to time, the "SPA"), with Alon Paramount Holdings, Inc., as seller (the "Seller");

WHEREAS, GCE Holdings will assign, and BKRF OCB, LLC, a Delaware limited liability company ("OpCo Borrower"), will assume, the SPA pursuant to an assignment and assumption agreement, whereby OpCo Borrower will acquire all of the equity interests of Bakersfield Renewable Fuels, LLC, a Delaware limited liability company (the "Project Company", and such acquisition, the "Acquisition"), as successor to (and formerly known as) Alon Bakersfield Property, Inc., a Delaware corporation;

WHEREAS, each of GCE Holdings and OpCo Borrower will assign, and Project Company will assume, all of the Initial Material Project Documents (as defined herein) on or prior to the OpCo Tranche A Funding Date (as defined herein) in connection with the Acquisition;

WHEREAS, following the consummation of the Acquisition, OpCo Borrower desires Project Company to install, develop, construct, finance and operate a 150 million gallons per year renewable diesel refinery to be located in Bakersfield, California (the "Project");

WHEREAS, in order to finance a portion of the costs of the Acquisition and the development, construction, completion, ownership and operation of the Project and certain other costs, fees and expenses associated therewith and with the financing contemplated herein, as more fully described herein, OpCo Borrower has requested the OpCo Senior Lenders (as defined herein) to extend, and OpCo Senior Lenders have agreed to extend, on the terms and conditions set forth in the OpCo Senior Credit Agreement (as defined herein) and the other OpCo Senior Financing Documents (as defined herein), a credit facility to OpCo Borrower in an aggregate principal amount of $300,000,000, as more fully described in the OpCo Senior Credit Agreement;

WHEREAS, in order to finance the capital required to the OpCo Borrower in connection with the development, construction, completion, ownership and operation of the Project, Borrower has requested the Lenders to extend, and Lenders have agreed to extend, on the terms and conditions set forth herein and the other Financing Documents (as defined herein), a credit facility to Borrower in an aggregate principal amount of $65,000,000, as more fully described herein;

WHEREAS, the credit facility provided hereunder will be secured by the grant to the Collateral Agent, for the benefit of the Secured Parties, of a first priority Lien on the Collateral (subject to Permitted Liens); and

WHEREAS, the Lenders are willing to provide the credit facility described herein upon the terms and subject to the conditions set forth herein and in the other Financing Documents.

NOW, THEREFORE, the parties hereto agree as follows:

ARTICLE I

DEFINITIONS

Section 1.01 Certain Defined Terms. As used in this Agreement, the following terms shall have the following meanings:

"Accounts" means (i) the Collateral Account and (ii) the Distribution Suspense Account.

"Accrued Interest" means the payment-in-kind of interest in respect of the Loans by increasing the outstanding principal amount of the Loans.

"Acquisition" has the meaning assigned to such term in the recitals.

"Additional Material Project Documents" has the meaning assigned to such term in the OpCo Senior Credit Agreement.

"Administrative Agent" means Orion Energy Partners TP Agent, LLC, in its capacity as administrative agent for the Lenders hereunder, and any successor thereto pursuant to Article VIII.

"Administrative Questionnaire" means a questionnaire, in a form supplied by the Administrative Agent, completed by a Lender.

"Affected Property" means any property of OpCo Borrower or Project Company that suffers an Event of Loss.

"Affiliate" means, with respect to a specified Person, another Person that at such time directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified.

"Agents" means, collectively, the Administrative Agent and the Collateral Agent.

"Agent Reimbursement Letter" means that certain Agent Reimbursement Letter, dated as of the Closing Date, among Borrower, the Administrative Agent and the Collateral Agent.

"Agreement" has the meaning assigned to such term in the preamble.

"Anti-Corruption Laws" means any law of any jurisdiction relating to corruption in which any Loan Party, OpCo Loan Party or any of their respective Subsidiaries performs business, including the FCPA, the U.K. Bribery Act, and where applicable, legislation relating to corruption enacted by member states and signatories implementing the OECD Convention Combating Bribery of Foreign Officials.

"Anti-Corruption Prohibited Activity" means the offering, payment, promise to pay, authorization or the payment of any money or the offer, promise to give, given, or authorized giving of anything of value, to any Government Official or to any person under the circumstances where the Person, such Person's Affiliate's or such Person's representative knew or had reason to

know that all or a portion of such money or thing of value would be offered, given or promised, directly or indirectly, to any Government Official, for the purpose of (a) influencing any act or decision of such Government Official in his or her official capacity, (b) inducing such Government Official to do or omit to do any act in relation to his or her lawful duty, (c) securing any improper advantage, or (d) inducing such Government Official to influence or affect any act or decision of any Governmental Authority, in each case, in order to assist such Person in obtaining or retaining business for or with, or in directing business to, any Person.

"Anti-Money Laundering Laws" means the U.S. Currency and Foreign Transaction Reporting Act of 1970, as amended, and all money laundering-related laws of the United States and other jurisdictions where such Person conducts business or owns assets, and any related or similar law issued, administered or enforced by any government authority.

"Applicable Law" means with respect to any Person, property or matter, any of the following applicable thereto: any constitution, writ, injunction, statute, law, regulation, ordinance, rule, judgment, rule of common law, order, decree, court decision, Authorization, approval, concession, grant, franchise, license, agreement, directive, guideline, policy, requirement, or other governmental restriction or any similar form of decision of, or determination by, or any interpretation or administration of any of the foregoing, by any Governmental Authority, whether in effect as of the date hereof or thereafter and in each case as amended including Environmental Laws.

"as Amended and Refinanced" means and includes, in respect of any Indebtedness, or the agreement or contract pursuant to which such Indebtedness is incurred, any refinancing, replacement, renewal or extension of any Indebtedness in whole or in part provided that (a) the principal amount (or accreted value, if applicable) of such refinancing does not exceed the principal amount (or accreted value, if applicable) of the Indebtedness renewed, refunded, refinanced, replaced, defeased or discharged (plus all accrued interest on the Indebtedness, any amounts deposited in a debt service reserve or similar reserve account in connection with the issuance of such Indebtedness and the amount of all fees and expenses, including premiums and discounts incurred in connection therewith), (b) such refinancing, replacement, renewal or extension must have a weighted average life to maturity and a final maturity date no less than that of the outstanding amount of the Indebtedness being refinanced, (c) at the time thereof, no Default shall have occurred and be continuing or would result therefrom, (d) the restrictions on the distribution of dividends shall be no more restrictive than as provided under the Indebtedness being refinanced, (e) such refinancing, replacement, renewal or extension shall be incurred solely by the Person(s) who is an obligor under the Indebtedness being refinanced, replaced, renewed or extended and no other Person shall be an obligor thereunder, (f) such refinancing shall be non-recourse to the Loan Parties that is not in a Subsidiary of the same borrower as the OpCo Loan Party incurring such refinancing Indebtedness; and (g) following such refinancing, replacement, renewal or extension of any Indebtedness, the rights of the Lenders to foreclose or otherwise exercise remedies pursuant to the Financing Documents shall be no less favorable than prior to such refinancing, replacement, renewal or extension of any Indebtedness.

"Assignment and Assumption" means an assignment and assumption entered into by a Lender and an assignee (with the consent of any party whose consent is required by Section 10.04), in the form of Exhibit A or any other form approved by the Administrative Agent.

"Authorization" means any consent, waiver, variance, registration, filing, declaration, agreement, notarization, certificate, license, tariff, approval, permit, orders, authorization, exception or exemption from, by or with any Governmental Authority, whether given by express action or deemed given by failure to act within any specified period, and all corporate, creditors', shareholders' and partners' approvals or consents.

"Authorized Representative" means, with respect to any Person, the chief executive officer, the chief financial officer or any other appointed officer of such Person as may be designated from time to time by such Person in writing. Any document or certificate delivered under the Financing Documents that is signed by an Authorized Representative may be conclusively presumed by the Administrative Agent and Lenders to have been authorized by all necessary corporate, limited liability company or other action on the part of the relevant Person.

"Availability Period" means the period (a) commencing on the earliest to occur of (i) the date on which the OpCo Senior Commitments shall have been fully drawn, and the OpCo Senior Loans shall have been fully applied to the payment of Project Costs or as otherwise permitted under the OpCo Senior Credit Agreement (including the funding of any reserves required or permitted thereunder), (ii) the date that is the one (1) year anniversary of the Closing Date and (iii) the date on which Borrower shall desire to make borrowings of Loans hereunder, upon not less than sixty (60) days prior written notice to the Administrative Agent, and (b) ending on the earliest to occur of (i) the Term Conversion Date, (ii) the date that is twenty (20) months after the earliest date under the preceding clause (a) and (iii) the Maturity Date.

"Bail-In Action" means the exercise of any Write-Down and Conversion Powers by the applicable EEA Resolution Authority in respect of any liability of an EEA Financial Institution.

"Bankruptcy" means with respect to any Person (i) commencement by such Person of any case or other proceeding (x) under any existing or future law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, reorganization or relief of debtors, seeking to have an order for relief entered with respect to it, or seeking to adjudicate it a bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to it or its debts, or (y) seeking appointment of a receiver, trustee, custodian or other similar official for it or for all or any substantial part of its assets; or (ii) commencement against such Person of any case or other proceeding of a nature referred to in clause (x) or (y) above which (a) results in the entry of an order for relief or any such adjudication or appointment or (b) remains undismissed, undischarged or unbonded for a period of sixty (60) days; or (iii) commencement against such Person of any case or other proceeding seeking issuance of a warrant of attachment, execution or similar process against all or any substantial part of its assets which results in the entry of an order for any such relief which shall not have been vacated, discharged, or stayed or bonded pending appeal within 60 days from the entry thereof; or (iv) such Person shall take any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the acts set forth in clause (i), (ii) or (iii) above; or (v) such Person shall admit in writing its inability to pay its debts as they become due or shall make a general assignment for the benefit of its creditors.

"Beneficial Ownership Certification" means a certification regarding beneficial ownership as required by the Beneficial Ownership Regulation.

"Beneficial Ownership Regulation" means 31 C.F.R. § 1010.230.

"Board" means the Board of Governors of the Federal Reserve System of the United States of America.

"Borrower" has the meaning assigned to such term in the preamble.

"Borrower LLC Agreement" means that certain Amended and Restated Limited Liability Company Agreement of BKRF HCB, LLC, dated as of the date hereof, entered into by Borrower and Pledgor.

"Borrower Operating Expenses" means the administrative expenses of the Loan Parties, including insurance and legal, accounting and other professional fees.

"Borrowing Request" means a request by Borrower for a Loan in accordance with Section 2.01 and substantially in the form of Exhibit C.

"Business Day" means a day other than a Saturday, Sunday or other day on which commercial banks in New York City, New York are authorized or required by law to close.

"Called Principal" means the aggregate principal amount of the Loans that are to be prepaid pursuant to Section 2.06(a), or has become or is declared to be immediately due and payable pursuant to the penultimate paragraph of Section 7.01, as the context requires (it being acknowledged that, for purposes of this definition, Loans will be repaid in each such Section on a "first-in, first-out" basis).

"Capital Expenditures" has the meaning assigned to such term in the OpCo Senior Credit Agreement.

"Capital Stock" means, with respect to any Person, any and all shares, interests, participations and/or rights in or other equivalents (however designated, whether voting or nonvoting, ordinary or preferred) in the equity or capital of such Person, now or hereafter outstanding, and any and all rights, warrants or options exchangeable for or convertible into any of the foregoing.

"Cash Equivalents" means:

(a) direct obligations of the United States of America or any agency thereof or obligations guaranteed by the United States of America or any agency thereof, in each case with maturities not exceeding two years;

(b) time deposit accounts, certificates of deposit and money market deposits maturing within 180 days of the date of acquisition thereof issued by a bank or trust company that is organized under the laws of the United States of America, or any state thereof having capital, surplus and undivided profits in excess of $250,000,000 and whose long-term debt, or whose parent holding company's long-term debt, is rated A (or such similar equivalent rating or higher) by at least one nationally recognized statistical rating organization (as defined in Rule 436 under the Securities Act);

(c) repurchase obligations with a term of not more than 180 days for underlying securities of the types described in clause (a) above entered into with a bank meeting the qualifications described in clause (b) above;

(d) commercial paper, maturing not more than one year after the date of acquisition, issued by a corporation (other than an Affiliate of Borrower) organized and in existence under the laws of the United States of America or any foreign country recognized by the United States of America with a rating at the time as of which any investment therein is made of P-1 (or higher) according to Moody's or A-1 (or higher) according to S&P;

(e) securities with maturities of two years or less from the date of acquisition issued or fully guaranteed by any state, commonwealth or territory of the United States of America, or by any political subdivision or taxing authority thereof, and rated at least A by S&P or A-2 by Moody's;

(f) shares of mutual funds whose investment guidelines restrict 95% of such funds' investments to those satisfying the provisions of clauses (a) through (e) above;

(g) taxable and tax-exempt auction rate securities rated AAA by S&P and Aaa by Moody's and with a reset of less than 90 days;

(h) money market funds that (i) comply with the criteria set forth in Rule 2a-7 under the Investment Company Act of 1940, (ii) are rated A or higher by S&P and A-2 or higher by Moody's and (iii) have portfolio assets of at least $500,000,000;

(i) funds/cash uninvested in a trust or deposit account of the Depositary Bank; and

(j) cash.

"CCI Hedging Amendment" has the meaning assigned to such term in the OpCo Senior Credit Agreement.

"CCI Hedging Documentation" has the meaning assigned to such term in the OpCo Senior Credit Agreement.

"Change in Law" means (a) the adoption of any law, rule or regulation after the date of this Agreement, (b) any change in any law, rule or regulation or in the interpretation or application thereof (including any change in the reserve percentage under, or other change in, Regulation D) by any Governmental Authority after the date of this Agreement or (c) compliance by any Lender (or, for purposes of Section 2.09(b), by any Lending Office of such Lender or by such Lender's holding company, if any) with any request, guideline or directive (whether or not having the force of law) of any Governmental Authority made or issued after the date of this Agreement. Notwithstanding anything herein to the contrary, (x) the Dodd Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (y) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to

Basel III, shall in each case be deemed to be a "Change in Law", regardless of the date enacted, adopted or issued.

"Change of Control" means:

(a) Sponsor shall cease to own, directly or indirectly, beneficially or of record, Capital Stock representing 100% in the aggregate of the economic and voting interests in Pledgor (other than (i) the Capital Stock in one or more parent companies of Pledgor owned by the Equity Shareholders and (ii) without duplication of the foregoing, the Class B Units and the Class C Units (which, as of the OpCo Tranche A Funding Date, will be held by the Senior Lender Equity Owners and the HoldCo Lender Equity Owners, respectively) and (iii) the Capital Stock in Pledgor Disposed directly or indirectly by Sponsor to one or more non-Affiliated Persons, so long as, in the case of this clause (iii), the Net Available Amount of any Disposition thereof are contributed to the Loan Parties and so long as Sponsor maintains Capital Stock representing 50.1% in the aggregate of the economic and voting interests in Pledgor);

(b) Pledgor shall cease to beneficially and directly own 100% (on a fully diluted basis) of the aggregate voting and economic interests in the Capital Stock of Borrower (other than, without duplication, (x) the Capital Stock in the Borrower owned by the HoldCo Lender Equity Owners and (y) the Class B Units and the Class C Units);

(c) Borrower shall cease to beneficially and directly own 100% (on a fully diluted basis) of the aggregate voting and economic interests in the Capital Stock of OpCo Pledgor;

(d) OpCo Pledgor shall cease to beneficially and directly own 100% (on a fully diluted basis) of the aggregate voting and economic interests in the Capital Stock of OpCo Borrower; or

(e) On or after the OpCo Tranche A Funding Date (after the consummation of the Acquisition) and thereafter, OpCo Borrower shall cease to beneficially and directly own 100% (on a fully diluted basis) of the aggregate voting and economic interests in the Capital Stock of Project Company.

"Change Order" has the meaning assigned to such term in the OpCo Senior Credit Agreement.

"Class B Units" has the meaning assigned to such term in the Borrower LLC Agreement.

"Class C Units" has the meaning assigned to such term in the Borrower LLC Agreement.

"Closing Date" means the date on or following the date of execution of this Agreement on which all conditions precedent specified in Section 4.01 are satisfied (or waived by the Administrative Agent and the Lenders in their sole discretion in accordance with Section 10.02).

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

"Collateral" means (i) all Property of Borrower and (ii) all Property of the Pledgor and (iii) the Capital Stock of Borrower owned by Pledgor, in each case, now owned or hereafter acquired,

and which is intended to be subject to the security interests or Liens granted pursuant to any of the Security Documents.

"Collateral Account" means an account in the name of Borrower and established with a Depositary Bank that is designated by Borrower to be the "Collateral Account", which account shall be subject to the Lien of the Collateral Agent (and subject to a Control Agreement).

"Collateral Agent" means Orion Energy Partners TP Agent, LLC, in its capacity as collateral agent for the Secured Parties under the Security Documents, and any successor thereto pursuant Article VIII.

"Commitment" means, with respect to each Lender, the commitment of such Lender to make a Loan to Borrower pursuant to Section 2.01(a), in a principal amount not to exceed the amount set forth opposite such Lender's name on Annex I under the heading "Commitment" or as set forth in the Lender Joinder applicable to such Lender.

"Commodity Hedging Documentation" has the meaning assigned to such term in the OpCo Senior Credit Agreement.

"Condemnation" means any taking, seizure, confiscation, requisition, exercise of rights of eminent domain, public improvement, inverse condemnation, condemnation, expropriation, nationalization or similar action of or proceeding by any Governmental Authority affecting the Project.

"Construction Account" has the meaning assigned to such term in the OpCo Senior Credit Agreement.

"Construction Budget" has the meaning assigned to such term in the OpCo Senior Credit Agreement.

"Construction Schedule" has the meaning assigned to such term in the OpCo Senior Credit Agreement.

"Control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise. "Controlling" and "Controlled" have meanings correlative thereto.

"Control Agreement" means a blocked account control agreement in form and substance reasonably satisfactory to the Administrative Agent and the Collateral Agent which provides for Collateral Agent to have "control" (as defined in Section 8-106 of the UCC, as such term relates to investment property (other than certificated securities or commodity contracts), or as used in Section 9-106 of the UCC, as such term relates to commodity contracts, or as used in Section 9-104(a) of the UCC, as such term relates to deposit accounts).

"Correlative Affirmative Covenants" has the meaning assigned to such term in Article V.

"Correlative Negative Covenants" has the meaning assigned to such term in Article VI.

"Date Certain" means March 31, 2022.

"Debt Service Reserve Account" has the meaning assigned to such term in the OpCo Senior Credit Agreement.

"Debt Service Reserve Funding Amount" has the meaning assigned to such term in the OpCo Senior Credit Agreement.

"Deemed Loan" means a draw or claim by Borrower under a Lender Credit Support Document which shall, for the avoidance of doubt, be permitted only pursuant to, and in accordance with, the HoldCo Lender Backstop Agreement.

"Deemed Loan Conditions" means, with respect to any Loan under Section 2.01(a)(ii), the draw or claim on the Lender Credit Support Document shall have been made in accordance with the terms thereof.

"Default" means any event, condition or circumstance that, with notice or lapse of time or both, would (unless cured or waived) become an Event of Default.

"Depositary Bank" means an account bank at which Borrower maintains the Accounts.

"Disbursement Date" has the meaning assigned to such term in Section 4.03.

"Disposition" has the meaning assigned to such term in the OpCo Senior Credit Agreement.

"Distribution Suspense Account" means an account in the name of Borrower and established with a Depositary Bank that is designated by Borrower to be the "Distribution Suspense Account".

"Dollars" or "$" refers to the lawful currency of the United States of America.

"ECF Prepayment Offer" has the meaning assigned to such term in Section 2.06(b)(i).

"ECF Sweep Amount" means, as of each Quarterly Date, 100% of the amount of funds available in the Collateral Account as of such date after giving effect to the withdrawals, transfers and payments specified in clauses (A) through (F) of Section 5.29(b)(ii) on or prior to such date.

"EEA Financial Institution" means (a) any credit institution or investment firm established in any EEA Member Country which is subject to the supervision of an EEA Resolution Authority, (b) any entity established in an EEA Member Country which is a parent of an institution described in clause (a) of this definition, or (c) any financial institution established in an EEA Member Country which is a subsidiary of an institution described in clause (a) or (b) of this definition and is subject to consolidated supervision with its parent.

"EEA Member Country" means any of the member states of the European Union, Iceland, Liechtenstein, and Norway.

"EEA Resolution Authority" means any public administrative authority or any person entrusted with public administrative authority of any EEA Member Country (including any delegee) having responsibility for the resolution of any EEA Financial Institution.

"Environment" means soil, surface water and groundwater (including potable water, groundwater and wetlands), the land, surface or subsurface strata or sediment, indoor and ambient air, and natural resources such as flora and fauna or otherwise defined in any Environmental Law.

"Environmental Claim" means any administrative or judicial action, suit, proceeding, notice, claim or demand by any Person seeking to enforce any obligation or responsibility arising under or relating to Environmental Law or alleging or asserting liability for investigatory costs, cleanup or other remedial costs, legal costs, environmental consulting costs, governmental response costs, damages to natural resources or other property, personal injuries, fines or penalties related to (a) the presence, or Release into the Environment, of any Hazardous Material at any location, whether or not owned by the Person against whom such claim is made, or (b) any violation of, or alleged violation of, or liability arising under any Environmental Law. The term "Environmental Claim" shall include, without limitation any claim by any Person for damages, contribution, indemnification, cost recovery, compensation or injunctive relief or costs associated with any remediation plan, in each case, under any Environmental Law.

"Environmental Laws" means any Applicable Laws regulating or imposing liability or standards of conduct concerning or relating to pollution or the protection of human health and safety, the environment, natural resources or special status species and their habitat, including all Applicable Laws concerning the presence, use, manufacture, generation, transportation, Release, threatened Release, disposal, arrangement for disposal, dumping, discharge, treatment, storage or handling of Hazardous Materials.

"EPC Agreements" has the meaning assigned to such term in the OpCo Senior Credit Agreement.

"EPC Contractor" has the meaning assigned to such term in the OpCo Senior Credit Agreement.

"Equity Shareholders" means the ultimate shareholders and/or other equity owners of Pledgor as of the Closing Date, as set forth on Schedule 1.01(a).

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended from time to time.

"ERISA Affiliate" means any trade or business (whether or not incorporated) that, together with Borrower, is treated as a single employer under Sections 414(b), (c), (m) or (o) of the Code.

"ERISA Event" means (a) a Reportable Event with respect to any Pension Plan, (b) the failure by any Pension Plan to satisfy the minimum funding standard (within the meaning of Section 412 of the Code or Section 302 of ERISA) applicable to such plan, whether or not waived, (c) the filing of a notice of intent to terminate a Pension Plan in a distress termination (as described in Section 4041(c) of ERISA), (d) a complete or partial withdrawal by Borrower or any ERISA Affiliate from a Multiemployer Plan or notification that a Multiemployer Plan is in reorganization

or insolvent (within the meaning of Title IV of ERISA), (e) the imposition or incurrence of any liability under Title IV of ERISA, other than PBGC premiums due but not delinquent under Section 4007 of ERISA, upon Borrower or any ERISA Affiliate, (f) the institution by the PBGC of proceedings to terminate a Pension Plan or Multiemployer Plan, (g) the appointment of a trustee to administer any Pension Plan under Section 4042 of ERISA, or (h) the imposition of a Lien upon Borrower pursuant to Section 430(k) of the Code or Section 303(k) of ERISA.

"EU Bail-In Legislation Schedule" means the EU Bail-In Legislation Schedule published by the Loan Market Association (or any successor person), as in effect from time to time.

"Event of Abandonment" has the meaning assigned to such term in the OpCo Senior Credit Agreement.

"Event of Default" has the meaning assigned to such term in Section 7.01.

"Event of Loss" has the meaning assigned to such term in the OpCo Senior Credit Agreement.

"Excluded Property" has the meaning assigned to such term in the Security Agreement.

"Excluded Taxes" means, with respect to any Agent, any Lender or any other recipient of any payment to be made by or on account of any obligation of any Loan Party hereunder, (a) Taxes imposed on or measured by net income and franchise Taxes (imposed in lieu of net income tax), in each case, imposed by the jurisdiction under the laws of which such recipient is organized, in which its principal office (or other fixed place of business) is located or, in the case of any Lender in which its applicable Lending Office is located or in which such recipient has a present or former connection (other than a connection arising from such recipient having executed, delivered, become a party to, this Agreement, or received payments, received or perfected a security interest under or performed its obligations under any Financing Document, engaged in any other transaction pursuant to or enforced any Financing Document or sold or assigned an interest in any Loan or any Financing Document), (b) any branch profits Taxes imposed by the jurisdictions listed in clause (a) of this definition, (c) any Taxes imposed as a result of the failure of any Agent, any Lender or any such other recipient to comply with Section 2.11(e)(i), (d) in the case of an Agent or a Lender (other than an assignee pursuant to a request by Borrower under Section 2.13), any United States federal withholding Tax that is imposed on amounts payable to such Agent or Lender under the laws effective at the time such Agent or Lender becomes a party hereto (or designates a new Lending Office), except to the extent that such Agent or Lender (or its assignor, if any) was entitled, at the time of designation of a new Lending Office (or assignment), to receive additional amounts from Borrower with respect to such withholding Tax pursuant to Section 2.11(a), and (e) any United States federal withholding Taxes imposed under FATCA.

"Extraordinary MPD Proceeds" has the meaning assigned to such term in the OpCo Senior Credit Agreement.

"Extraordinary Receipts" has the meaning assigned to such term in the OpCo Senior Credit Agreement.

"FATCA" means Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with) and any current or future regulations or official interpretations thereof.

"FCPA" means the United States Foreign Corrupt Practices Act of 1977, as amended.

"Federal Funds Effective Rate" means, for any day, the weighted average (rounded upwards, if necessary, to the next 1/100 of 1%) of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers, as published on the next succeeding Business Day by the Federal Reserve Bank of New York, or, if such rate is not so published for any day that is a Business Day, the average (rounded upwards, if necessary, to the next 1/100 of 1%) of the quotations for such day for such transactions received by the Administrative Agent from three Federal funds brokers of recognized standing selected by it.

"Final Completion" has the meaning assigned to such term in the OpCo Senior Credit Agreement.

"Financial Model" has the meaning assigned to such term in the OpCo Senior Credit Agreement.

"Financing Documents" means this Agreement, each Note (if requested by a Lender), the Agent Reimbursement Letter, the HoldCo Lender Backstop Agreement, the Security Documents and each certificate, agreement, instrument, waiver, consent or document executed by a Loan Party, identified by its terms as a "Financing Document" and delivered by or on behalf of a Loan Party to Agent or any Lender in connection with or pursuant to any of the foregoing.

"Foreign Plan" means any employee pension benefit plan, program, policy, arrangement or agreement maintained or contributed to by any Loan Party or with respect to which any Loan Party could reasonably be expected to have any liability, in each case with respect to employees employed outside the United States (as such term is defined in Section 3(10) of ERISA) (other than any arrangement with the applicable Governmental Authority).

"Funding Date" has the meaning assigned to such term in Section 2.01(c).

"Funding Office" means the office specified from time to time by the Administrative Agent as its funding office by notice to Borrower and the Lenders.

"Funds Flow Memorandum" means the memorandum, in form and substance satisfactory to the Administrative Agent detailing the proposed flow, and use, of the Loan proceeds on the Initial Funding Date.

"GAAP" means generally accepted accounting principles in effect from time to time in the United States of America, applied on a consistent basis.

"GCE Holdings" has the meaning assigned to such term in the recitals.

"Government Official" means an official of a Governmental Authority.

"Governmental Authority" means any federal, regional, state or local government, or political subdivision thereof or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative functions of or pertaining to government and having jurisdiction over the Person or matters in question, including all agencies and instrumentalities of such governments and political subdivisions.

"Governmental Rule" means, with respect to any Person, any law, rule, regulation, ordinance, order, code, treaty, judgment, decree, directive, guideline, policy or similar form of decision of any Governmental Authority binding on such Person.

"Guarantee" means as to any Person (the "*guaranteeing person*"), any obligation of (a) the guaranteeing person or (b) another Person (including any bank under any letter of credit), if to induce the creation of such obligation of such other Person, the guaranteeing person has issued a reimbursement, counterindemnity or similar obligation, in either case guaranteeing or in effect guaranteeing any Indebtedness, leases, dividends or other obligations (the "*primary obligations*") of any other third Person (the "*primary obligor*") in any manner, whether directly or indirectly, including any obligation of the guaranteeing person, whether or not contingent, (w) to purchase any such primary obligation or any Property constituting direct or indirect security therefor, (x) to advance or supply funds (i) for the purchase or payment of any such primary obligation or (ii) to maintain working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency of the primary obligor, (y) to purchase Property, securities or services, in each case, primarily for the purpose of assuring the owner of any such primary obligation of the ability of the primary obligor to make payment of such primary obligation or (z) otherwise to assure or hold harmless the owner of any such primary obligation against loss in respect thereof; provided that the term Guarantee shall not include endorsements of instruments for deposit or collection in the ordinary course of business. The amount of any Guarantee of any guaranteeing person shall be deemed to be the lower of (A) an amount equal to the stated or determinable amount of the primary obligation in respect of which such Guarantee is made and (B) the maximum amount for which such guaranteeing person may be liable pursuant to the terms of the instrument embodying such Guarantee, unless such primary obligation and the maximum amount for which such guaranteeing person may be liable are not stated or determinable, in which case the amount of such Guarantee shall be such guaranteeing person's maximum reasonably anticipated liability in respect thereof as determined by Borrower in good faith.

"Guaranteed Obligations" means, with respect to any Guarantor, the Obligations whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest and fees that accrue after the commencement by or against any Loan Party or any Affiliate thereof of any proceeding under any debtor relief law naming such Person as the debtor in such proceeding, regardless of whether such interest and fees are allowed claims in such proceeding.

"Guarantors" has the meaning assigned to such term in Section 9.01(a).

"Hazardous Material" means, but is not limited to, any solid, liquid, gas, odor, radiation or other substance or emission which is a contaminant, pollutant, dangerous substance, toxic substance, regulated substance, hazardous waste, subject waste, hazardous material or hazardous substance which is or becomes regulated by applicable Environmental Laws or which is classified

as hazardous or toxic under applicable Environmental Laws (including gasoline, diesel fuel or other petroleum hydrocarbons, polychlorinated biphenyls, asbestos and urea formaldehyde foam insulation) or with respect to which liability or standards of conduct are imposed under any Environmental Laws.

"HoldCo Equity Kicker" has the meaning assigned to such term in Section 4.02(e).

"HoldCo Lender Backstop Agreement" means that certain HoldCo Lender Backstop Agreement, dated as of the date hereof, among Borrower, OpCo Borrower, the Lenders, the OpCo Senior Administrative Agent and the OpCo Senior Collateral Agent.

"HoldCo Lender Equity Owners" shall mean the "Class C Members" as defined in the Borrower LLC Agreement.

"HoldCo Net Cash Flow" has the meaning assigned to such term in Section 5.29(a)(ii)(G).

"Indebtedness" of any Person means, without duplication, all (a) indebtedness for borrowed money and every reimbursement obligation with respect to letters of credit, bankers' acceptances or similar facilities, (b) obligations evidenced by bonds, debentures, notes or other similar instruments, (c) obligations to pay the deferred purchase price of property or services, except accounts payable and accrued expenses arising in the ordinary course of business and payable within ninety (90) days past the original invoice or billing date thereof, (d) liabilities under interest rate or currency swap agreements, interest rate or currency collar agreements and all other agreements or arrangements designed to protect against fluctuations in interest rates and currency exchange rates, (e) the capitalized amount (determined in accordance with GAAP) of all payments due or to become due under all leases and agreements to enter into leases required to be classified and accounted for as a capital lease in accordance with GAAP, (f) reimbursement obligations (contingent or otherwise) pursuant to any performance bonds or collateral security, (g) Indebtedness of others described in clauses (a) through (f) above secured by (or for which the holder thereof has an existing right, contingent or otherwise, to be secured by) a Lien on the property of such Person, whether or not the respective Indebtedness so secured has been assumed by such Person and (h) Indebtedness of others described in clauses (a) through (g) above guaranteed by such Person. The Indebtedness of any Person shall include the Indebtedness of any partnership in which such Person is a general partner to the extent such Person is liable therefor as a result of such Person's general partner interest in such partnership, except to the extent the terms of such Indebtedness provide that such Person is not liable therefor.

"Indemnified Party" has the meaning assigned to such term in Section 10.03(b).

"Indemnified Taxes" means Taxes imposed on or with respect to any payment made by or on account of any obligation of any Loan Party under this Agreement or any Financing Document other than Excluded Taxes and Other Taxes.

"Independent Auditor" has the meaning assigned to such term in the OpCo Senior Credit Agreement.

"Independent Engineer" has the meaning assigned to such term in the OpCo Senior Credit Agreement.

"Initial Funding Date" means the first Funding Date, on or following the Closing Date, on which all conditions specified in Section 4.02 are satisfied (or waived in accordance with Section 10.02).

"Intended Tax Treatment" has the meaning assigned to such term in Section 2.01(e).

"Interest Rate" means at any time, a rate per annum equal to 15.00%.

"Investment" means for any Person (a) the acquisition (whether for cash, Property of such Person, services or securities or otherwise) of Capital Stock, bonds, notes, debentures, debt securities, partnership or other ownership interests or other securities of, or any Property constituting an ongoing business, line of business, division or business unit of or constituting all or substantially all the assets of, or the making of any capital contribution to, any other Person, (b) the making of any advance, loan or other extension of credit to, any other Person (including the purchase of Property from another Person subject to an understanding or agreement, contingent or otherwise, to resell such Property to such Person, but excluding any such advance, loan or extension of credit having a term not exceeding ninety (90) days representing the purchase price of inventory or supplies sold in the ordinary course of business), (c) the entering into of any Guarantee with respect to Indebtedness or other liability of any other Person, and (d) any other investment that would be classified as such on a balance sheet of such Person in accordance with GAAP.

"Legal Requirements" means, as to any Person, any requirement under any Authorization by any Governmental Authority or under any Governmental Rule, in each case applicable to or binding upon such Person or any of its properties or to which such Person or any of its property is subject.

"Lender Credit Support Document" has the meaning assigned to such term in the HoldCo Lender Backstop Agreement.

"Lenders" has the meaning assigned to such term in the recitals.

"Lender Joinder" means a joinder agreement, substantially in the form attached hereto as Exhibit E, to be entered into by each Lender that joins this Agreement as a Lender after the Closing Date.

"Lending Office" means the office designated as such beneath the name of a Lender set forth on Annex III of this Agreement or such other office of such Lender as such Lender may specify in writing from time to time to the Administrative Agent and the Borrower.

"Lien" means any mortgage, charge, pledge, lien (statutory or other), privilege, security interest, hypothecation, collateral assignment or preference, priority or other security agreement, mandatory deposit arrangement, preferential arrangement or other encumbrance upon or with respect to any property of any kind, real or personal, movable or immovable, now owned or hereafter acquired (including any conditional sale or other title retention agreement, any financing lease having substantially the same economic effect as any of the foregoing and the filing of any financing statement under the Uniform Commercial Code or comparable law of the relevant jurisdiction).

"Loan" has the meaning assigned to such term in Section 2.01(a)(i).

"Loan Parties" means, collectively, Pledgor and Borrower.

"Loss Proceeds" has the meaning assigned to such term in the OpCo Senior Credit Agreement.

"Majority Lenders" means, at any time, Lenders having Loans and Commitments outstanding that represent more than 50% of the sum of all Loans and Commitments then outstanding.

"Material Adverse Effect" means, with respect to any Loan Party, a material adverse effect on: (a) the business, assets, properties (including the Site), operations or financial condition of the Loan Parties, taken as a whole; (b) the ability of the Loan Parties, taken as a whole, to perform their material obligations under the Financing Documents in accordance with the terms thereof; (c) the rights and remedies of the Secured Parties, taken as a whole, under the Financing Documents; or (d) the rights or remedies of such Loan Party under the Material Project Documents, taken as a whole.

"Material Construction Contracts" has the meaning assigned to such term in the OpCo Senior Credit Agreement.

"Material Project Counterparty" has the meaning assigned to such term in the OpCo Senior Credit Agreement.

"Material Project Documents" has the meaning assigned to such term in the OpCo Senior Credit Agreement.

"Maturity Date" means the earliest to occur of (a) November 4, 2027, and (b) the date upon which the entire outstanding principal amount of the Loans, together with all unpaid interest, fees, charges and costs, shall be accelerated in accordance with this Agreement.

"Monthly Date" means the last Business Day of any month.

"Moody's" means Moody's Investors Service, Inc., or any successor to the rating agency business thereof.

"Multiemployer Plan" means a multiemployer plan as defined in Section 4001(a)(3) of ERISA that is subject to Title IV of ERISA to which any Loan Party contributes or is obligated to contribute, or with respect to which any Loan Party has or could reasonably be expected to have any liability.

"Net Available Amount" has the meaning assigned to such term in the OpCo Senior Credit Agreement.

"Non-Recourse Parties" has the meaning assigned to such term in Section 10.13.

"Note" has the meaning assigned to such term in Section 2.05(b)(ii).

"Obligations" means all advances to, and debts (including Accrued Interest, interest accruing after the maturity of the Loan and interest accruing after the filing of any Bankruptcy), liabilities, obligations, Prepayment Premium, covenants and duties of, any Loan Party arising under any Financing Document, or otherwise with respect to any Loan, in each case whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest and fees that accrue after the commencement by or against any Loan Party or any Affiliate thereof of any proceeding under any debtor relief law naming such Person as the debtor in such proceeding, regardless of whether such interest and fees are allowed claims in such proceeding.

"Officer's Certificate" means, with respect to any Loan Party, a certificate signed by an Authorized Representative of such Loan Party.

"OpCo Borrower" has the meaning assigned to such term in the recitals.

"OpCo Loan Parties" has the meaning assigned to the term "Loan Parties" in the OpCo Senior Credit Agreement.

"OpCo Pledgor" has the meaning assigned to the term "Holdings" in the OpCo Senior Credit Agreement.

"OpCo Restricted Payments" has the meaning assigned to the term "Restricted Payments" in the OpCo Senior Credit Agreement.

"OpCo Senior Administrative Agent" has the meaning assigned to the term "Administrative Agent" in the OpCo Senior Credit Agreement.

"OpCo Senior Closing Date" has the meaning assigned to the term "Closing Date" in the OpCo Senior Credit Agreement.

"OpCo Senior Collateral Accounts" has the meaning assigned to the term "Collateral Accounts" in the OpCo Senior Credit Agreement.

"OpCo Senior Collateral Agent" has the meaning assigned to the term "Collateral Agent" in the OpCo Senior Credit Agreement.

"OpCo Senior Commitment" has the meaning assigned to the term "Commitment" in the OpCo Senior Credit Agreement.

"OpCo Senior Credit Agreement" means that certain Credit Agreement, dated as of May 4, 2020, among OpCo Borrower, OpCo Pledgor, Project Company, the OpCo Senior Lenders from time to time party thereto, the OpCo Senior Administrative Agent and the OpCo Senior Collateral Agent.

"OpCo Senior Credit Agreement Drag Along Expiry Date" means the earlier of (a) the date that the OpCo Senior Credit Agreement is Amended and Refinanced and (b) the earlier of the date on which (i) no Commitment (as defined in the OpCo Senior Credit Agreement) remains in effect, (ii) no Loan (as defined in the OpCo Senior Credit Agreement) remains outstanding and unpaid

and (iii) no other Obligation (as defined in the OpCo Senior Credit Agreement) is owing to any Secured Party (as defined in the OpCo Senior Credit Agreement) under the OpCo Senior Credit Agreement or under any other OpCo Senior Financing Document.

"OpCo Senior Default" has the meaning assigned to the term "Default" in the OpCo Senior Credit Agreement or any OpCo Senior Replacement Credit Agreement (as applicable).

"OpCo Senior Event of Default" has the meaning assigned to the term "Event of Default" in the OpCo Senior Credit Agreement or any OpCo Senior Replacement Credit Agreement (as applicable).

"OpCo Senior Extraordinary Receipts Account" has the meaning assigned to the term "Extraordinary Receipts Account" in the OpCo Senior Credit Agreement.

"OpCo Senior Financing Documents" has the meaning assigned to the term "Financing Documents" in the OpCo Senior Credit Agreement.

"OpCo Senior Lenders" has the meaning assigned to the term "Lenders" in the OpCo Senior Credit Agreement.

"OpCo Senior Loan" has the meaning assigned to the term "Loan" in the OpCo Senior Credit Agreement.

"OpCo Senior Permitted Liens" has the meaning assigned to the term "Permitted Liens" in the OpCo Senior Credit Agreement.

"OpCo Senior Permitted Indebtedness" has the meaning assigned to the term "Permitted Indebtedness" in the OpCo Senior Credit Agreement.

"OpCo Senior Replacement Credit Agreement" means the OpCo Senior Credit Agreement, as Amended and Refinanced from time to time.

"OpCo Senior Transaction Documents" has the meaning assigned to the term "Transaction Documents" in the OpCo Senior Credit Agreement.

"OpCo Senior Working Capital Facility" has the meaning assigned to the term "Permitted Working Capital Facility" in the OpCo Senior Credit Agreement.

"OpCo Tranche A Funding Date" has the meaning assigned to the term "Tranche A Funding Date" in the OpCo Senior Credit Agreement.

"Operating Budget" has the meaning assigned to such term in the OpCo Senior Credit Agreement.

"Operating Expenses" has the meaning assigned to such term in the OpCo Senior Credit Agreement.

"Organizational Documents" means, with respect to any Person, (i) in the case of any corporation, the certificate of incorporation and by-laws (or similar documents) of such Person, (ii) in the case of any limited liability company, the certificate of formation and operating agreement (or similar documents) of such Person, (iii) in the case of any limited partnership, the certificate of formation and limited partnership agreement (or similar documents) of such Person, (iv) in the case of any general partnership, the partnership agreement (or similar document) of such Person and (v) in any other case, the functional equivalent of the foregoing.

"Other Taxes" means any and all present or future stamp, court or documentary, intangible, recording, filing or similar Taxes or any other excise or property Taxes, charges or similar levies arising from any payment made under any Financing Document or from the execution, delivery, performance, registration or enforcement of, from the receipt or perfection of a security interest under, or otherwise with respect to, any Financing Document. For the avoidance of doubt, "Other Taxes" shall not include any Excluded Taxes.

"Participant" has the meaning assigned to such term in Section 10.04(f).

"Participant Register" has the meaning assigned to such term in Section 10.04(f).

"PBGC" means the Pension Benefit Guaranty Corporation referred to and defined in ERISA and any successor entity performing similar functions.

"Pension Plan" means any employee pension benefit plan as defined in Section 3(2) of ERISA (other than a Multiemployer Plan) that is subject to the provisions of Title IV or Section 302 of ERISA, or Section 412 of the Code, and in respect of which any Loan Party is (or, if such plan were terminated, would under Section 4069 of ERISA be deemed to be) an "employer" as defined in Section 3(5) of ERISA or with respect to which any Loan Party has or could reasonably be expected to have any liability.

"Performance Tests" has the meaning assigned to such term in the OpCo Senior Credit Agreement.

"Permitted Contest Conditions" means, with respect to any Loan Party, a contest, pursued in good faith, challenging the enforceability, validity, interpretation, amount or application of any law, tax or other matter (legal, contractual or other) by appropriate proceedings timely instituted if (a) such Loan Party diligently pursues such contest, (b) such Loan Party establishes adequate reserves with respect to the contested claim if and to the extent required by GAAP and (c) such contest (i) could not reasonably be expected to have a Material Adverse Effect and (ii) does not involve any material risk or danger of any criminal or unindemnified civil liability being incurred by the Administrative Agent or the Lenders.

"Permitted Indebtedness" has the meaning assigned to such term in Section 6.02.

"Permitted Lien" means, with respect to any Loan Party, any of the following:

(a) Liens created under the Security Documents;

(b) (i) Liens arising solely by virtue of any statutory or common law provision relating to banker's liens, rights of set-off or similar rights and remedies and burdening only deposit accounts or other funds maintained with a creditor depository institution, in each case, granted in the ordinary course of business in favor of such creditor depositary institution, provided that no such deposit account is a dedicated cash collateral account or is subject to restrictions against access by the depositor in excess of those set forth by regulations promulgated by the Board and no such deposit account is intended by Borrower to provide collateral to the depository institution and (ii) Liens in favor of a banking or other financial institution arising as a matter of law or in the ordinary course of business under customary general terms and conditions encumbering deposits or other funds maintained with a financial institution (including the right of setoff) and that are within the general parameters customary in the banking industry or arising pursuant to such banking institution's general terms and conditions, including the Liens of each Depositary Bank over each applicable Account;

(c) Liens not otherwise permitted hereunder so long as the aggregate outstanding principal amount of obligations of Borrower or any other Loan Party secured thereby does not exceed $100,000 at any one time; and

(d) Liens that extend, renew or replace in whole or in part a Lien referred to above.

"Person" means any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, Governmental Authority or other entity.

"Pledgor" has the meaning assigned to such term in the preamble.

"Post-Default Rate" means a rate per annum which is equal to the sum of 2.00% per annum *plus* the Interest Rate.

"Prepayment Offer Deadline" has the meaning assigned to such term in Section 2.06(c)(iii).

"Prepayment Premium" means, with respect to any Called Principal, an amount equal to the projected amount of interest that would be due on the Called Principal from the date of such prepayment to the 36-month anniversary of the applicable Funding Date (assuming the Called Principal was not prepaid or repaid during such period), as reasonably calculated by the Administrative Agent. An example of the Prepayment Premium calculation is set forth on Annex II.

"Prepayment Premium Event" has the meaning assigned to such term in Section 2.06(c)(iv).

"Project" has the meaning assigned to such term in the recitals.

"Project Company" has the meaning assigned to such term in the recitals.

"Project Costs" has the meaning assigned to such term in the OpCo Senior Credit Agreement.

"Project Documents" has the meaning assigned to such term in the OpCo Senior Credit Agreement.

"Project Document Modification" has the meaning assigned to such term in the OpCo Senior Credit Agreement.

"Projections" has the meaning assigned to such term in Section 3.12(b).

"Property" means any right or interest in or to property of any kind whatsoever, whether real, personal or mixed and whether tangible or intangible.

"Prudent Industry Practices" has the meaning assigned to such term in the OpCo Senior Credit Agreement.

"Qualified CEO" has the meaning assigned to such term in the OpCo Senior Credit Agreement.

"Qualified Officer" has the meaning assigned to such term in the OpCo Senior Credit Agreement.

"Qualified Officer Event" has the meaning assigned to such term in Section 5.28.

"Qualified President" has the meaning assigned to such term in the OpCo Senior Credit Agreement.

"Quarterly Date" means the date that is fourteen (14) Business Days after each March 31, June 30, September 30 and December 31 of every fiscal year.

"Refinery Performance Test" has the meaning assigned to such term in the OpCo Senior Credit Agreement.

"Refinery Performance Test Report" has the meaning assigned to such term in the OpCo Senior Credit Agreement.

"Register" has the meaning assigned to such term in Section 10.04(c).

"Regulation D" means Regulation D of the Board.

"Regulation U" means Regulation U of the Board.

"Reinvestment Notice" means a written notice executed by a Qualified Officer of Borrower stating no Default or Event of Default has occurred and is continuing and that Borrower intends and expects to cause the OpCo Loan Parties to use all or a specified portion, as applicable, of the Net Available Amount of Extraordinary MPD Proceeds or the proceeds from an Event of Loss or the proceeds of a Disposition, as applicable, that will be used (a) with respect to any Event of Loss, to repair, restore or replace assets affected by such Event of Loss or (b) with respect to the receipt of Extraordinary MPD Proceeds or any Disposition, to acquire or repair assets useful in the business of OpCo Borrower and Project Company, in each case, which notice shall include (i) a

certification that Borrower intends to complete the reinvestment or acquisition described therein the applicable time period required under Section 2.06(b) (or such longer period as may be described in the applicable Reinvestment Plan (subject to the Administrative Agent's approval, acting at the direction of the Required Lenders, in accordance with Section 2.06(d)(iii))) and (ii) with respect to the use of the Net Available Amount of any Extraordinary MPD Proceeds or the proceeds of any Disposition to acquire assets useful in the business of Borrower and Project Company, a detailed description of the acquisition contemplated with such Net Available Amount, which description shall be acceptable to the Administrative Agent, acting at the reasonable direction of the Required Lenders.

"Reinvestment Plan" has the meaning assigned to such term in Section 2.06(d)(ii)(A).

"Related Fund" means with respect to any Lender, any fund that invests in loans and is managed or advised by the same investment advisor as such Lender, by such Lender or an Affiliate of such Lender.

"Related Parties" means, with respect to any specified Person, such Person's Affiliates and the respective directors, officers, employees, agents and advisors of such Person and such Person's Affiliates.

"Release" means any release, spill, emission, emanation, leaking, pumping, injection, deposit, disposal, discharge, dispersal, leaching or migration into the indoor or outdoor Environment, including, the movement through ambient air, soil, surface water, ground water, wetlands, land or subsurface strata.

"Reportable Event" means any of the events set forth in Section 4043(c) of ERISA, other than events for which the 30-day notice period has been waived.

"Required Lenders" means, at any time, Lenders having aggregate Commitments (or, if the Commitments are terminated, holding Loans) representing eighty percent (80%) or more of the sum of the total Commitments (or, if the Commitments are terminated, aggregate outstanding principal amount of Loans) at such time; provided that, for the avoidance of doubt, the term "Commitments" as used in this definition refers to the Lenders' aggregate Commitments, whether drawn or undrawn, as of the applicable date of determination.

"Restoration" means, with respect to any Affected Property, the rebuilding, repair, restoration or replacement of such Affected Property.

"Restricted Payment" means:

(a) any dividend paid by any Loan Party (in cash, Property or obligations) on, or other payments or distributions on account of, or the setting apart of money for a sinking or other analogous fund for, or the purchase, redemption, retirement or other acquisition by any Loan Party of, any portion of any membership interests in any Loan Party or any warrants, rights or options to acquire any such membership interests;

(b) any payment of development, management or other fees, or of any other amounts, by any Loan Party to any Affiliate thereof; and/or

(c) any other payment (in cash, Property or obligations to a parent company of the Loan Parties) to a parent company or Affiliate of the Loan Parties.

"S&P" means Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies, Inc., or any successor to the rating agency business thereof.

"Sanctioned Country" means, at any time, a country or territory that is subject to comprehensive Sanctions. For the avoidance of doubt, as of the Closing Date, Sanctioned Countries are the Crimea region of Ukraine, Cuba, Iran, North Korea and Syria.

"Sanctioned Person" means, at any time, (a) any Person listed in any Sanctions-related list of designated Persons maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the U.S. Department of State, or by the United Nations Security Council, the European Union or any EU member state, (b) any Person operating, organized or resident in a Sanctioned Country, or (c) any Person owned or controlled by any such Person.

"Sanctions" means economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by (a) the U.S. government, including those administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the U.S. Department of State, or (b) the United Nations Security Council, the European Union or Her Majesty's Treasury of the United Kingdom.

"Secured Obligations" has the meaning assigned to such term in the Security Agreement.

"Secured Parties" means (a) the Agents and (b) the Lenders.

"Security Agreement" means that certain Pledge and Security Agreement, to be entered into on the Closing Date, among the Loan Parties and the Collateral Agent, substantially in the form attached hereto as Exhibit D.

"Security Documents" means the Security Agreement, the Control Agreement, all Uniform Commercial Code financing statements required by any Security Document and any other security agreement or instrument to be executed or filed pursuant hereto or any Security Document.

"Seller" has the meaning assigned to such term in the recitals.

"Senior Lender Equity Owners" has the meaning assigned to the term "Lender Equity Owners" in the OpCo Senior Credit Agreement.

"Senior Net Cash Flow" has the meaning assigned to such term in Section 5.29(a)(ii)(D).

"Significant Milestone" means each milestone set forth in the Construction Schedule that is identified on Schedule 4.01(f) to the OpCo Senior Credit Agreement.

"Site" has the meaning assigned to such term in the OpCo Senior Credit Agreement.

"Solvent" means, with respect to any Person on a particular date that on such date (a) the fair value of the property of such Person is greater than the total amount of liabilities, including

contingent liabilities of such Person, (b) the present fair salable value of the assets of such Person is not less than the amount that will be required to pay the probable liability of such Person on its debts as they become absolute and matured, (c) such Person does not intend to, and does not believe that it will, incur debts or liabilities beyond such Person's ability to pay such debts and liabilities as they mature, (d) such Person is not engaged in business or a transaction, and is not about to engage in business or a transaction, for which such Person's property would constitute an unreasonably small capital and (e) such Person is not insolvent as defined under applicable Bankruptcy or insolvency laws; provided that unless otherwise provided under Applicable Law, the amount of contingent liabilities at any time shall be computed as the amount that, in light of all the facts and circumstances existing at such date, represents the amount that can reasonably be expected to become an actual or matured liability.

"SPA" has the meaning assigned to such term in the recitals.

"Sponsor" means Global Clean Energy Holdings, Inc., a Delaware corporation.

"Subsidiary" means, with respect to any Person (the "parent") at any date, any corporation, limited liability company, partnership, association or other entity the accounts of which would be consolidated with those of the parent in the parent's consolidated financial statements if such financial statements were prepared in accordance with GAAP as of such date, as well as any other corporation, limited liability company, partnership, association or other entity (a) of which securities or other ownership interests representing more than 50% of the equity or more than 50% of the ordinary voting power or, in the case of a partnership, more than 50% of the general partnership interests are, as of such date, owned, controlled or held, or (b) that is, as of such date, otherwise controlled, by the parent or one or more subsidiaries of the parent or by the parent and one or more subsidiaries of the parent.

"Substantial Completion" has the meaning assigned to such term in the OpCo Senior Credit Agreement.

"SusOils" means Sustainable Oils, Inc., a Delaware corporation.

"SVO" means the Securities Valuation Office of the National Association of Insurance Commissioners.

"Swap Agreement" means any agreement or instrument (including a cap, swap, collar, option, forward purchase agreement or other similar derivative instrument) relating to the hedging of any interest under any Indebtedness or hedging of the prices of renewable diesel, feedstock or environmental attributes.

"Taxes" means any and all present or future taxes, levies, imposts, duties, deductions, charges or withholdings (including backup withholdings) with respect to the Loan now or hereafter imposed, levied, collected, withheld or assessed by any Governmental Authority, including any taxes, levies, imposts, duties, deductions, charges or withholdings on interest payments on the Loan and on any payments made by any Loan Party to an Agent or Lender pursuant to an obligation of such Loan Party under any of the Financing Documents, and all interest, additions to tax or penalties or similar liabilities with respect thereto.

"Term Conversion Date" has the meaning assigned to such term in the OpCo Senior Credit Agreement.

"Transaction Documents" means each of the Financing Documents, Borrower LLC Agreement and the Material Project Documents.

"UCC" means the Uniform Commercial Code as in effect from time to time in the State of New York; provided that if, with respect to any filing statement or by reason of any mandatory provisions of law, the perfection or the effect of perfection or non-perfection of the security interests granted to the Collateral Agent pursuant to the applicable Security Document is governed by the Uniform Commercial Code as in effect in a jurisdiction of the United States other than New York, UCC means the Uniform Commercial Code as in effect from time to time in such other jurisdiction for purposes of the provisions of each applicable Financing Document and any filing statement relating to such perfection or effect of perfection or non-perfection.

"Uniform Commercial Code" means the Uniform Commercial Code as in effect from time to time in the applicable jurisdiction.

"US Person" means any Person that is a "United States Person" as defined in Section 7701(a)(30) of the Code.

"U.S. Special Resolution Regimes" has the meaning assigned to such term in Section 10.10.

"USA PATRIOT Act" has the meaning assigned to such term in Section 10.16.

"Voting Stock" means, with respect to any Person, Capital Stock the holders of which are ordinarily, in the absence of contingencies, entitled to vote for the election of directors (or persons performing similar functions) of such Person, even if the right so to vote has been suspended by the happening of a contingency.

"Write-Down and Conversion Powers" means, with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule.

Section 1.02 Terms Generally. Except as otherwise expressly provided, the following rules of interpretation shall apply to this Agreement and the other Financing Documents:

(a) the definitions of terms herein shall apply equally to the singular and plural forms of the terms defined;

(b) whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms;

(c) the words "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation";

(d) the word "will" shall be construed to have the same meaning and effect as the word "shall";

(e) unless the context requires otherwise, any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein or therein) and shall include any appendices, schedules, exhibits, clarification letters, side letters and disclosure letters executed in connection therewith; provided that, any cross references to the OpCo Senior Financing Documents (included any term defined therein) shall be construed as referring to such OpCo Senior Financing Document as in effect on the Closing Date, subject to any amendment, supplement or other modification entered into in accordance with the terms of this Agreement.

(f) any reference herein to any Person shall be construed to include such Person's successors and assigns to the extent permitted under the Financing Documents and, in the case of any Governmental Authority, any Person succeeding to its functions and capacities;

(g) the words "herein", "hereof" and "hereunder", and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision;

(h) all references herein to Articles, Sections, Appendices, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Appendices, Exhibits and Schedules to, this Agreement; and

(i) the words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights.

Section 1.03 Accounting Terms. Except as otherwise expressly provided herein, all terms of an accounting or financial nature shall be construed in accordance with GAAP. If Borrower notifies the Administrative Agent that Borrower wishes to amend any provision hereof to eliminate the effect of any change occurring after the date hereof in GAAP or in the application thereof on the operation of such provision, regardless of whether any such notice is given before or after such change in GAAP or in the application thereof, then Borrower's compliance with such provision shall be determined on the basis of GAAP as in effect and applied immediately before such change shall have become effective until such notice shall have been withdrawn or such provision amended in a manner satisfactory to Borrower and the Administrative Agent.

Section 1.04 Divisions. Any reference herein or in any other Financing Document to a merger, transfer, consolidation, amalgamation, assignment, sale, disposition or transfer, or similar term, shall be deemed to apply to a division of or by a Person, or an allocation of assets to a series of a Person (or the unwinding of such a division or allocation), as if it were a merger, transfer, consolidation, amalgamation, assignment, sale or transfer or similar term, as applicable to, of or with a separate Person. Any division of a limited liability company shall constitute a separate Person hereunder and under any other Financing Document (and each division of any limited

liability company that is a Subsidiary, Affiliate, joint venture or any other like term shall also constitute such a separate Person or entity hereunder or any other Financing Document).

ARTICLE II

THE CREDITS

Section 2.01 Loan.

(a) Loans.

(i) Subject to the terms and conditions set forth in this Agreement and in reliance upon the representations and warranties of the Loan Parties set forth herein, each Lender severally, but not jointly, agrees to advance to Borrower from time to time during the Availability Period such loans as Borrower may request pursuant to this Section 2.01 (such loans, together with the principal amount of each Deemed Loan, individually, a "Loan" and, collectively, the "Loan" or "Loans"), in an aggregate principal amount which, when added to the aggregate principal amount of all prior Loans (including borrowings under this Agreement and Deemed Loans) made by such Lender, does not exceed such Lender's Commitment; provided, that Borrower may only request Loans (other than Deemed Loans) once every ninety (90) days and (ii) two additional times in any calendar year (without reliance on the foregoing clause (i)), so long as, in the case of this clause (ii), each such request occurs at least thirty (30) days following the immediately prior request for Loans made by Borrower.

(ii) In addition, and notwithstanding anything herein to the contrary, each Lender, on the date of each drawing under any Lender Credit Support Document by the OpCo Senior Administrative Agent in accordance with the HoldCo Lender Backstop Agreement and the applicable Lender Credit Support Document, shall be deemed to have made a Loan to Borrower (subject only to the Deemed Loan Conditions), in the principal amount equal to the amount drawn or paid under any Lender Credit Support Document, and Borrower shall, subject only to the Deemed Loan Conditions, be unconditionally obligated to repay each Lender for any amount so drawn as a Deemed Loan (but without duplication of any obligation to repay a Loan hereunder). Such Deemed Loan shall be immediately due and payable to the Lender if an Event of Default has occurred and is continuing under Section 7.01(f) (with respect to Borrower) or if the Loans have been accelerated pursuant to Article VII, court order, or otherwise, no loan or extension of credit to or for the benefit of Borrower is permitted at such time; and such Deemed Loan shall in all other circumstances be treated as a Loan hereunder made on the date of receipt of proceeds arising from the draw or claim under the applicable Lender Credit Support Document and payable as a Loan hereunder and in accordance with the other provisions of this Agreement. Subject only to the Deemed Loan Conditions, Borrower's obligations to repay each applicable Lender in full for any drawing under any Lender Credit Support Document shall be absolute and unconditional under any and all circumstances and irrespective of any setoff, counterclaim or defense to payment that the Borrower may have or have had against any Lender or any other Person (other any defense related to the Deemed Loan Conditions and the defense of such repayment having been made).

(b) No Reborrowing. Amounts prepaid or repaid in respect of any Loan may not be reborrowed.

(c) Notice of Loan Borrowing. To request a borrowing of Loans (other than Deemed Loans), Borrower shall deliver to the Administrative Agent and the Lenders, on a Business Day, a Borrowing Request. The date of the proposed borrowing (each such date, together with the borrowing contemplated by the first sentence of Section 2.04, a "Funding Date") specified in a Borrowing Request shall be no earlier than twelve (12) Business Days after the delivery of such Borrowing Request. Each Borrowing Request shall specify the amount to be borrowed and the proposed Funding Date (which shall be a Business Day). Upon receipt of such Borrowing Request, the Administrative Agent shall promptly notify each Lender thereof. For the avoidance of doubt, no Borrowing Request shall be required in respect of Deemed Loans.

(d) Notice by the Administrative Agent to the Lenders . Promptly (and in any case within one (1) Business Day) following receipt of a Borrowing Request in accordance with this Section 2.01, the Administrative Agent shall advise each Lender of the details thereof and of the amount of such Lender's Loan requested to be made as part of the Loan.

(e) Tax Considerations. For U.S. federal income tax purposes, each of Borrower, and Pledgor and the Lenders agree that it is their intention that, for U.S. federal, state and local income tax purposes, (1) the Loan, together with the corresponding HoldCo Equity Kicker, shall be treated as an investment unit, (2) the purchase price of such investment unit shall equal the total purchase price paid by the Lenders for the Loan on each Funding Date, (3) a portion of the purchase price of the investment unit shall, for U.S. federal income tax purposes, be allocated to the purchase of the corresponding HoldCo Equity Kicker as mutually agreed by the parties, and (4) the Loan shall be treated as a debt instrument, and not as a "contingent payment debt instrument," (within the meaning of Treasury Regulations Section 1.1275-4), for U.S. federal, state and local income tax purposes (together, the "Intended Tax Treatment"). Borrower will provide any information reasonably requested in writing from time to time by any Lender regarding the original issue discount associated with the Loan for U.S. federal income tax purposes. Each of Borrower, Pledgor and the Lenders agrees to file income tax returns consistent with the Intended Tax Treatment, including the allocation set forth in this Section 2.01(e), and shall not take any position inconsistent with the Intended Tax Treatment in any judicial, administrative, or other proceeding, unless otherwise required as a result of a change in applicable tax law (including any regulations issued by any taxing authorities, any rulings or similar guidance by any taxing authority) or a determination (within the meaning of section 1313(a) of the Code or similar provision of state or local law). Notwithstanding the foregoing, for all purposes (except for the purpose of this Section 2.01(e)), each Lender shall be treated as having lent the full amount of its *pro rata* portion of the principal amount of the Loan. In addition, notwithstanding the foregoing, the Intended Tax Treatment of the Loan shall apply only for U.S. federal, state and local income tax purposes.

Section 2.02 [Reserved].

Section 2.03 Funding of the Loan. Subject to the satisfaction or waiver of the conditions set forth in Section 4.02, each Lender shall, no later than 12:00 Noon, New York City time, on the Funding Date specified in the respective Borrowing Request, make available to the Administrative Agent at the Funding Office an amount in Dollars and in immediately available funds equal to the

Loan to be made by such Lender. Administrative Agent shall make available to OpCo Borrower, by deposit into the Construction Account, the aggregate of the amounts made available to Administrative Agent by the Lenders, in like funds as received by the Administrative Agent.

Section 2.04 Funding of the Commitments. At the close of business on the last Business Day of the Availability Period, each Lender shall make a Loan to the Borrower in an amount equal to the remaining undrawn Commitments, which amounts shall be contributed by the Borrower to the OpCo Borrower pursuant to the OpCo Senior Financing Documents. The date of funding of any such Loans pursuant to the foregoing sentence shall be a Funding Date. Once borrowed or repaid, no Loan may be reborrowed. In addition, the Borrower may not reduce or terminate Commitments hereunder if such reduction or termination would not be permitted under the HoldCo Lender Backstop Agreement.

Section 2.05 Repayment of Loan; Evidence of Debt.

(a) Promise to Repay at Maturity. Borrower hereby unconditionally promises to pay to the Administrative Agent for the account of the Lenders, the unpaid principal amount of the Loan then outstanding on the Maturity Date.

(b) Evidence of Debt.

(i) Each Lender may maintain in accordance with its usual practice an account or accounts evidencing the Indebtedness of Borrower to such Lender resulting from the Loan made by such Lender, including the amounts of principal and interest payable and paid to such Lender from time to time hereunder. In the case of a Lender that does not request execution and delivery of a Note evidencing the Loan made by such Lender to Borrower, such account or accounts shall, to the extent not inconsistent with the notations made by the Administrative Agent in the Register, be conclusive and binding on Borrower absent manifest error; provided that the failure of any Lender to maintain such account or accounts or any error in any such account shall not limit or otherwise affect any obligations of Borrower.

(ii) Borrower agrees that, upon the request to the Administrative Agent by any Lender, Borrower will execute and deliver to such Lender, as applicable, a promissory note (a "Note") substantially in the form of Exhibit B payable to such Lender in an amount equal to such Lender's Loan evidencing the Loan made by such Lender. Borrower hereby irrevocably authorizes each Lender to make (or cause to be made) appropriate notations on the grid attached to such Lender's Notes (or on any continuation of such grid), which notations, if made, shall evidence, inter alia, the date of, the outstanding principal amount of, and the interest rate applicable to the Loan evidenced thereby. Such notations shall, to the extent not inconsistent with any Borrowing Request and Deemed Loans (or, in the absence of which, the notations made by the Administrative Agent in the Register), be conclusive and binding on Borrower absent manifest error; provided that the failure of any Lender to make any such notations or any error in any such notations shall not limit or otherwise affect any obligations of Borrower. A Note and the obligation evidenced thereby may be assigned or otherwise transferred in whole or in part only in accordance with Section 10.04(b).

Section 2.06

Prepayment of the Loan.

(a) Optional Prepayments. Borrower shall have the right at any time and from time to time, upon at least ten (10) Business Days' prior written notice to the Administrative Agent stating the prepayment date and aggregate principal amount of the prepayment, to prepay any Loan in whole or in part, subject to the requirements of this Section 2.06. Each prepayment pursuant to this Section 2.06(a) shall be accompanied by the Prepayment Premium (if any) with respect to the principal amount of the Loan being prepaid. Each partial prepayment of any Loan under this Section 2.06(a) shall be in an aggregate amount at least equal to $1,000,000 and an integral multiple of $500,000 in excess thereof (or such lesser amount as may be necessary to prepay the aggregate principal amount then outstanding with respect to such Loan). No prepayment under Section 2.06(b) shall constitute a voluntary prepayment under this Section 2.06(a).

(b) Mandatory Prepayments and Offers to Prepay.

(i) Excess Cash Flow Sweep. Beginning with the Quarterly Date occurring after the Term Conversion Date and each Quarterly Date thereafter, Borrower shall offer to prepay the Loans of each Lender in an amount equal to such Lender's *pro rata* share of the ECF Sweep Amount within three (3) Business Days of each such Quarterly Date, accompanied by payment of all accrued interest on the amount prepaid and a calculation as to the ECF Sweep Amount (which calculation shall be in form and substance reasonably satisfactory to the Administrative Agent) (each such offer to prepay referred to in this clause (i), an "ECF Prepayment Offer").

(c) Terms of All Prepayments.

(i) All partial prepayments of the Loans shall be applied on a *pro rata* basis to the Loan of all Lenders, provided that such pro rata allocation shall, in the case of Section 2.06(b)(i) only occur in respect of the Lenders who have accepted their respective applicable ECF Prepayment Offers.

(ii) Each prepayment of Loans shall be accompanied by payment of all accrued interest on the amount prepaid, the Prepayment Premium (other than in the case of Section 2.06(b)(i) above) and any additional amounts required pursuant to Section 2.11.

(iii) No later than ten (10) Business Days after receiving an ECF Prepayment Offer (the expiration of such ten (10) Business Day-period, the "Prepayment Offer Deadline"), each Lender shall advise Borrower in writing whether it has elected to accept such prepayment offer, which it shall determine in its sole discretion; provided that any Lender which shall fail to so advise Borrower by the Prepayment Offer Deadline shall have been deemed to have accepted such prepayment offer. Each of the Lenders shall have the right, but not the obligation, to accept or reject its *pro rata* portion of the prepayment offer by Borrower. Borrower shall have no obligation to prepay any amounts in respect of any declining Lender's *pro rata* portion of the prepayment offer.

(iv) It is understood and agreed that if the Obligations are accelerated or otherwise become due prior to their maturity date, in each case, in respect of any Event of Default (including, but not limited to, upon the occurrence of a bankruptcy or insolvency

event (including the acceleration of claims by operation of law)), the Prepayment Premium that would have applied if, at the time of such acceleration, Borrower had prepaid, refinanced, substituted or replaced any or all of the Loan as contemplated in Section 2.06(a) (any such event, a "Prepayment Premium Event"), will also be due and payable without any further action (including any notice requirements otherwise applicable to Prepayment Premium Events, if any) as though a Prepayment Premium Event had occurred and such Prepayment Premium shall constitute part of the Obligations, in view of the impracticability and extreme difficulty of ascertaining actual damages and by mutual agreement of the parties as to a reasonable calculation of each Lender's lost profits as a result thereof. Any Prepayment Premium payable above shall be presumed to be the liquidated damages sustained by each Lender as the result of the early termination and Borrower agrees that it is reasonable under the circumstances currently existing. The Prepayment Premium shall also be payable in the event the Obligations (and/or this Agreement) are satisfied or released by foreclosure (whether by power of judicial proceeding), deed in lieu of foreclosure or by any other means. EACH LOAN PARTY EXPRESSLY WAIVES (TO THE FULLEST EXTENT IT MAY LAWFULLY DO SO) (ON BEHALF OF ITSELF AND THE OTHER LOAN PARTIES) THE PROVISIONS OF ANY PRESENT OR FUTURE STATUTE OR LAW THAT PROHIBITS, OR MAY PROHIBIT, THE COLLECTION OF THE FOREGOING PREPAYMENT PREMIUM IN CONNECTION WITH ANY SUCH ACCELERATION. Each Loan Party expressly agrees (to the fullest extent that each may lawfully do so) that: (A) the Prepayment Premium is reasonable and is the product of an arm's length transaction between sophisticated business people, ably represented by counsel; (B) the Prepayment Premium shall be payable notwithstanding the then prevailing market rates at the time payment is made; (C) there has been a course of conduct between Lenders and the Loan Parties giving specific consideration in this transaction for such agreement to pay the Prepayment Premium; and (D) the Loan Parties shall be estopped hereafter from claiming differently than as agreed to in this Section 2.06(c)(iv). Each Loan Party expressly acknowledges that its agreement to pay the Prepayment Premium to Lenders as herein described is a material inducement to Lenders to provide the Commitments and make the Loans contemplated hereby. The Borrower acknowledges, and the parties hereto agree, that each Lender has the right to maintain its investment in the Loans free from repayment by the Borrower (except as herein specifically provided for) and that the provision for payment of a Prepayment Premium by the Borrower, in the event that the Loans are prepaid or are accelerated as a result of an Event of Default, is intended to provide compensation for the deprivation of such right under such circumstances.

(v) Each party hereto acknowledges and agrees that Loans of a particular Lender shall be prepaid pursuant to Section 2.06(a) in the order in which such Loans were made or acquired by such Lender pursuant to Section 2.01.

(d) OpCo Senior Extraordinary Receipts Account.

(i) If any OpCo Loan Party receives any amount of any Extraordinary Receipts (other than Extraordinary Receipts described in clause (4) of the definition thereof (to wit, proceeds of Indebtedness)) in an amount less than $1,000,000 in the aggregate, Borrower

shall be permitted to cause the OpCo Loan Parties to transfer such amounts in accordance with the OpCo Senior Credit Agreement.

(ii) If any OpCo Loan Party receives any Extraordinary Receipts in an amount equal to or in excess of $1,000,000 in the aggregate, Borrower shall either:

(A) other than Extraordinary Receipts described in clause (4) of the definition thereof (to wit, proceeds of Indebtedness), submit to Administrative Agent and Lenders a Reinvestment Notice setting forth, in reasonable detail, a reinvestment plan in respect of such Extraordinary Receipts (such plan, a "Reinvestment Plan") within the earlier of (x) fifteen (15) days following the receipt by the OpCo Loan Parties of such Extraordinary Receipts and (y) forty-five (45) days following the Disposition or Event of Loss, as applicable; or

(B) cause the OpCo Loan Parties to use the proceeds of such Extraordinary Receipts to repay the OpCo Senior Loans in accordance with Section 2.06(b) of the OpCo Senior Credit Agreement or any OpCo Senior Replacement Credit Agreement.

(iii) If the events in clause (ii)(A) above occur and the Administrative Agent approves the applicable Reinvestment Plan (at the direction of the Required Lenders, such approval not to be unreasonably withheld, conditioned or delayed), then Borrower shall be permitted to cause the OpCo Loan Parties to cause such Extraordinary Receipts to be transferred from the OpCo Senior Extraordinary Receipts Account from time to time to use in accordance with such Reinvestment Plan. In the event any Reinvestment Plan is not approved by the Administrative Agent (at the direction of the Required Lenders, such approval not to be unreasonably withheld, conditioned or delayed), the Borrower may elect to re-submit Reinvestment Plans until a Reinvestment Plan is approved or to use the proceeds of such Extraordinary Receipts to repay the OpCo Senior Loans in accordance with Section 2.06(b) of the OpCo Senior Credit Agreement or any OpCo Senior Replacement Credit Agreement, as applicable; provided that, Borrower shall not be permitted to re-submit the Reinvestment Notice following the date on which the Administrative Agent has rejected the third (3rd) Reinvestment Notice submitted by the Borrower.

(iv) If funds remain on deposit in the OpCo Senior Extraordinary Receipts Account following Borrower's certification to Administrative Agent of the OpCo Loan Parties' completion of the reinvestment activities described in such Reinvestment Plan, Borrower shall promptly cause the OpCo Loan Parties to cause such funds to be transferred in accordance with the OpCo Senior Credit Agreement or any OpCo Senior Replacement Credit Agreement.

Notwithstanding the foregoing or anything to the contrary in this Section 2.06, prior to the OpCo Senior Credit Agreement Drag Along Expiry Date, to the extent that the OpCo Senior Administrative Agent consents to any proposed Reinvestment Plan (as defined in the OpCo Senior Credit Agreement) submitted by the OpCo Borrower under the OpCo Senior Credit Agreement, and the OpCo Loan Parties are otherwise in compliance (which, for this purpose, shall take into

effect any waivers in respect of, or amendments to the OpCo Senior Credit Agreement whose purpose and/or effect are to waive compliance) with the applicable provisions relating to the proposed Reinvestment Plan (as defined in the OpCo Senior Credit Agreement) as set forth and defined in the OpCo Senior Credit Agreement covering substantially the same subject matter as any proposed Reinvestment Plan submitted by the Borrower in accordance with this Section 2.06, then the Administrative Agent and Required Lenders shall be deemed to have consented to the proposed Reinvestment Plan submitted by the Borrower under this Section 2.06.

Section 2.07 Fees.

(a) Agent Fees. Borrower agrees to pay to each of the Administrative Agent and the Collateral Agent, for its own account, amounts payable in the amounts and at the times separately agreed upon in the Agent Reimbursement Letter.

(b) Payment of Fees. All fees that may be payable by any Loan Party to any Lender hereunder from time to time pursuant to a written agreement between such Loan Party and such Lender shall be paid on the dates due, in Dollars and immediately available funds, to the Administrative Agent for distribution to the Lenders entitled thereto. Fees paid shall not be refundable under any circumstances absent manifest error.

Section 2.08 Interest.

(a) Loan. The Loans (including any Accrued Interest) shall bear interest at a rate per annum equal to the Interest Rate on and after the date of borrowing of such Loans.

(b) Default Interest. If all or a portion of the principal amount of any Loan, interest in respect thereof or any other amount due under the Financing Documents shall not be paid when due (whether at the stated maturity, by acceleration or otherwise) or there shall occur and be continuing any other Event of Default, then, to the extent so elected by the Administrative Agent, acting at the direction of the Required Lenders, after Borrower has been notified in writing by the Administrative Agent, acting at the direction of the Required Lenders (or automatically upon the occurrence of an Event of Default pursuant to Section 7.01(f) hereof), the outstanding principal amount of the Loan (whether or not overdue) (to the extent legally permitted) shall bear interest at a rate per annum equal to the Post-Default Rate, from the date of such nonpayment or occurrence of such Event of Default, respectively, until such amount is paid in full (after as well as before judgment) or until such Event of Default is no longer continuing, respectively.

(c) Payment of Interest. Subject to Section 2.08(e), accrued interest on each Loan shall be payable in arrears on each Quarterly Date and on the Maturity Date; provided that (i) interest accrued pursuant to Section 2.08(b) shall be payable on demand and (ii) in the event of any repayment or prepayment of any Loan, accrued interest on the principal amount repaid or prepaid shall be payable on the date of such repayment or prepayment.

(d) Computation. All interest hereunder shall be computed on the basis of a year of 360 days and shall be payable for the actual number of days elapsed (including the first day but excluding the last day). The computation of interest shall be determined by the Administrative Agent and such determination shall be conclusive absent manifest error.

(e) Payment in Kind. In the event that, on any Quarterly Date (other than a Quarterly Date on which an Event of Default has occurred and is continuing), the portion of the interest paid to the Administrative Agent (for the benefit of the Lenders) under Section 5.29(a)(ii)(F) is not sufficient to pay the interest due and payable pursuant to Section 2.08(c), Borrower may pay up to the full amount of such insufficiency in kind (in lieu of payment in cash) on each applicable Quarterly Date, by written election of Borrower to the Administrative Agent at least ten (10) Business Days prior to such Quarterly Date. The aggregate outstanding principal amount of the Loans shall be automatically increased on each such Quarterly Date by the amount of such interest paid in kind. For the avoidance of doubt, any portion of the Interest Rate not paid in kind shall be paid in cash.

(f) Miscellaneous. For the avoidance of doubt, (i) on each Quarterly Date prior to the Maturity Date, any interest on the Loan then due and payable shall be paid, either in cash or in kind, in accordance with this Agreement and (ii) on the Maturity Date, any interest on the Loan then due and payable shall be paid entirely in cash in accordance with this Agreement. All amounts of interest added to the principal of the Loans pursuant to Section 2.08(e) shall bear interest as provided herein, be payable as provided in Section 2.05 and shall be due and payable on the Maturity Date. The Administrative Agent's determination of the principal amount of the Loan outstanding at any time shall be conclusive and binding, absent manifest error.

Section 2.09 Increased Costs.

(a) Increased Costs Generally. If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit or similar requirement (including any such requirement imposed by the Board under Regulation D or otherwise) against assets of, deposits with or for account of, or credit extended by, any Lender;

(ii) subject any Agent, any Lender or any other recipient of any payment to be made by or on account of any obligation of any Loan Party hereunder to any Taxes (other than Indemnified Taxes or Excluded Taxes) on its loan, loan principal, commitments or other obligations or its deposits, reserves, other liabilities or capital attributable thereto; or

(iii) impose on any Lender any other condition not otherwise contemplated hereunder affecting this Agreement or the Loan made by such Lender;

and the result of any of the foregoing shall be to increase the cost to such Lender of making or maintaining any Loan (or of maintaining its obligation to make any such Loan) to Borrower or to increase the cost to such Lender or to reduce the amount of any sum received or receivable by such Lender hereunder (whether of principal, interest or otherwise), then Borrower will pay to such Lender such additional amount or amounts as will compensate such Lender for such additional costs incurred or reduction suffered.

(b) Capital Requirements. If any Lender reasonably determines that any Change in Law regarding capital or liquidity requirements has or would have the effect of reducing the rate of return on such Lender's capital or on the capital of such Lender's holding company, if any, as a consequence of this Agreement or the Loan made by such Lender to a level below that which

such Lender or such Lender's holding company could have achieved but for such Change in Law (taking into consideration such Lender's policies and the policies of such Lender's holding company with respect to capital adequacy), then from time to time Borrower will pay to such Lender such additional amount or amounts as will compensate such Lender or such Lender's holding company for any such reduction suffered.

(c) Certificates from Lenders. A certificate of a Lender setting forth calculations in reasonable detail of the amount or amounts necessary to compensate such Lender or its respective holding company, as the case may be, as specified in Section 2.09(a) or Section 2.09(b) shall be delivered to Borrower and shall be conclusive absent manifest error. Borrower shall pay such Lender the amount shown as due on any such certificate within thirty (30) Business Days after receipt thereof.

(d) Delay in Requests. Promptly after any Lender has determined that it will make a request for increased compensation pursuant to this Section 2.09, such Lender shall notify Borrower thereof. Failure or delay on the part of any Lender to demand compensation pursuant to this Section shall not constitute a waiver of such Lender's right to demand such compensation; provided that Borrower shall not be required to compensate a Lender pursuant to this Section 2.09 for any increased costs or reductions incurred more than ninety (90) days prior to the date that such Lender notifies Borrower of the Change in Law giving rise to such increased costs or reductions and of such Lender's intention to claim compensation therefor; provided further that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the ninety (90)-day period referred to above shall be extended to include the period of retroactive effect thereof.

Section 2.10 [Reserved].

Section 2.11 Taxes.

(a) Payments Free of Taxes. Any and all payments by or on account of any obligation of any Loan Party hereunder or under any other Financing Document shall be made free and clear of and without withholding or deduction for any Taxes; provided that if such Loan Party (or the applicable withholding agent) shall be required by law to withhold or deduct any Taxes from such payments, then (i) to the extent such Taxes are Indemnified Taxes or Other Taxes, the sum payable by such Loan Party shall be increased as necessary so that after making all required withholdings and deductions (including withholdings and deductions applicable to additional sums payable under this Section) the Administrative Agent, the Collateral Agent or the Lender (as the case may be) receives an amount equal to the sum it would have received had no such withholdings or deductions been made, (ii) such Loan Party shall make or shall cause to be made such withholdings and deductions and (iii) such Loan Party shall pay or shall cause to be paid the full amount withheld and deducted to the relevant Governmental Authority in accordance with Applicable Law.

(b) Payment of Other Taxes by Borrower. Borrower shall timely pay or cause to be paid any Other Taxes to the relevant Governmental Authority in accordance with Applicable Law.

(c) Indemnification by Borrower. Loan Parties shall jointly and severally indemnify or cause to be indemnified the Administrative Agent, the Collateral Agent and each Lender, within thirty (30) days after written demand therefor, for the full amount of any Indemnified Taxes or

Other Taxes (including Indemnified Taxes or Other Taxes imposed or asserted on or attributable to amounts payable under this Section but without duplication of any amounts indemnified under Section 2.11(a)) paid or payable by the Administrative Agent, the Collateral Agent or such Lender, as the case may be, and any penalties, interest and reasonable expenses arising therefrom or with respect thereto whether or not such Indemnified Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to Borrower by the Collateral Agent or a Lender, or by the Administrative Agent on its own behalf or on behalf of the Collateral Agent or a Lender, shall be conclusive absent manifest error.

(d) Evidence of Payments. As soon as practicable after any payment of Indemnified Taxes or Other Taxes by any Loan Party to a Governmental Authority, the relevant Loan Party shall deliver or cause to be delivered to the Administrative Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment satisfactory to the Administrative Agent, acting reasonably.

(e) Forms. (i) Any of the Administrative Agent, the Collateral Agent or any Lender (including any assignee Lender) that is legally entitled to an exemption from or reduction of withholding tax under the law of the jurisdiction in which Borrower is located with respect to payments under this Agreement shall deliver to Borrower (with a copy to the Administrative Agent), at the time or times reasonably requested in writing by Borrower, the Collateral Agent or the Administrative Agent, such properly completed and executed documentation prescribed by Applicable Law as will permit such payments to be made without or at a reduced rate of, withholding. In addition, any of the Administrative Agent, the Collateral Agent or any Lender, if reasonably requested in writing by Borrower or the Administrative Agent, shall deliver such other documentation prescribed by law or reasonably requested by Borrower or the Administrative Agent as will enable Borrower or the Administrative Agent to determine whether or not such Lender is subject to any withholding tax. Upon the reasonable written request of Borrower or the Administrative Agent, or if any form or certification previously delivered expires or becomes obsolete or inaccurate, any Lender shall update any such form or certification previously delivered pursuant to this Section 2.11(e). Notwithstanding anything to the contrary in the preceding three sentences, the completion, execution and submission of such documentation shall not be required if in the Lender's judgment such completion, execution or submission would subject such Lender to any material unreimbursed cost or expense (or, in the case of a Change in Law, any incremental material unreimbursed cost or expense) or would materially prejudice the legal or commercial position of such Lender.

(ii) Without limiting the generality of the foregoing, in the event that Borrower is a US Person,

(A) any Lender that is a US Person shall deliver to Borrower and the Administrative Agent on or prior to the date on which such Lender becomes a party to this Agreement (and from time to time thereafter upon the reasonable request of Borrower or the Administrative Agent), executed copies of IRS Form W-9 certifying that such Lender is exempt from U.S. federal backup withholding tax;

(B) any Lender who is not a US Person shall, to the extent it is legally entitled to do so, deliver to Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Lender becomes a party to this Agreement (and from time to time thereafter upon the reasonable request of Borrower or the Administrative Agent), whichever of the following is applicable:

(I) in the case of a Lender who is not a US Person claiming the benefits of an income tax treaty to which the United States is a party (x) with respect to payments of interest under this Agreement or any Transaction Document, executed copies of IRS Form W-8BEN or W-8BEN-E establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "interest" article of such tax treaty and (y) with respect to any other applicable payments under this Agreement or any Transaction Document, IRS Form W-8BEN or W-8BEN-E establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "business profits" or "other income" article of such tax treaty;

(II) executed copies of IRS Form W-8ECI;

(III) in the case of a Lender who is not a US Person claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (x) a certificate to the effect that such Lender is not a "bank" within the meaning of Section 881(c)(3)(A) of the Code, a "10 percent shareholder" of Borrower within the meaning of Section 881(c)(3)(B) of the Code, or a "controlled foreign corporation" described in Section 881(c)(3)(C) of the Code (a "U.S. Tax Compliance Certificate") and (y) executed copies of IRS Form W-8BEN or W-8BEN-E, as applicable; or

(IV) to the extent a Lender who is not a US Person is not the beneficial owner, executed copies of IRS Form W-8IMY, accompanied by IRS Form W-8ECI, IRS Form W-8BEN or W-8BEN-E, as applicable, a U.S. Tax Compliance Certificate, IRS Form W-9, and/or other certification documents from each beneficial owner, as applicable; provided that if such Lender is a partnership and one or more direct or indirect partners of such Lender are claiming the portfolio interest exemption, such Lender may provide a U.S. Tax Compliance Certificate on behalf of each such direct and indirect partner.

(f) If the Administrative Agent, the Collateral Agent or any Lender determines, in its sole discretion exercised in good faith, that it has received a refund of any Indemnified Taxes or Other Taxes as to which it has been indemnified by a Loan Party or with respect to which a Loan Party has paid additional amounts pursuant to this Section 2.11, it shall pay over such refund to Borrower, net of all of its out-of-pocket expenses (including Taxes with respect to such refund) and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund); provided that Borrower, upon the request of the Administrative Agent, the

Collateral Agent or any Lender, as the case may be, agrees to repay as soon as reasonably practicable the amount paid over to Borrower (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Administrative Agent, the Collateral Agent or any Lender, as the case may be, in the event the Administrative Agent, the Collateral Agent or any Lender, as the case may be, is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this Section 2.11(f), in no event will the Administrative Agent, the Collateral Agent or any Lender be required to pay any amount to Borrower pursuant to this Section 2.11(f) the payment of which would place the Administrative Agent, the Collateral Agent or the Lender, as the case may be, in a less favorable net after-Tax position than it would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. This Section 2.11(f) shall not be construed to require any indemnified party to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to the indemnifying party or any other Person.

(g) If a payment made to the Administrative Agent, the Collateral Agent or any Lender under this Agreement would be subject to U.S. federal withholding Tax imposed by FATCA if such Administrative Agent, Collateral Agent or Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Administrative Agent, Collateral Agent or Lender shall deliver to Borrower and the Administrative Agent at the time or times prescribed by law and at such time or times reasonably requested by Borrower or the Administrative Agent such documentation prescribed by Applicable Law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by Borrower or the Administrative Agent as may be necessary for Borrower and the Administrative Agent to comply with their obligations under FATCA and to determine that such Lender has complied with such Person's obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of this clause, "FATCA" shall include any amendments made to FATCA after the date of this Agreement.

(h) Survival. Each party's obligations under this Section 2.11 shall survive the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, a Lender, the termination of the Loans and the repayment, satisfaction or discharge of all obligations under any Transaction Documents.

Section 2.12 Payments Generally; Pro Rata Treatment; Sharing of Setoffs.

(a) Payments by Borrower. Unless otherwise specified, Borrower shall make each payment required to be made by it hereunder, or by way of transfer from Depositary Bank, (whether of principal, interest, fees, or under Section 2.09 or 2.11, or otherwise) or under any other Financing Document (except to the extent otherwise provided therein) prior to 1:00 p.m., New York City time, on the date when due, in immediately available funds, without setoff or counterclaim. Any amounts received after such time on any date shall be deemed to have been received on the next succeeding Business Day for purposes of calculating interest thereon. All such payments shall be made to the Administrative Agent for the benefit of each Agent and Lender to the accounts specified in writing by the Administrative Agent to the Borrower on or

after the Closing Date, except as otherwise expressly provided in the relevant Financing Document and payments pursuant to Sections 2.11, 2.12 and 10.03, which shall be made directly to the Persons entitled thereto, in each case subject to the terms of this Agreement. The Administrative Agent shall distribute any such payments received by it in like funds as received for account of any other Person to the appropriate recipient promptly (and in any case not more than one (1) Business Day) following receipt thereof. Payments to each Lender shall be made to such Lender in accordance with its Administrative Questionnaire. If any payment hereunder shall be due on a day that is not a Business Day, the date for payment shall be extended to the immediately preceding Business Day and, in the case of any payment accruing interest, interest thereon shall be payable for the period of such extension. All amounts owing under this Agreement or under any other Financing Document are payable in Dollars.

(b) Application of Insufficient Payments. If at any time insufficient funds are received by and available to the Administrative Agent to pay fully all amounts of principal, interest, fees and other amounts then due hereunder, such funds shall be applied (i) first, to pay interest, fees and other amounts (except for the amounts required to be paid pursuant to the following clause (ii)) then due hereunder, ratably among the parties entitled thereto in accordance with the amounts of interest, fees and such other amounts then due to such parties, and (ii) second, to pay principal then due hereunder, ratably among the parties entitled thereto in accordance with the amounts of principal then due to such parties.

(c) Pro Rata Treatment. Except to the extent otherwise provided herein: (i) the Loan shall be made from the Lenders, and each termination or reduction of the amount of the Commitments under Section 2.04 shall be applied to the respective Commitments of the Lenders, *pro rata* according to the amounts of their respective applicable Commitments; (ii) except as provided in Section 2.06(c), each payment or prepayment of principal of the Loan by Borrower shall be made for account of the Lenders *pro rata* in accordance with the respective unpaid principal amounts of the Loan held by them being paid or prepaid; and (iii) each payment of interest on the Loan by Borrower shall be made for account of the Lenders (except, in the case of prepayments under Section 2.06(b), for Lenders not receiving a principal repayment thereunder), *pro rata* in accordance with the amounts of interest on the Loan then due and payable to the respective Lenders.

(d) Sharing of Payments by Lenders. If any Lender shall, by exercising any right of setoff or counterclaim or otherwise, obtain payment or recover any amount in respect of any principal of or interest on any of its Loan resulting in such Lender receiving a greater proportion of the aggregate amount of the Loan and accrued interest thereon then due than the proportion received by any other Lender, then, unless otherwise agreed in writing by the Lenders, the Lender receiving such greater proportion shall purchase (for cash at face value) participations in the Loans of other Lenders to the extent necessary so that the benefit of all such payments shall be shared by the Lenders ratably in accordance with the aggregate amount of principal of and accrued interest on their respective Loan; provided that (i) if any such participations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations shall be rescinded and the purchase price restored to the extent of such recovery, without interest, and (ii) the provisions of this Section 2.12(d) shall not be construed to apply to any payment made by Borrower pursuant to and in accordance with the express terms of this Agreement or any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loan to any

assignee or Participant, other than to Borrower or any Affiliate thereof (as to which the provisions of this Section 2.12(d) shall apply), provided further that no Lender shall be required to purchase a participation from a Lender rejecting its option to receive prepayments under Section 2.06(b) to the extent disproportionality results from the rejecting Lender's election under Section 2.06(b). Each Loan Party consents to the foregoing and agrees, to the extent it may effectively do so under Applicable Law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against such Loan Party rights of setoff and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of such Loan Party in the amount of such participation.

(e) Presumptions of Payment. Unless the Administrative Agent shall have received notice from Borrower prior to the date on which any payment is due to the Administrative Agent for account of the Lenders hereunder that Borrower will not make such payment, the Administrative Agent may assume that Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Lenders the amount due to them. In such event, if Borrower has not in fact made such payment within one (1) Business Day after such due date, then each of the Lenders severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation.

(f) Certain Deductions by the Administrative Agent. If any Lender shall fail to make any payment required to be made by it pursuant to Sections 2.03, 2.12(e) or 10.03(c), then the Administrative Agent may, in its discretion (notwithstanding any contrary provision hereof), apply any amounts thereafter received by the Administrative Agent for account of such Lender to satisfy such Lender's obligations under such Sections until all such unsatisfied obligations are fully paid.

Section 2.13 Change of Lending Office. If any Lender requests compensation under Section 2.09, or if Borrower is required to pay any additional amount to any Lender or any Governmental Authority for account of any Lender pursuant to Section 2.11 then such Lender shall (i) file any certificate or document reasonably requested in writing by Borrower and/or (ii) use reasonable efforts to designate a different Lending Office for funding or booking its Loan hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the sole judgment of such Lender exercised in good faith, such designation or assignment (x) would eliminate or reduce amounts payable pursuant to Section 2.09 or 2.11, as the case may be, in the future and (y) would not subject such Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender in any material respect. Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment.

Section 2.14 Acknowledgement and Consent to Bail-In of EEA Financial Institutions. Notwithstanding anything to the contrary in any Financing Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any EEA Financial Institution arising under any Financing Document, to the extent

such liability is unsecured, may be subject to the Write-Down and Conversion Powers of an EEA Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

(a) the application of any Write-Down and Conversion Powers by an EEA Resolution Authority to any such liabilities arising hereunder which may be payable to it by any party hereto that is an EEA Financial Institution; and

(b) the effects of any Bail-In Action on any such liability, including, if applicable:

(i) a reduction in full or in part or cancellation of any such liability;

(ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such EEA Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Financing Document; or

(iii) the variation of the terms of such liability in connection with the exercise of the Write-Down and Conversion Powers of any EEA Resolution Authority.

Section 2.15 Reimbursement Obligations under Lender Credit Support Documents. For the avoidance of doubt, notwithstanding anything to the contrary contained herein or in any other Financing Document, Borrower's obligation to make any payments in respect of any Deemed Loan (whether principal, interest, fees, premiums or otherwise) shall not be duplicative of any corresponding obligation to reimburse an obligation in respect of any Lender Credit Support Document giving rise to such Deemed Loan (whether principal, interest, fees, premiums or otherwise).

Section 2.16 Lender Joinder. Each of the parties hereto expect that, on or prior to the OpCo Tranche A Funding Date, one or more Persons shall accede to this Agreement as a Lender pursuant to one or more Lender Joinders delivered pursuant to Section 4.02(p), and each such Person shall thereafter perform, in accordance with the terms of this Agreement and the other Financing Documents, all of its respective obligations which by the terms of the Agreement are required to be performed by it as a Lender (including the obligations set forth in this Article II).

ARTICLE III

REPRESENTATIONS AND WARRANTIES

Each Loan Party represents and warrants to each Agent and the Lenders that (a) as of the Closing Date, (i) with respect to the representations and warranties set forth in Sections 3.01(a), 3.02, 3.03, 3.06(a), 3.07, 3.08, 3.11, 3.12, 3.13, 3.15, 3.16(b), 3.17, 3.19, 3.21, 3.22, 3.23, 3.24, 3.25, 3.26, 3.27 and 3.28(a) only and (ii) solely with respect to Borrower and Pledgor, and (b) as of any Funding Date and on any other date that the representations specified in this Article III are required to be made, with respect to all representations and warranties set forth in this Article III

(other than the representations and warranties set forth in Sections 3.06(a), 3.12, 3.22(b), 3.23 and 3.28(a)), and with respect to all Loan Parties:

Section 3.01 Due Organization, Etc.

(a) Each Loan Party is a limited liability company or corporation, as applicable, duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization. Each Loan Party has all requisite limited liability company, corporate or other organizational power and authority to own or lease and operate its assets and to carry on its business as now conducted and as proposed to be conducted and each Loan Party is duly qualified to do business and is in good standing in each jurisdiction where necessary in light of its business as now conducted and as proposed to be conducted, except where the failure to so qualify could not reasonably be expected to be material and adverse to the Loan Parties or the Lenders. No filing, recording, publishing or other act by a Loan Party that has not been made or done is necessary in connection with the existence or good standing of such Loan Party.

(b) Pledgor is the Class A Member (as defined in the Borrower LLC Agreement) of Borrower, and all Capital Stock in Borrower is beneficially owned and controlled by Pledgor (other than the Class B Units and the Class C Units) free and clear of all Liens other than Permitted Liens.

(c) Borrower is the sole member of OpCo Pledgor, and all Capital Stock in OpCo Pledgor is beneficially owned and controlled by Borrower free and clear of all Liens other than Permitted Liens.

Section 3.02 Authorization, Etc. Each Loan Party has full corporate, limited liability company or other organizational powers, authority and legal right to enter into, deliver and perform its respective obligations under each of the Transaction Documents to which it is a party and to consummate each of the transactions contemplated herein and therein, and has taken all necessary corporate, limited liability company or other organizational action to authorize the execution, delivery and performance by it of each of the Transaction Documents to which it is a party. Each of the Transaction Documents to which any Loan Party is a party has been duly executed and delivered by such Loan Party and is in full force and effect and constitutes a legal, valid and binding obligation of such Loan Party, enforceable against such Loan Party in accordance with its respective terms, except as enforcement may be limited (i) by Bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance or other similar laws affecting creditors' rights generally, (ii) by general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law) and (iii) by implied covenants of good faith and fair dealing.

Section 3.03 No Conflict. The execution, delivery and performance by each Loan Party of each of the Transaction Documents to which it is a party and all other documents and instruments to be executed and delivered hereunder by it, as well as the consummation of the transactions contemplated herein and therein, do not and will not (i) conflict with the Organizational Documents of such Loan Party, (ii) conflict with or result in a breach of, or constitute a default under, any indenture, loan agreement, mortgage, deed of trust or other instrument or agreement to which such Loan Party is a party or by which it is bound or to which such Loan Party's property or assets are subject, except where such contravention or breach could

not reasonably be expected to be material and adverse to the Loan Parties or Lenders, (iii) conflict with or result in a breach of, or constitute a default under, in any material respect, any Applicable Law, except where such contravention or breach could not reasonably be expected to have a Material Adverse Effect, or (iv) with respect to each Loan Party, result in the creation or imposition of any Lien (other than a Permitted Lien) upon any of such Loan Party's property or the Collateral.

Section 3.04 [Reserved]

Section 3.05 No Material Adverse Effect. Since the SPA Execution Date (as defined in the OpCo Senior Credit Agreement), no event, change or condition has occurred that has caused, or could be reasonably expected to cause, a Material Adverse Effect.

Section 3.06 Litigation. Except as set forth on Schedule 3.06,

(a) There is no pending or, to the knowledge of any Authorized Representative of any Loan Party, threatened (in writing) litigation, investigation, action or proceeding of or before any court, arbitrator or Governmental Authority (in the case of any of the foregoing not involving the Loan Parties, to the knowledge of any Authorized Representative of any Loan Party) (i) seeking to restrain or prohibit the consummation of the transactions contemplated by the Transaction Documents, (ii) purporting to affect the legality, validity or enforceability of any of the Transaction Documents or (iii) that affects the Project or any material part of the Site; and

(b) As of any date on which the representation and warranty set forth in this Section 3.06(b) is made, there is no pending or, to the knowledge of any Authorized Representative of any Loan Party, threatened (in writing) litigation, investigation, action or proceeding of or before any court, arbitrator or Governmental Authority (in the case of any of the foregoing not involving the Loan Parties, to the knowledge of any Authorized Representative of any Loan Party) (i) seeking to restrain or prohibit the consummation of the transactions contemplated by the Transaction Documents, (ii) purporting to affect the legality, validity or enforceability of any of the Transaction Documents or (iii) that affects the Project or any material part of the Site, which in any such case (either individually or in the aggregate) under the foregoing clauses (i) through (iii) could reasonably be expected to have a Material Adverse Effect.

Section 3.07 Authorizations; Environmental Matters. Except as set forth on Schedule 3.07:

(a) each Loan Party is now and has been in compliance with all applicable Environmental Laws, except as would not be reasonably expected to have a Material Adverse Effect;

(b) [Reserved];

(c) there are no past, pending or, to the knowledge of an Authorized Representative of any Loan Party, threatened, Environmental Claims asserted against any Loan Party, including any consent decrees, orders, settlements or other agreements relating to compliance or liability with Environmental Laws, except as would not be reasonably expected to have a Material Adverse Effect;

(d) there has been no Release or threat of Release of Hazardous Materials at, on, from or under any real property currently or formerly owned, leased or operated by any Loan Party, except in each case in compliance with Environmental Laws, except as would not be reasonably expected to have a Material Adverse Effect;

(e) there have been no material environmental investigations, studies, audits, reviews or other analyses conducted by any Loan Party which disclose any potential basis for Environmental Claims, except as would not be reasonably expected to have a Material Adverse Effect; and

(f) each Loan Party has made available copies of all significant reports, correspondence and other documents in its possession, custody or control regarding compliance by any of the Loan Parties, or potential liability of any of the Loan Parties under Environmental Laws or Authorizations required under Environmental Laws, except as would not be reasonably expected to have a Material Adverse Effect.

This Section 3.07 sets forth the only representations and warranties of the Loan Parties related to any Environmental Claims or any other environmental matters.

Section 3.08 Compliance with Laws and Obligations. Subject to Section 3.07, each Loan Party is in compliance with all Applicable Laws applicable to the Loan Parties, except where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect.

Section 3.09 [Reserved].

Section 3.10 Licenses.

(a) Each Loan Party owns, or is licensed to use, all patents, trademarks, permits, proprietary information and knowledge, technology, copyrights, licenses, franchises and formulas, or rights with respect thereto and all other intellectual property, necessary for its business and that are material to the performance by it of its obligations under the Transaction Documents to which it is a party, in each case, as to which the failure of such Loan Party to so own or be licensed could reasonably be expected to have a Material Adverse Effect, and the use thereof by such Loan Party does not infringe in any material respect upon the rights of any other Person.

(b) Each Loan Party has obtained all necessary licenses, easements and access rights required for the Project the absence of any of which could reasonably be expected to have a Material Adverse Effect as set forth on Schedule 3.10.

Section 3.11 Taxes.

(a) Each Loan Party has timely filed or caused to be filed all material tax returns and reports required to have been filed by it and has paid or has caused to be paid all material taxes required to have been paid by it (whether or not shown as due on any tax returns), other than taxes that are being contested in accordance with the Permitted Contest Conditions;

(b) Each Loan Party is properly treated as a disregarded entity or a partnership for U.S. federal income tax purposes and has not filed an election pursuant to Treasury Regulation Section 301.7701- 3(c) to be treated as an association taxable as a corporation; and

(c) No Property held by any Loan Party is the subject of any temporary tax abatement or any other temporary tax reduction.

Section 3.12 Full Disclosure; Projections.

(a) None of the written reports, financial statements, certificates or other written information (other than Projections and information of a general economic or industry nature) furnished by or on behalf of any Loan Party to the Administrative Agent or any Lender in connection with the negotiation and execution of this Agreement or delivered hereunder (as modified or supplemented by other information so furnished), taken as a whole, contains any material misstatement of fact or omits to state any material fact necessary to make such statements therein, in the light of the circumstances under which they were made, not materially misleading; provided, that with respect to the financial information described in Section 4.02(q)(ii) of the OpCo Senior Credit Agreement, the representation and warranty set forth in this Section 3.12(a) is solely given to the knowledge of Borrower.

(b) Each Loan Party's sole representation with respect to information consisting of statements, estimates, forecasts and projections regarding the Loan Parties and the future performance of the Project or other expressions of view as to future circumstances (including the Financial Model, the Operating Budget, the Construction Budget, the Construction Schedule, and estimates, budgets, forecasts, financial information and "forward-looking statements" that have been made available to any Secured Party by or on behalf of any Loan Party or any of its representatives or Affiliates (collectively, "Projections")), shall be that such Projections have been prepared in good faith based upon assumptions believed to be reasonable at the time of preparation thereof and are consistent in all material respects with the Financing Documents and the Project Documents as of the time of preparation thereof; provided that it is understood and acknowledged that such Projections are based upon a number of estimates and assumptions and are subject to business, economic and competitive uncertainties and contingencies, that actual results during the period or periods covered by any such Projections may differ from the projected results and such differences may be material and that, accordingly, no assurances are given and no representations, warranties or covenants are made that any of the assumptions are correct, that such Projections will be achieved or that the forward-looking statements expressed in such Projections will correspond to actual results.

Section 3.13 Senior Obligations. Each Loan Party's obligations under the Financing Documents are the direct and unconditional general obligations of such Loan Party and, on and after the Initial Funding Date, rank senior in priority of payment and in all other respects with all other present or future unsecured and secured Indebtedness of such Loan Party.

Section 3.14 Solvency. Each Loan Party is Solvent.

Section 3.15

Regulatory Restrictions on the Loan. No Loan Party is an "investment company" within the meaning of the Investment Company Act of 1940 of the United States (including the rules and regulations thereunder), as amended.

Section 3.16 Title; Security Documents.

(a) Each Loan Party owns and has good, legal and marketable title to all material properties and assets, in each case purported to be covered by the Security Documents to which it is party free and clear of all Liens other than Permitted Liens.

(b) The provisions of the Security Documents to which any Loan Party is a party that have been delivered on or prior to the date this representation is made are (and each other Security Document to which any Loan Party will be a party when delivered thereafter will be), effective to create, in favor of the Collateral Agent for the benefit of the Secured Parties, a legal, valid and enforceable first-priority Lien on and security interest in all of the Collateral purported to be covered thereby, and all necessary recordings and filings have been (or, in the case of such other Security Documents, will be) made in all necessary public offices, and all other necessary and appropriate action has been (or, in the case of such other Security Documents, will be) taken, so that the security interest created by each Security Document is a first-priority perfected Lien on and security interest in all right, title and interest of such Loan Party in the Collateral purported to be covered thereby, prior and superior to all other Liens other than Permitted Liens.

Section 3.17 ERISA.

(a) No ERISA Event has occurred or is reasonably expected to occur which has or could reasonably be expected to have a Material Adverse Effect. Each Pension Plan has complied in all material respects with the applicable provisions of ERISA and the Code. No termination of a Pension Plan has occurred resulting in any liability that has remained underfunded and no Lien against any Loan Party or any of its ERISA Affiliates in favor of the PBGC or a Pension Plan has arisen during the five-year period prior to the date hereof. None of the Loan Parties or any of its ERISA Affiliates has incurred any liability in an amount which has or could reasonably be expected to have a Material Adverse Effect on account of a complete or partial withdrawal from a Multiemployer Plan.

(b) None of the Loan Party has incurred any obligation which has or could reasonably be expected to have a Material Adverse Effect on account of the termination or withdrawal from any Foreign Plan.

Section 3.18 Insurance. All insurance policies required to be obtained by the Loan Parties pursuant to Section 5.06 have been obtained and are in full force and effect as required under Section 5.06 and all premiums then due and payable thereon have been paid in full. No Loan Parties has received any notice from any insurer that any insurance policy has ceased to be in full force and effect or claiming that the insurer's liability under any such insurance policy can be reduced or avoided.

Section 3.19 Single-Purpose Entity.

(a) Each of Pledgor and Borrower is a single purpose entity created for purposes of the transactions contemplated hereby and the performance of its obligations under the Transaction Documents to which it is a party and, in each case, activities related thereto or incident thereto, and has not engaged in any business other than the performance of its obligations under the Transaction Documents to which it is a party and, in each case, activities related thereto, and neither Pledgor nor Borrower has any obligations or liabilities other than those arising out of or relating to the conduct of such business or activities related or incidental thereto.

(b) No Loan Party has (i) commingled its assets with any other Loan Party or any other Person, (ii) used its assets to pay the obligations of any other Loan Party or any other Person or (iii) held itself out to third parties as anything other than an entity legally separate from each other Loan Party and any other Person.

Section 3.20 Use of Proceeds. The proceeds the Loan have been used solely in accordance with, and solely for the purposes contemplated by, Section 5.13. No part of the proceeds of any Loan and other extensions of credit hereunder will be used, either directly or indirectly, by any Loan Party to purchase or carry any Margin Stock (as defined in Regulation U) or to extend credit to others for the purpose of purchasing or carrying any Margin Stock or for any purpose that entails a violation of any of the regulations of the Board.

Section 3.21 Membership Interests and Related Matters.

(a) Other than set forth on Schedule 3.21(a), as of the Closing Date, (i) no Loan Party has any Subsidiaries and no Loan Party owns any equity interest in, or otherwise Controls any Voting Stock of or have any ownership interest in, any Person and (ii) no OpCo Loan Party has any Subsidiaries and no OpCo Loan Party owns any equity interest in, or otherwise Control any Voting Stock of or have any ownership interest in, any Person.

(b) All of the membership interests in each Loan Party have been duly authorized and validly issued in accordance with its Organizational Documents, are fully paid and non-assessable and free and clear of all Liens other than Permitted Liens. Other than as set forth on Schedule 3.21(b), no Loan Party has outstanding any securities convertible into or exchangeable for any of its membership interests in or any rights to subscribe for or to purchase, or any warrants or options for the purchase of, or any agreements providing for the issuance (contingent or otherwise) of, or any calls, commitments or claims of any character relating to any such membership interests (except as expressly provided for or permitted herein or in the Security Documents).

(c) There are no agreements or understandings (other than the Financing Documents and the Borrower LLC Agreement) (i) to which Borrower is a party with respect to the voting, sale or transfer of any shares of Capital Stock of Borrower or restricting the transfer or hypothecation of any such shares or (ii) with respect to the voting, sale or transfer of any shares of Capital Stock of Borrower or restricting the transfer or hypothecation of any such shares.

Section 3.22 Permitted Indebtedness; Investments.

(a) No Loan Party has created, incurred, assumed or suffered to exist any Indebtedness, other than Permitted Indebtedness.

(b) As of the Closing Date, all Indebtedness of the OpCo Loan Parties incurred pursuant to Section 6.02(b) is listed on Schedule 3.22(b).

(c) None of the Loan Parties has made any advance, loan or extension of credit to, or made any acquisition or Investment (whether by way of transfers of property, contributions to capital, acquisitions of stock, securities, evidences of Indebtedness or otherwise) in, or purchase of any stock, bonds, notes, debentures or other securities of, any other Person, other than as permitted under Section 6.04.

Section 3.23 Agreements with Affiliates. As of the Closing Date, Schedule 3.23 sets forth any and all agreements, transactions or series of related transactions among, on one hand, one or more Loan Parties, and on the other hand, one or more Affiliates of a Loan Party (other than the Loan Parties).

Section 3.24 No Bank Accounts. No Loan Party maintains, or has caused the Depositary Bank or any other Person to maintain, any accounts other than the Accounts and any other account permitted under the Financing Documents.

Section 3.25 No Default or Event of Default; No OpCo Senior Default or OpCo Senior Event of Default. No Default or Event of Default has occurred and is continuing. No OpCo Senior Default or OpCo Senior Event of Default has occurred and is continuing.

Section 3.26 Foreign Assets Control Regulations.

(a) None of the Loan Parties, and none of their respective officers or directors, or, to any of the Loan Parties' knowledge, their respective Affiliates or agents (i) is a Sanctioned Person; or (ii) engages in any dealings or transactions in or with a Sanctioned Country or that are otherwise prohibited by Sanctions.

(b) Each of the Loan Parties has implemented and currently maintains policies and procedures to ensure compliance with Sanctions, Anti-Corruption Laws, and Anti-Money Laundering Laws.

(c) Each of the Loan Parties and their respective officers, directors, employees and, to the Loan Parties' knowledge, agents are in compliance with Anti-Corruption Laws, Anti-Money Laundering Laws and Sanctions.

(d) No part of the proceeds of the Loans will be used, directly or indirectly (i) in violation of the FCPA, Anti-Money Laundering Laws or Sanctions or (ii) to offer or make payments or to take any other action that would constitute a violation, or implicate any Lender, Administrative Agent, Collateral Agent or their respective Affiliates in a violation, of Anti-Corruption Laws or applicable Sanctions.

(e) Each of the Loan Parties has disclosed all facts known to it regarding (a) all claims, damages, liabilities, obligations, losses, penalties, actions, judgment, and/or allegations of any kind or nature that are asserted against, paid or payable by such Person, any of its Affiliates or any of its representatives in connection with non-compliance with Anti-Corruption Laws, Sanctions or Anti-Money Laundering Laws by such Person, and (b) any investigations involving possible non-

compliance with Anti-Corruption Laws, Sanctions or Anti-Money Laundering Laws by such Person or such Affiliate or such representative. No proceeding by or before any Governmental Authority involving any Loan Party with respect to Anti-Corruption Laws, Sanctions or Anti-Money Laundering Laws is pending or, to the knowledge of the Loan Parties, threatened.

Notwithstanding anything to the contrary in this Section 3.26, the representation set forth in this Section 3.26 shall be given with respect to Project Company only for the period after the Acquisition.

Section 3.27 Commercial Activity; Absence of Immunity. The Loan Parties are subject to civil and commercial law with respect to their obligations under the Transaction Documents, and the making and performance of the Transaction Documents by the Loan Parties constitute private and commercial acts rather than public or governmental acts. The Loan Parties are not entitled to any immunity on the ground of sovereignty or the like from the jurisdiction of any court or from any action, suit, setoff or proceeding, or the service of process in connection therewith, arising under the Financing Documents.

Section 3.28 OpCo Loan Parties Representation and Warranties.

(a) As of the Closing Date, the representations and warranties of each OpCo Loan Party set forth in the OpCo Senior Financing Documents for the OpCo Senior Closing Date shall be true and correct in all material respects (except where already qualified by materiality or Material Adverse Effect, in which case, such representations and warranties shall be true and correct in all respects) on and as of the Closing Date (unless stated therein to relate solely to an earlier date, in which case such representations and warranties were true and correct as of such earlier date).

(b) As of each Funding Date, the representations and warranties of each OpCo Loan Party set forth in the OpCo Senior Financing Documents for Funding Dates (as such term is defined in the OpCo Senior Credit Agreement) are true and correct in all material respects (except where already qualified by materiality or Material Adverse Effect, in which case, such representations and warranties shall be true and correct in all respects) on and as of such Funding Date (unless stated therein to relate solely to an earlier date, in which case such representations and warranties were true and correct as of such earlier date).

Section 3.29 OpCo Senior Financing Documents. Except as may have been agreed by the Administrative Agent in writing, acting at the direction of the Required Lenders, none of the OpCo Senior Financing Documents has been modified, supplemented, amended, amended and restated or otherwise modified and no consents, approvals or waivers have been sought or granted under any of the OpCo Senior Financing Documents.

ARTICLE IV

CONDITIONS

Section 4.01 Conditions to the Closing Date. The occurrence of the Closing Date, the effectiveness of this Agreement and the obligations of Agent and each Lender hereunder are subject to the receipt by the Administrative Agent (except as set forth otherwise below) of each

of the following documents, and the satisfaction of the conditions precedent set forth below, each of which must be satisfied to the reasonable satisfaction of the Administrative Agent and each Lender (unless waived in accordance with Section 10.02):

(a) Execution of Financing Documents; Delivery of OpCo Senior Financing Documents.

(i) The Financing Documents ((x) including the HoldCo Lender Backstop Agreement but (y) excluding a Control Agreement in respect of the Accounts) shall have been duly executed and delivered by the Persons intended to be parties thereto and shall be in full force and effect.

(ii) The Administrative Agent shall have received executed copies of each of (i) the OpCo Senior Financing Documents and (ii) the Borrower LLC Agreement.

(b) Corporate Documents. The following documents, each certified as of the Closing Date as indicated below:

(i) copies of the Organizational Documents, together with any amendments thereto, of each Loan Party and OpCo Loan Party and a certificate of good standing or its equivalent (if any) for the applicable jurisdiction for each such party (in each case such good standing certificate or its equivalent dated no more than ten (10) Business Days prior to the Closing Date);

(ii) an Officer's Certificate of each Loan Party and OpCo Loan Party dated as of the Closing Date, certifying:

(A) that attached to such certificate is a correct and complete copy of the Organizational Documents referred in clause (i) above for such Person;

(B) attached to such certificate is a correct and complete copy of resolutions duly adopted by the board of directors, member(s), partner(s) or other authorized governing body of such Person, and that such resolutions or other evidence of authority have not been modified, rescinded or amended and are in full force and effect;

(C) that the certificate of incorporation, certificate of formation, charter or other Organizational Documents (as the case may be) referred in clause (i) above for such Person has not been amended since the date of the certification furnished pursuant to clause (i) above;

(D) as to the incumbency and specimen signature of each officer, member or partner (as applicable) of such Person executing the Financing Documents to which such Person is or is intended to be a party (and each Lender may conclusively rely on such certificate until it receives notice in writing from such Person); and

(E) as to the qualification of such Person to do business in each jurisdiction where its operations require qualification to do business and as to the absence of any pending proceeding for the dissolution or liquidation of such Person.

(c) Reports of Consultants. The Administrative Agent shall have received copies of each consultant report delivered to the OpCo Senior Administrative Agent under Section 4.01(c) of the OpCo Senior Credit Agreement.

(d) Representations and Warranties. The representations and warranties of each Loan Parties set forth in the Financing Documents shall be true and correct in all material respects (except where already qualified by materiality or Material Adverse Effect, in which case, such representations and warranties shall be true and correct in all respects) on and as of the Closing Date (unless stated to relate solely to an earlier date, in which case such representations and warranties were true and correct as of such earlier date). The representations and warranties of each OpCo Loan Party set forth in the OpCo Senior Financing Documents shall be true and correct in all material respects (except where already qualified by materiality or Material Adverse Effect, in which case, such representations and warranties shall be true and correct in all respects) on and as of the OpCo Senior Closing Date (unless stated therein to relate solely to an earlier date, in which case such representations and warranties were true and correct as of such earlier date).

(e) Initial Material Project Documents. The Administrative Agent and each Lender shall have received (i) a copy of the SPA and (ii) copies of each Initial Material Project Document (other than the Pre-Acquisition Material Project Documents (as each such term is defined in the OpCo Senior Credit Agreement)), and any amendments thereto, together with a certificate by an Authorized Representative of Borrower and the OpCo Borrower certifying as of the Closing Date that each such copy of the SPA and each such Initial Material Project Document is a correct and complete copy thereof and the SPA (including all waivers, consents, amendments and other modifications thereof) and each such Initial Material Project Document (including all waivers, consents, amendments and other modifications thereof) is in full force and effect.

(f) [Reserved]

(g) Financial Model, Construction Budget and Construction Schedule. The Administrative Agent and each Lender shall have received copies of each of the Financial Model, the Construction Budget and the Construction Schedule delivered to the OpCo Senior Administrative Agent under the OpCo Senior Credit Agreement and each such document shall be in form and substance reasonably satisfactory by the Administrative Agent.

(h) Regulatory Information. Each Lender shall have received (i) all documentation and other written information required by bank regulatory authorities under applicable "know your customer" and anti-money laundering rules and regulations, including the USA PATRIOT Act, reasonably requested by them at least five (5) Business Days prior to execution of this Agreement and (ii) the Beneficial Ownership Regulation (including a Beneficial Ownership Certification).

(i) No Default or Event of Default; No Material Adverse Effect.

(i) No Default or Event of Default shall have occurred and be continuing on the Closing Date.

(ii) No OpCo Senior Default or OpCo Senior Event of Default shall have occurred and be continuing on the Closing Date.

(j) Collateral Perfection Matters. The Administrative Agent shall have received:

(i) appropriately completed UCC financing statements (Form UCC-l), which have been duly authorized for filing by the appropriate Person, naming the Loan Parties as debtors and Collateral Agent as secured party, in form appropriate for filing under the UCC of each jurisdiction as may be necessary to perfect the security interests purported to be created by the Security Documents, covering the applicable Collateral;

(ii) copies of UCC, judgment lien, tax lien and litigation lien search reports, which reports will be dated a recent date reasonably acceptable to the Administrative Agent, listing all effective financing statements that name each Loan Party as debtor and that are filed in the jurisdictions in which the UCC-1 financing statements will be filed in respect of the Collateral, none of which shall cover the Collateral except to the extent evidencing Permitted Liens;

(iii) appropriately completed copies of all other recordings and filings of, or with respect to, the Security Documents as may be reasonably requested by Collateral Agent and necessary to perfect the security interests purported to be created by the Security Documents;

(iv) evidence that the Collateral Agent shall have received the certificates representing the shares of Capital Stock that are pledged pursuant to the Security Agreement, together with an undated stock power for each such certificate executed in blank by a duly Authorized Representative of Pledgor or Borrower, as applicable; and

(v) evidence that all other actions reasonably requested by Collateral Agent and necessary to perfect and protect the security interests purported to be created by the Security Documents entered into on or prior to the Closing Date have been taken immediately prior to the occurrence of the Closing Date.

(k) Certain Agreements; Staffing Plan; Etc. The Administrative Agent shall have received copies of each agreement and plan delivered to the OpCo Senior Administrative Agent under Section 4.01(k) of the OpCo Senior Credit Agreement.

(l) Security Documents. The security interests in and to the Collateral as of the Closing Date intended to be created under the Security Documents in effect as of the Closing Date shall have been created in favor of the Collateral Agent for the benefit of the Secured Parties, are in full force and effect and the necessary notices, consents, acknowledgments, filings, registrations and recordings to preserve, protect and perfect the security interests in such Collateral have been made immediately prior to the occurrence of the Closing Date such that the security interests granted in favor of the Collateral Agent for the benefit of the Secured Parties are filed, registered and recorded and will constitute a first priority, perfected security interest in such Collateral free and clear of

any Liens, other than Permitted Liens, and all related recordation, registration and/or notarial fees of such Collateral have been paid to the extent required.

(m) [Reserved].

(n) [Reserved].

(o) VCOC Matters. The Administrative Agent shall have received copies of the board observer rights agreements delivered to the OpCo Senior Administrative Agent under Section 4.01(m)(ii) of the OpCo Senior Credit Agreement.

(p) Establishment of the Accounts. The Administrative Agent shall have received evidence that each of the Accounts required under this Agreement has been established in accordance with the terms thereof.

(q) [Reserved].

(r) [Reserved].

(s) [Reserved].

(t) [Reserved].

(u) Officer's Certificate. The Administrative Agent shall have received an Officer's Certificate of each Loan Party, dated as of the Closing Date, certifying that each of the conditions set forth in this Section 4.01 have been satisfied (other than with respect to whether any document, event or circumstance is satisfactory or otherwise acceptable to the Administrative Agent or any Lender or Agent).

(v) OpCo Senior Credit Agreement Deliverables. Without duplication of any other deliverable under this Section 4.01, the Administrative Agent shall have received each of the deliverables delivered to the OpCo Senior Administrative Agent under Section 4.01 of the OpCo Senior Credit Agreement.

Section 4.02 Conditions to Each Funding Date. The occurrence of each Funding Date and each Lender's obligations to make the Loans pursuant to Section 2.01 (other than Deemed Loans) are subject to the receipt by the Administrative Agent (except as set forth otherwise below) of each of the following documents, and the satisfaction of the conditions precedent set forth below, each of which must be satisfied to the reasonable satisfaction of the Administrative Agent (unless waived in accordance with Section 10.02):

(a) Borrowing Request. The Administrative Agent shall have received a Borrowing Request in accordance with Section 2.01, and the amount of such Borrowing Request shall not exceed the next ninety (90) days' worth of anticipated Project Costs.

(b) Existence and Good Standing. Each of the Loan Parties shall exist and be in good standing under the laws of the State of Delaware.

(c) Representations and Warranties. The representations and warranties of each Loan Parties set forth in the Financing Documents shall be true and correct in all material respects (except where already qualified by materiality or Material Adverse Effect, in which case, such representations and warranties shall be true and correct in all respects) on and as of such Funding Date (unless stated to relate solely to an earlier date, in which case such representations and warranties were true and correct as of such earlier date). The representations and warranties of each OpCo Loan Party set forth in the OpCo Senior Financing Documents for Funding Dates (as such term is defined in the OpCo Senior Credit Agreement) shall be true and correct in all material respects (except where already qualified by materiality or Material Adverse Effect, in which case, such representations and warranties shall be true and correct in all respects) on and as of such Funding Date (unless stated therein to relate solely to an earlier date, in which case such representations and warranties were true and correct as of such earlier date).

(d) No Default or Event of Default; No Material Adverse Effect.

(i) No Default or Event of Default shall have occurred and be continuing on such Funding Date.

(ii) No OpCo Senior Default or OpCo Senior Event of Default shall have occurred and be continuing on such Funding Date.

(iii) As of each Funding Date (other than the Initial Funding Date), since the Initial Funding Date, there shall not have been any event or series of events which has had or could reasonably be expected to have a Material Adverse Effect.

(e) Equity Kicker. In connection with each Funding Date, (i) such Lender (or the HoldCo Lender Equity Owners Affiliated with such Lender) shall have been granted Class C Units on the terms set forth in the Borrower LLC Agreement (such Class C Units, the "HoldCo Equity Kicker") so that such Lender (or its Affiliated HoldCo Lender Equity Owners) holds a proportion of Class C Units (relative to all Class C Units) equal to the proportion of Loans of such Lender (relative to all Loans then outstanding) (and, if required under the Borrower LLC Agreement, such Lender shall sign a joinder to such agreement), (ii) such Lender and Borrower shall have agreed in writing as to the portion of such Loan allocated to the purchase of the corresponding HoldCo Equity Kicker as required pursuant to Section 2.01(e) and (iii) if the Borrower LLC Agreement has been amended since the Closing Date, such amendment shall be in form reasonably satisfactory to the Required Lenders.

(f) Application of Prior Loans. Borrower shall have delivered to the Administrative Agent evidence reasonably satisfactory to the Administrative Agent that amounts withdrawn from the Construction Account prior to such Funding Date have been applied (or have been committed to be applied) to pay Project Costs.

(g) Deposits into Construction Account. Other than the Initial Funding Date, Borrower shall have delivered to the Administrative Agent evidence reasonably satisfactory to the Administrative Agent that all prior Loan proceeds have been deposited into the Construction Account.

(h) Fees and Expenses. Borrower has arranged for payment on such Funding Date (including through the application of Loan proceeds on such Funding Date) of all reasonable and documented out-of-pocket fees and expenses then due and payable pursuant to the Financing Documents.

(i) Initial Funding Date. Solely in respect of the Initial Funding Date,

(i) [Reserved];

(ii) the Administrative Agent shall have received an Officer's Certificate of each Loan Party, dated as of the Initial Funding Date, certifying that each of the conditions set forth in this Section 4.02 have been satisfied (other than with respect to whether any document, event or circumstance is satisfactory or otherwise acceptable to the Administrative Agent or any Lender or Agent);

(iii) the Administrative Agent and each Lender shall have received the Funds Flow Memorandum;

(iv) the Administrative Agent and each Lender shall have received an unaudited consolidated pro forma balance sheet of Borrower, dated as of the Initial Funding Date;

(v) each Lender shall have received a solvency certificate of the chief financial officer or president of Borrower, demonstrating that the Loan Parties are, on a consolidated basis, and after giving effect to the incurrence of all Indebtedness, will be, Solvent.

(j) [Reserved].

(k) Notes; CUSIP. Each Lender that has requested a Note or Notes, as applicable, prior to such Funding Date pursuant to Section 2.05(b) shall have (i) received a duly executed Note or Notes, as applicable, dated the applicable Funding Date, payable to such Lender in a principal amount equal to such Lender's Loan and (ii) a private placement number issued by Standard & Poor's CUSIP Service Bureau (in cooperation with the SVO) with respect to such Notes.

(l) Authorizations. All Authorizations set forth in Part I of Schedule 3.04 to the OpCo Senior Credit Agreement (i) have been duly obtained and validly issued, (ii) are in full force and effect and not subject to any pending or, to the knowledge of any Loan Party or OpCo Loan Party threatened, appeal, (iii) are issued to, assigned to, or otherwise assumed by, an OpCo Loan Party (or such Person is entitled to the benefit thereof), (iv) are not subject to any current legal proceeding to which any Loan Party or OpCo Loan Party is a party, (v) are free from any unsatisfied condition the failure of which to satisfy could reasonably be expected to have a Material Adverse Effect and (vi) there is no reason to believe that any such Authorization may be withdrawn, cancelled, varied, suspended or revoked.

(m) Debt Service Reserve Account. The Debt Service Reserve Account shall have been funded in an amount equal to or greater than the Debt Service Reserve Funding Amount.

(n) Approval from Senior Lenders. The Administrative Agent shall have received a copy of a withdrawal certificate that relates to a Control Agreement to which the Construction

Account is subject, countersigned by the OpCo Senior Administrative Agent, that irrevocably authorizes the disbursement from the Construction Account of all Loans described in the Borrowing Request with respect to such Funding Date.

(o) Senior Commitments Fully Committed. The sum of (i) any remaining OpCo Senior Commitments which are in full force and effective plus (ii) all outstanding OpCo Senior Loans equals an amount not less than $300,000,000.

(p) Lender Joinders. The Administrative Agent shall have received (x) one or more executed Lender Joinders providing for additional Commitments in an aggregate amount at least equal to $7,050,000 and (y) a joinder in the form of Exhibit A attached to the HoldCo Lender Backstop Agreement from each of the Lenders party to such Lender Joinders.

(q) Acquisition. Solely in respect of the initial Funding Date:

(i) The Acquisition shall have been consummated in accordance with the terms of the SPA simultaneously with the occurrence of the OpCo Tranche A Funding Date and the incurrence of the borrowing, without giving any amendments, waivers or other modifications to (or consent under) the SPA that are adverse to the Lenders and that have not been approved by the Lenders.

(ii) Each of the conditions set forth in Article VIII of the SPA shall have been satisfied to the reasonable satisfaction of the Administrative Agent, and a copy of all documents and other deliverables referenced therein shall have been provided to the Administrative Agent.

(iii) Each of the representations and warranties set forth in Article IV of the SPA that are material to the interests of the Lenders are, to the knowledge of any Authorized Representative of Borrower, true and correct in all material respects (except where already qualified by materiality or Material Adverse Effect or similar qualifier, in which case, such representations and warranties are true and correct in all respects); provided that if any such representation or warranty relates solely to an earlier date, then such representation or warranty shall be true and correct in all material respects as of such earlier date.

(r) Officer's Certificate. The Administrative Agent and each Lender shall have received an Officer's Certificate of each Loan Party, dated as of such Funding Date, certifying that each of the conditions set forth in this Section 4.02 have been satisfied.

Section 4.03 Conditions to Each Disbursement from the Construction Account. The occurrence of each disbursement from the Construction Account (the date of each such disbursement, a "Disbursement Date"), are subject to the receipt by the Administrative Agent of the items received by the OpCo Senior Administrative Agent pursuant to Section 4.03 of the OpCo Senior Credit Agreement which, to the extent any such disbursement is made up of any Loan proceeds, shall be in form and substance satisfactory to the Administrative Agent and each Lender (unless waived in accordance with Section 10.02).

ARTICLE V

Each Loan Party hereby agrees that (i) from and after the Closing Date and prior to the OpCo Tranche A Funding Date, to the extent applicable (it being acknowledged and agreed that, prior to the OpCo Tranche A Funding Date, the Acquisition has not occurred, Project Company is not an OpCo Loan Party, and neither OpCo Borrower nor OpCo Holdings have rights to the Site or the Project or under any Material Project Document) (other than any Material Project Document to which OpCo Borrower is a party on the Closing Date) and (ii) on the OpCo Tranche A Funding Date (following the Acquisition) and thereafter, in all respects:

Section 5.01 Corporate Existence; Etc. Each Loan Party shall, and Borrower shall cause each OpCo Loan Party to, at all times preserve and maintain in full force and effect (a) subject to the proviso of Section 6.07(b), its existence as a corporation or a limited liability company, as applicable, in good standing under the laws of the jurisdiction of its organization and (b) except as would not reasonably be expected to cause a Material Adverse Effect, its qualification to do business and its good standing in each jurisdiction in which the character of properties owned by it or in which the transaction of its business as conducted or proposed to be conducted makes such qualification necessary.

Section 5.02 Conduct of Business. Each Loan Party shall, and Borrower shall cause each OpCo Loan Party to, operate, maintain and preserve or cause to be operated, maintained and preserved, the Site in accordance in all material respects with the requirements of the Material Project Documents to which it is a party and in compliance, in all material respects, with Applicable Laws and Authorizations by Governmental Authorities and the terms of its insurance policies.

Section 5.03 Compliance with Laws and Obligations. Each Loan Party shall, and Borrower shall cause each OpCo Loan Party to, comply in all material respects with applicable Environmental Laws, including occupational health and safety regulations and all other Applicable Laws and Authorizations. Each Loan Party shall, and Borrower shall cause each OpCo Loan Party to, comply with and perform its respective contractual obligations in all material respects, and enforce against other parties their respective contractual obligations in all material respects, under each Material Project Document to which it is a party. Each Loan Party shall, and Borrower shall cause each OpCo Loan Party to, comply with and not violate applicable Sanctions, Anti-Money Laundering Laws, the FCPA or any other Anti-Corruption Laws or undertake or cause to be undertaken any Anti-Corruption Prohibited Activity.

Section 5.04 Governmental Authorizations. Each Loan Party shall, and Borrower shall cause each OpCo Loan Party to: (a) obtain and maintain in full force and effect (or where appropriate, promptly renew in a timely manner), or cause to be obtained and maintained in full force and effect all Authorizations set forth on Schedule 3.04 of the OpCo Senior Credit Agreement (including all Authorizations required by Environmental Law) required under any Applicable Law for the Project and such OpCo Loan Party's business and operations generally, in each case, at or before the time the relevant Authorization becomes necessary for such purposes, (b) obtain and maintain in full force and effect (or where appropriate, promptly renew in a timely manner),

or cause to be obtained and maintained in full force and effect all Authorizations set forth required under any Applicable Law for each Loan Party's business and operations generally, in each case, at or before the time the relevant Authorization becomes necessary for such purposes and (c) preserve and maintain all other Authorizations required for the Project, in either case, in all material respects.

Section 5.05 Maintenance of Title. Each Loan Party shall, and Borrower shall cause each OpCo Loan Party to, maintain (a) good title to the material property owned by such Loan Party and such OpCo Loan Party (as applicable) free and clear of Liens, other than Permitted Liens and OpCo Senior Permitted Liens, respectively; (b) legal and valid and subsisting leasehold interests to the material properties leased by such Loan Party and such OpCo Loan Party (as applicable), free and clear of Liens, other than Permitted Liens and OpCo Senior Permitted Liens, respectively; and (c) legal and valid possessory rights to the material properties possessed and not otherwise held in fee or leased by such Loan Party and such OpCo Loan Party.

Section 5.06 Insurance.

(a) Borrower shall cause each OpCo Loan Party to maintain or cause to be maintained in all material respects on its behalf in effect at all times the types of insurance required pursuant to Schedule 5.06 of the OpCo Senior Credit Agreement, in the amounts and on the terms and conditions specified therein and in accordance therewith.

(b) Borrower shall cause each OpCo Loan Party to maintain or cause to be maintained the insurance required to be maintained pursuant to the Material Project Documents in accordance with the terms of the same.

(c) Borrower shall cause Loss Proceeds of the insurance policies provided or obtained by or on behalf of the OpCo Loan Parties to be paid by the respective insurers directly to the OpCo Senior Extraordinary Receipts Account. Amounts in the OpCo Senior Extraordinary Receipts Account shall be applied in accordance with Section 5.29(f) of the OpCo Senior Credit Agreement.

Section 5.07 Keeping of Books. Each Loan Party shall, and Borrower shall cause each OpCo Loan Party to, maintain an accounting and control system, management information system and books of account and other records, which together adequately reflect truly and fairly the financial condition of such Loan Party and such OpCo Loan Party and the results of operations in accordance with GAAP and all Applicable Laws.

Section 5.08 Access to Records. Each Loan Party shall, and Borrower shall cause each OpCo Loan Party to permit (i) officers and designated representatives of the Administrative Agent to visit and inspect the Site accompanied by officers or designated representatives of such Loan Party and OpCo Loan Party and (ii) officers and designated representatives of the Administrative Agent to examine and make copies of the books of record and accounts of such Loan Party and OpCo Loan Party (provided that such Loan Party and OpCo Loan Party shall have the right to be present) and discuss the affairs, finances and accounts of such Loan Party and OpCo Loan Party with the chief financial officer, the chief operating officer and the chief executive officer of such Loan Party and OpCo Loan Party (subject to reasonable requirements of safety and confidentiality, including requirements imposed by Applicable Law or by contract, provided the Loan Parties will

use reasonable efforts to obtain relief from any contractual confidentiality restrictions that prohibit the Administrative Agent or any Lender from obtaining information), in each case, with at least three (3) Business Days advance notice to such Loan Party and OpCo Loan Party and during normal business hours of such Loan Party and OpCo Loan Party; provided that, (i) such Loan Party and OpCo Loan Party shall not be required to reimburse the Administrative Agent for more than one (1) inspection per year as long as no Event of Default has occurred and is continuing and (ii) such visits by officers and designated representatives of the Administrative Agent shall not occur more frequently than twice per year as long as no Event of Default has occurred and is continuing.

Section 5.09 Payment of Taxes, Etc.

(a) Each Loan Party shall, and Borrower shall cause each OpCo Loan Party to, pay and discharge, before the same shall become delinquent: (i) all material taxes, assessments and governmental charges or levies imposed upon it or upon its property to the extent required under the Transaction Documents and OpCo Senior Transaction Documents to which such Loan Party or OpCo Loan Party is a party or under Applicable Law and (ii) all material lawful claims that, if unpaid, might become a Lien (other than a Permitted Lien of the type referenced in clause (a) of the definition of Permitted Lien) upon its property; provided that such Loan Party shall not be required to pay or discharge any such tax, assessment, charge or claim for so long as such Loan Party satisfies the Permitted Contest Conditions in relation to such tax, assessment, charge or claim.

(b) Each Loan Party shall, and Borrower shall cause each OpCo Loan Party to, continue to be properly treated as a disregarded entity or a partnership for U.S. federal income tax purposes and no Loan Party shall file an election pursuant to Treasury Regulation Section 301.7701-3(c) to be treated as an association taxable as a corporation.

Section 5.10 Financial Statements; Other Reporting Requirements. Each Loan Party shall, or Borrower shall cause the OpCo Loan Parties to, furnish to the Administrative Agent:

(a) (i) commencing with the first full month after the Closing Date, as soon as available and in any event within forty five (45) days after the end of each month, (x) the monthly unaudited consolidated financial statements of the Loan Parties, (y) the monthly unaudited consolidated financial statements of the OpCo Loan Parties delivered to the OpCo Senior Administrative Agent under Section 5.10(a)(i) of the OpCo Senior Credit Agreement and (z) the other monthly reports of the OpCo Loan Parties delivered to the OpCo Senior Administrative Agent under Section 5.10(a)(ii) of the OpCo Senior Credit Agreement;

(b) commencing with the first full fiscal quarter after the Closing Date, as soon as available and in any event within sixty (60) days after the end of each fiscal quarter, quarterly unaudited consolidated financial statements of the Loan Parties and the OpCo Loan Parties, including the unaudited consolidated balance sheet as of the end of such quarterly period and the related unaudited statements of income, retained earnings and cash flows for such quarterly period and for the portion of such fiscal year ending on the last day of such period, all in reasonable detail;

(c) commencing with fiscal year ending on December 31, 2020, as soon as available and in any event within one hundred fifty (150) days after the end of each fiscal year, audited

consolidated financial statements for such fiscal year for the Loan Parties and the OpCo Loan Parties, including therein the consolidated balance sheet as of the end of such fiscal year and the related statements of income, retained earnings and cash flows for such year, a comparison of actual performance of the Loan Parties and the OpCo Loan Parties with the projected performance set out in the Operating Budget for the relevant fiscal year and the respective directors' and auditors' reports, all in reasonable detail and accompanied by an audit opinion thereon by the Independent Auditor, which opinion shall state that said financial statements present fairly, in all material respects, the financial position of the Loan Parties and the OpCo Loan Parties, as the case may be, at the end of, and for, such fiscal year in accordance with GAAP;

(d) within forty-five (45) days following the end of each fiscal quarter, a copy of the environmental, social and governance report provided to the OpCo Senior Administrative Agent in respect of the applicable fiscal quarter under Section 5.10(d) of the OpCo Senior Credit Agreement;

(e) at the time of the delivery of the financial statements under Sections 5.10(a), (b) and (c) above, a certificate of an Authorized Representative of such Loan Party or OpCo Loan Party, as applicable (i) certifying to the Administrative Agent and the Lenders that such financial statements fairly present in all material respects the financial condition and results of operations of such Loan Party or OpCo Loan Party and its Affiliates on the dates and for the periods indicated in accordance with GAAP, subject, in the case of interim financial statements, to the absence of footnotes and normally recurring year-end adjustments and (ii) certifying to the Administrative Agent and the Lenders that no Event of Default, OpCo Senior Default or OpCo Senior Event of Default has occurred and is continuing, or if an Event of Default, OpCo Senior Default or OpCo Senior Event of Default has occurred and is continuing, a statement as to the nature thereof;

(f) within thirty (30) days after each annual policy renewal date, a certificate of an Authorized Representative of OpCo Borrower certifying that the insurance requirements of Section 5.06 have been implemented and are being complied with by the Loan Parties and on or prior to the expiration of each policy required to be maintained pursuant to Section 5.06, certificates of insurance with respect to each renewal policy and each other insurance policy required to be in effect under this Agreement that has not previously been furnished to the Administrative Agent under this Agreement. If at any time requested by the Administrative Agent, acting reasonably, Borrower shall deliver to the Administrative Agent a duplicate of any policy of insurance required to be in effect under this Agreement;

(g) concurrently with delivery under an OpCo Senior Working Capital Facility, each other report delivered to lenders or agents under such OpCo Senior Working Capital Facility;

(h) concurrently with delivery under the SPA, written reports concerning the status of the Cleaning Work (as defined in the SPA) and Cleaning Plan (as defined in the SPA) delivered to Seller under the SPA;

(i) on or before the 30th day following the last day of each calendar month, the monthly reports describing the progress of the construction of the Project that are delivered to the OpCo Senior Administrative Agent under the OpCo Senior Credit Agreement (together with copies of

the most recently available monthly progress report received by Borrower under each of the EPC Agreements or any other construction contract with respect to the Project);

(j) concurrently with delivery under the OpCo Senior Credit Agreement, the quarterly information relating to each of SusOils and Sponsor delivered to the OpCo Senior Administrative Agent under Section 5.10(j) of the OpCo Senior Credit Agreement;

(k) concurrently with delivery under the OpCo Senior Credit Agreement, each other report delivered to the OpCo Senior Administrative Agent or the OpCo Senior Lenders under the OpCo Senior Credit Agreement;

(l) concurrently with the notice delivered under Section 5.11, all material documentation related to any notice given under Section 5.11; and

(m) promptly after Administrative Agent's request therefor, such other information regarding the business, assets, operations or financial condition of the Loan Parties as the Administrative Agent may reasonably request.

Section 5.11 Notices. The Loan Parties shall, and Borrower shall cause the OpCo Loan Parties to, promptly (and in any event within five (5) Business Days) upon an Authorized Representative of any Loan Party or OpCo Loan Party obtaining knowledge thereof, give notice to the Administrative Agent of:

(a) notice of the occurrence of any force majeure claim, change order request, indemnity claim, material dispute, breach or default under any of the Material Project Documents;

(b) details of any change of Applicable Law that would reasonably be expected to have a Material Adverse Effect (including material changes to the California Low Carbon Fuel Standard or the Federal Renewable Fuel Standard);

(c) any material notice or communication given to or received (i) from creditors of any Loan Party or OpCo Loan Party (other than with respect to the OpCo Senior Credit Agreement or any OpCo Senior Replacement Credit Agreement, in which case clause (m) below applies) generally or (ii) in connection with any Material Project Document;

(d) notice received by it with respect to the cancellation of, adverse change in, or default under, any insurance policy required to be maintained in accordance with Section 5.06;

(e) the filing or commencement of any litigation, investigation, action or proceeding of or before any court, arbitrator or Governmental Authority against or affecting any Loan Party or such OpCo Loan Party, the Site or the Project that, if adversely determined, could reasonably be expected to result in liability to any Loan Party or OpCo Loan Party in an aggregate amount exceeding $500,000 or be materially adverse to the interests of the Loan Parties or the OpCo Loan Parties;

(f) the occurrence of a Default or an Event of Default or any OpCo Senior Default or OpCo Senior Event of Default or an incipient or mature event of default or termination event under the OpCo Senior Working Capital Facility;

(g) any amendment of any Material Project Document, and correct and complete copies of any Material Project Documents executed after the Closing Date;

(h) any Environmental Claim by any Person against, or with respect to the activities of, the Loan Parties, the OpCo Loan Parties or the Project and any alleged violation of or non-compliance with any Environmental Laws or any Authorizations required by Environmental Laws applicable to any Loan Party or the Project that, if adversely determined, could reasonably be expected to have a Material Adverse Effect;

(i) the occurrence of any ERISA Event in excess of $500,000, together with a written notice setting forth the nature thereof and the action, if any, that such Loan Party, such OpCo Loan Party or ERISA Affiliate proposes to take with respect thereto;

(j) the sale, lease, transfer or other Disposition of, in one transaction or a series of transactions, all or any part of its property in excess of $500,000 per individual Disposition or $1,000,000 in the aggregate per annum in the aggregate per annum for all such Dispositions and/or Events of Loss;

(k) the occurrence of a Bankruptcy of any Loan Party, any OpCo Loan Party or Material Project Counterparty;

(l) the resignation, removal, incapacitation or death of any Qualified CEO or Qualified Officer;

(m) any notice or communication given by, given to or received by any OpCo Loan Party under, or in connection with, any OpCo Senior Financing Document, any Intercreditor Agreement (as defined in the OpCo Senior Credit Agreement) or any OpCo Senior Replacement Credit Agreement; and;

(n) notice of any condemnation, taking by eminent domain or other taking or seizure by a Governmental Authority with respect to a material portion of the Project or the Site;

(o) any notices provided under any OpCo Senior Working Capital Facility, other than routine or ministerial notices relating to the borrowing of loans thereunder.

Each notice pursuant to Section 5.11(a), (b), (d), (e), (f), (h), (i), (k), (l) or (n) shall be accompanied by a statement of an Authorized Representative of the Borrower setting forth details of the occurrence referred to therein and stating what action the Borrower and the OpCo Loan Parties propose to take with respect thereto.

Section 5.12 Scheduled Calls and Meetings.

Borrower shall arrange to have either (x) a telephonic conference call or (y) if requested by the Administrative Agent, an in-person meeting at the Site, in each case, with the Administrative Agent and Lenders no earlier than fifteen (15) Business Days after the end of each calendar month, which shall be coordinated with the Administrative Agent during normal business hours upon reasonable prior notice to the Lenders, to discuss (i) prior to the Term Conversion Date, the most recent construction report delivered pursuant to Section 5.10(i) and (ii) after the Term

Conversion Date, the matters contained in the various financial statements and reports delivered pursuant to Section 5.10, including the status of the Loan Parties and the OpCo Loan Parties and the affairs, finances and accounts of the Loan Parties and the OpCo Loan Parties; provided that, the Administrative Agent, shall not request more than two (2) in-person meetings at the Site in any calendar year pursuant to this Section 5.12.

Section 5.13 Use of Proceeds.

(a) Borrower shall apply the proceeds of the Loans solely (i) for the payment of Project Costs and (ii) as otherwise permitted under (or, if not addressed therein, not prohibited by) the Financing Documents and the OpCo Senior Financing Documents.

(b) The proceeds of the Loans will not be used in violation of Anti-Corruption Laws or applicable Sanctions.

Section 5.14 Security. The Loan Parties shall preserve and maintain the security interests granted under the Security Documents and undertake all actions which are necessary or appropriate to: (a) subject to Permitted Liens, maintain the Collateral Agent's security interest in the Collateral in full force and effect at all times (including the priority thereof) and (b) subject to Permitted Liens, preserve and protect the Collateral and protect and enforce the Loan Parties' rights and title and the rights of the Collateral Agent and the other Secured Parties to the Collateral, including the making or delivery of all filings and recordations, the payment of all fees and other charges and the issuance of supplemental documentation.

Section 5.15 Further Assurances. The Loan Parties shall execute, acknowledge where appropriate, and deliver, and cause to be executed, acknowledged where appropriate, and delivered, from time to time promptly at the reasonable request of any Agent all such instruments and documents as are necessary or appropriate to carry out the intent and purpose of the Financing Documents (including filings, recordings or registrations required to be filed in respect of any Security Document or assignment thereto) necessary to maintain, to the extent permitted by Applicable Law, the Collateral Agent's perfected security interest in the Collateral (subject to Permitted Liens) to the extent and in the priority required pursuant to the Security Documents.

Section 5.16 Security in Newly Acquired Property and Revenues. Without limiting any other provision of any Financing Document, if any Loan Party shall at any time (a) acquire any interest in a single item of property (other than any Excluded Property) with a value of at least $100,000 or any interest (other than any Excluded Property) in revenues that could aggregate during the term of the agreement under which such receivables arise to over $100,000; or (b) acquire interests in property (other than any Excluded Property) in a single transaction or series of transactions not otherwise subject to the Lien created by the Security Documents having a value of at least $100,000 in the aggregate, in each case not otherwise subject to a Lien pursuant to, and in accordance with, the Security Documents, promptly upon such acquisition, such Loan Party shall execute, deliver and record a supplement to the Security Documents or other documents, subjecting such interest to the Lien created by the Security Documents.

Section 5.17 Material Project Documents. Borrower shall cause each OpCo Loan Party to (i) duly and punctually perform and observe all of its material covenants and obligations

contained in each Material Project Document to which it is a party, (ii) take all reasonable and necessary action to prevent the termination or cancellation of any Material Project Document in accordance with the terms of such Material Project Document or otherwise (except for the expiration of any Material Project Document in accordance with its terms and not as a result of a breach or default thereunder) and (iii) enforce against the relevant Material Project Counterparty each material covenant or obligation of such Material Project Document, as applicable, in accordance with its terms.

Section 5.18 Accounts.

(a) The Loan Parties shall at all times maintain the Accounts and any other account permitted herein in accordance with this Agreement and the other Financing Documents. The Loan Parties shall not maintain any securities accounts or bank accounts other than the Accounts and any other account permitted herein.

(b) At all times Borrower shall cause each OpCo Loan Party to deposit and maintain, or cause to be deposited and maintained, all Project Revenues (as defined in the OpCo Senior Credit Agreement), insurance proceeds and other amounts received into the OpCo Senior Collateral Accounts in accordance with the OpCo Senior Credit Agreement and the other OpCo Senior Financing Documents and request or make only such payments and transfers out of the OpCo Senior Collateral Accounts as permitted by the OpCo Senior Credit Agreement and the other OpCo Senior Financing Documents.

Section 5.19 Intellectual Property. The Loan Parties shall, and Borrower shall cause the OpCo Loan parties to, own, or be licensed to use, all trademarks, tradenames, copyrights, patents and other intellectual property necessary for the Project and their businesses (as applicable), in each case, as to which the failure of such Loan Party and such OpCo Loan Party to so own or be licensed could reasonably be expected to have a Material Adverse Effect, and the use thereof by such Loan Party and OpCo Loan Party does not infringe upon the rights of any other Person, except for any such infringements that, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect.

Section 5.20 Operating Budget and Financial Model.

(a) Submission of Operating Budget and Financial Model. The Loan Parties shall cause OpCo Borrower to, prior to the Term Conversion Date under the OpCo Senior Credit Agreement and no later than sixty (60) days before the commencement of each calendar year thereafter, submit to the Administrative Agent (i) a draft of its proposed Operating Budget for the succeeding calendar year and (ii) a draft of its updated Financial Model on a quarterly basis over a period ending no sooner than the latest scheduled termination date of the Initial Material Project Documents. The Loan Parties shall cause OpCo Borrower to, no later than five (5) Business Days after receiving any objection from the Administrative Agent pursuant to Section 5.20(b), submit to the Administrative Agent (i) a revised draft of its proposed Operating Budget for the succeeding calendar year and (ii) a revised draft of its updated Financial Model on a quarterly basis over a period ending no sooner than the latest scheduled termination date of the Initial Material Project Documents. Any such Operating Budget and/or updated Financial Model submitted by the OpCo

Borrower pursuant to this Section 5.20(a) shall not be effective until approved by the Administrative Agent in accordance with Section 5.20(b) or 5.20(c) below.

(b) Approval of Operating Budget. Each Operating Budget delivered pursuant to Section 5.20(a) shall not be effective until approved by the Administrative Agent, such approval not to be unreasonably withheld, conditioned, or delayed. The Operating Budget will be deemed to be approved unless the Administrative Agent objects in writing to such Operating Budget within twenty (20) days of receipt thereof. In the event that, pursuant to the immediately preceding sentence, the Operating Budget is not approved by the Administrative Agent (which approval shall not be unreasonably withheld, conditioned, or delayed) or OpCo Borrower has not submitted a proposed Operating Budget in accordance with the terms and conditions herein, an operating budget including the greater of (x) the sum of 100% of the then-actual costs of feedstock, consumables and other variable costs for such calendar year and 105 % of the other costs set forth in the Operating Budget for the immediately preceding calendar year and (y) the amounts specified in the Financial Model delivered on the Closing Date for such calendar year (or any updated Financial Model approved by the Administrative Agent), in any case, shall apply until the Operating Budget for the then current calendar year is approved. Copies of each final Operating Budget adopted shall be furnished to the Administrative Agent promptly upon its adoption.

(c) Intra-year Adjustments to Operating Budget. Operating Expenses and Capital Expenditures shall be made in accordance with the Operating Budget approved hereunder, except as set forth in this Section 5.20(c). Borrower may from time to time adopt an amended Operating Budget for the remainder of any calendar year to which the amended Operating Budget applies, and such amended Operating Budget shall be effective as the Operating Budget for the remainder of such calendar year upon the consent of the Administrative Agent to such amendment, such consent not to be unreasonably withheld, conditioned, or delayed. Notwithstanding the foregoing and without necessitating any such amendment, but without limiting the applicability of Section 6.07(d), the OpCo Loan Parties may exceed the aggregate annual Operating Expenses and Capital Expenditures set forth in any Operating Budget approved under this Agreement by an amount not to exceed 5% of the aggregate budgeted amount of Operating Expenses and Capital Expenditures for the applicable calendar year.

Section 5.21 Collateral Account Report. The Loan Parties shall provide to the Administrative Agent, within three (3) business days of the end of each calendar month, in electronic format, an itemized summary of all withdrawals from the Accounts made during such calendar month. The Loan Parties will provide the Administrative Agent and the Lenders the reports required by Section 5.21 of the Senior OpCo Credit Agreement, in electronic format, simultaneously with the provision of the same to the OpCo Senior Administrative Agent under Section 5.21 of the Senior OpCo Credit Agreement.

Section 5.22 Construction of the Project; Final Completion.

(a) Borrower shall cause the OpCo Loan Parties to construct, or cause the construction of, the Project in all material respects in accordance with the Material Construction Contracts and the approved plans and specifications thereunder, Prudent Industry Practices, Authorizations by Governmental Authorities and Legal Requirements.

(b) Borrower shall cause the OpCo Loan Parties to cause Final Completion (other than any immaterial punch list items) to be achieved prior to the "Guaranteed Final Acceptance Date" (howsoever defined in each of the EPC Agreements), as such date may be adjusted in accordance with the terms of such EPC Agreements and this Agreement.

Section 5.23 Performance Test. Borrower shall permit Administrative Agent, the Lenders and their respective representatives and technical advisors to witness and verify the Performance Tests to the extent reasonably requested by Administrative Agent, acting at the direction of the Required Lenders, subject to the terms of the applicable Material Construction Contracts. Borrower shall give Administrative Agent notice regarding any proposed Performance Test promptly following Borrower's receipt of such notice (and, in any event, no less than three (3) Business Days prior to any Performance Test). Borrower shall forward to Administrative Agent and the Lenders the procedures to be used in the conduct of the Performance Test in connection with such notice. If, upon completion of any Performance Test, Borrower believes that such Performance Test has been satisfied, it shall so notify Administrative Agent and the Lenders and shall deliver a copy of all test results supporting such conclusion, accompanied by reasonable supporting data.

Section 5.24 Operation and Maintenance of Project. Borrower shall cause Project Company to construct, keep, operate and maintain the Project, or cause the same to be constructed, kept, maintained and operated (ordinary wear and tear excepted), in a manner consistent in all material respects with this Agreement, the OpCo Senior Transaction Documents and Prudent Industry Practices, and make or cause to be made all repairs (structural and non-structural, extraordinary or ordinary) necessary to keep the Project in such condition.

Section 5.25 Certain Post-Closing Obligations.

(a) Borrower shall cause the OpCo Borrower to design and implement the Feedstock Execution Plan (as defined in the OpCo Senior Credit Agreement) as specified therein and provide evidence of such implementation reasonably satisfactory to the Administrative Agent.

(b) Borrower shall cause GCE Operating (as defined in the OpCo Senior Credit Agreement) to implement the Executive Hiring Plan (as defined in the OpCo Senior Credit Agreement) as specified therein and provide evidence of such implementation reasonably satisfactory to the Administrative Agent.

(c) Borrower shall cause the OpCo Borrower to complete the Rail Development Milestones (as defined in the OpCo Senior Credit Agreement) as specified therein and provide evidence of such completed milestones reasonably satisfactory to the Administrative Agent.

(d) Borrower shall cause the OpCo Borrower to complete the Gas Supply Commercial Milestones (as defined in the OpCo Senior Credit Agreement) as specified therein and provide evidence of such completed milestones reasonably satisfactory to the Administrative Agent.

(e) Borrower shall cause the OpCo Borrower to complete the Environmental and Permitting Milestones (as defined in the OpCo Senior Credit Agreement) as specified therein and provide evidence of such completed milestones reasonably satisfactory to the Administrative Agent.

(f) Borrower shall cause the OpCo Borrower to use commercially reasonable efforts to enter into an OpCo Senior Working Capital Facility within three hundred sixty-five (365) days following the Closing Date.

(g) Borrower shall cause the OpCo Borrower to enter into a product marketing agreement or an offtake agreement with ExxonMobil, in a form reasonably satisfactory to the Administrative Agent within two hundred forty (240) days following the Closing Date.

(h) On or prior to the OpCo Tranche A Funding Date, Borrower shall deliver, or cause the OpCo Loan Parties to deliver, as applicable, each of the following documents to the Administrative Agent:

(i) a Control Agreement in respect of each Account, duly executed and delivered by the Persons intended to be parties thereto, which Control Agreement shall be in full force and effect and otherwise in form and substance reasonably satisfactory to the Administrative Agent;

(ii) written opinions (dated as of the OpCo Tranche A Funding Date and addressed to the Administrative Agent, the Lenders and the Collateral Agent) of King & Spalding LLP, special New York counsel to the Loan Parties;

(iii) copies of the financial statements delivered to the OpCo Senior Administrative Agent under Section 4.02(d) of the OpCo Senior Credit Agreement;

(iv) copies of the insurance deliverables delivered to the OpCo Senior Administrative Agent under Section 4.02(l) of the OpCo Senior Credit Agreement; and

(v) an assignment agreement pursuant to which GCE Holdings shall have assigned, and OpCo Borrower shall have assumed, the SPA.

(i) Borrower shall arrange for payment on the OpCo Tranche A Funding Date (including through the application of OpCo Senior Loans on the OpCo Tranche A Funding Date) of all reasonable and documented out-of-pocket fees and expenses then due and payable pursuant to the Financing Documents.

(j) Borrower shall enter into a franchise agreement with the Country of Kern, in a form reasonably satisfactory to the Administrative Agent within ninety (90) days following the OpCo Tranche A Funding Date.

(k) Borrower shall cause the OpCo Borrower to deliver to Administrative Agent evidence from the CA Secretary of State (as defined in the OpCo Senior Credit Agreement) of filing of the CA Foreign Qualification (as defined in the OpCo Senior Credit Agreement) upon receipt, but in any event within forty-five (45) days after the OpCo Tranche A Funding Date (as extended by the Administrative Agent in its reasonable discretion).

Notwithstanding anything to the contrary in this Section 5.25 or any Schedule referenced herein, (i) at the election of Borrower, Project Company may perform the obligations in this Section 5.25 in lieu of OpCo Borrower and (ii) the time periods for Borrower's and OpCo Borrower's

compliance with each obligation under this Section 5.25 shall be extended by such additional time period or periods as the Administrative Agent may reasonably agree from time to time.

Section 5.26 Performance Testing.

(a) Borrower shall cause the OpCo Loan Parties to permit each Lender and their respective representatives and technical advisors to witness and verify the Performance Tests to the extent requested by Administrative Agent (acting at the reasonable direction of the Required Lenders), in each case subject to the terms of the applicable EPC Agreement. Borrower shall cause the OpCo Loan Parties to give Administrative Agent and the Lenders notice regarding any proposed Performance Test promptly following Borrower's receipt of such notice (and, in any event, no less than three (3) Business Days prior to any Performance Test). Borrower shall forward to Administrative Agent and the Lenders the procedures to be used in the conduct of the Performance Test in connection with such notice. If, upon completion of any Performance Test, Borrower believes that such Performance Test has been satisfied, it shall so notify the Administrative Agent and the Lenders and shall deliver a copy of all test results supporting such conclusion, accompanied by reasonable supporting data.

(b) Borrower shall cause the OpCo Loan Parties to: (i) in connection with satisfying the conditions for Substantial Completion and/or Final Completion under the OpCo Senior Credit Agreement, perform a Refinery Performance Test, (ii) provide Administrative Agent and the Lenders notice of each Refinery Performance Test no less than ten (10) Business Days prior to the conducting of such Refinery Performance Test, (iii) conduct each Refinery Performance Test in material compliance with the EPC Agreements, (iv) deliver a copy of each Refinery Performance Test results, accompanied by supporting data and calculations (each, an "Refinery Performance Test Report") and (v) deliver a copy of the Independent Engineer's report delivered to the OpCo Senior Administrative Agent under Section 5.26(b) of the OpCo Senior Credit Agreement, which report shall (1) verify for Administrative Agent and the Lenders the results contained in such Refinery Performance Test Report and confirm to Administrative Agent and the Lenders that such Refinery Performance Test was performed in materially compliance with the EPC Agreements or (2) deliver a report to Administrative Agent, the Lenders and Borrower setting forth in reasonable detail any objections of the Independent Engineer to such Refinery Performance Test Report. If any objections are made by the Independent Engineer or the Required Lenders, then Borrower shall cause the OpCo Loan Parties to address such objections to the reasonable satisfaction of the Independent Engineer and the Required Lenders or re-conduct such Refinery Performance Test in accordance with this Section 5.26(b).

Section 5.27 [Reserved].

Section 5.28 Qualified CEO and Qualified Officers. The Loan Parties shall cause the OpCo Loan Parties to cause the Qualified CEO and each Qualified Officer to dedicate substantially all of their time and effort to the business of the Loan Parties and the ownership, construction, operation and maintenance of the Project; provided that (i) Richard Palmer and Noah Verleun shall be permitted to continue dedicating such time and effort to the business and operations of Sponsor and SusOils as are reasonably necessary to perform and satisfy their respective duties and responsibilities in respect of the business and operations of Sponsor and SusOils, (ii) in the event of the death, resignation, removal, incapacitation, death or other cessation of performance of duties

(as a result of a family emergency, a personal matter or otherwise) of the Qualified CEO or Qualified Officer (so long as such cessation exceeds a period of consecutive forty-five (45) days) (any such occurrence, a "Qualified Officer Event"), OpCo Borrower shall cause Project Company to, within (i) ninety (90) days in the case of a Qualified Officer Event affecting the Qualified CEO and (ii) sixty (60) days in the case of a Qualified Officer Event affecting any Qualified Officer, appoint a natural person in replacement thereof (which may be the Qualified CEO or another Qualified Officer, to the extent such natural person assumes the role of the Qualified Officer affected by such Qualified Officer Event); provided, further, that (i) any such replacement shall be reasonably acceptable to the Administrative Agent (such acceptance not to be unreasonably withheld, conditioned or delayed) and (ii) no Default or Event of Default shall occur under this Section 5.28 until the one-hundred eightieth (180^{th}) day following any Qualified Officer Event so long as Project Company is diligently attempting to comply with this Section 5.28 and no Material Adverse Effect is or would reasonably be expected to occur from any failure to comply with this Section 5.28.

Section 5.29 Accounts.

(a) Collateral Account.

(i) Deposits into the Collateral Account. Except as otherwise specified in this Section 5.29, Borrower shall deposit, and shall use all reasonable efforts to cause third parties that would otherwise make payments directly to Borrower to deposit, all OpCo Restricted Payments (other than OpCo Restricted Payments permitted pursuant to Section 6.06(a), (b) or (c) of the OpCo Senior Credit Agreement) and all other revenues, payments, cash and proceeds from whatever source received by it (other than Loan proceeds, which shall be deposited into the Construction Account) to be deposited into the Collateral Account.

(ii) Transfers from the Collateral Account. Borrower shall direct the applicable Depositary Bank to transfer amounts from the Collateral Account at the following times and in the following order of priority:

(A) *first*, on each Monthly Date, transfer to Borrower's designee an amount equal to the Borrower Operating Expenses then due and payable (including any Borrower Operating Expenses owing from a prior month);

(B) *second*, on each Monthly Date and after giving effect to the transfers specified in clause (A) above, (1) first, to the Agents (for the benefit of the Agents) an amount equal to the sum (without duplication) of all fees, costs and expenses and indemnification payments then due and payable to the Agents under the applicable Financing Documents and (2) second, to the Administrative Agent (for the benefit of the applicable Lenders) an amount equal to the sum (without duplication) of all fees, costs and expenses and indemnification payments then due and payable to the Lenders under the applicable Financing Documents;

(C) *third*, on the Maturity Date and after giving effect to the transfers specified in clauses (A) and (B) above, to Agent (for the benefit of the Lenders) an

amount equal to all of the outstanding Obligations (other Obligations that are contingent in nature);

(D) *fourth*, [reserved];

(E) *fifth*, on each Quarterly Date and after giving effect to the transfers specified in clauses (A) through (D) above (the amount remaining after giving effect to such transfers, the "Senior Net Cash Flow"): the percentage of the Senior Net Cash Flow payable to the Senior Lender Equity Owners in accordance with the Borrower LLC Agreement;

(F) *sixth*, on each Quarterly Date and after giving effect to the transfers specified in clauses (A) through (E) above, to the Administrative Agent (for the benefit of the Lenders) for application to the interest due and payable under Section 2.08(c);

(G) *seventh*, thirteen (13) Business Days following each Quarterly Date and after giving effect to the transfers specified in clauses (A) through (F) above, to the Administrative Agent (for the benefit of the Lenders) for application to the payment of principal and any mandatory prepayment required to made under Section 2.06(b)(i) that is accepted for mandatory prepayment by Lenders pursuant to Section 2.06(b)(i) and 2.06(c);

(H) *eighth*, thirteen (13) Business Days following each Quarterly Date and after giving effect to the transfers specified in clauses (A) through (G) above (the amount remaining after giving effect to such transfers, the "HoldCo Net Cash Flow"): the percentage of the HoldCo Net Cash Flow payable to the HoldCo Lender Equity Owners in accordance with the Borrower LLC Agreement; and

(I) *ninth*, thirteen (13) Business Days following each Quarterly Date and after giving effect to the transfers specified in clauses (A) through (H) above, transfer to the Distribution Suspense Account all amounts remaining on deposit in the Collateral Account.

(b) [Reserved].

(c) Distribution Suspense Account.

(i) Deposits into the Distribution Suspense Account.

(A) The Distribution Suspense Account shall be unfunded on the Closing Date.

(B) Amounts shall be deposited into the Distribution Suspense Account in accordance with Section 5.29(a)(ii)(I).

(ii) Transfers from the Distribution Suspense Account. So long as (1) no Default or Event of Default has occurred and is continuing as of any Quarterly Date or

would result from the Restricted Payment contemplated by this Section 5.29(c) (as certified by a Qualified Officer of Borrower at least five (5) days prior to the proposed date of such Restricted Payment) and (2) such Restricted Payment occurs on or after each Quarterly Date (or, if sooner, after the date that the ECF Prepayment Offer for the applicable quarter has been accepted or rejected in accordance with Section 2.06(c)), and in any event, not more than forty-five (45) days after any Quarterly Date, then Borrower shall be permitted to cause amounts then on deposit in the Distribution Suspense Account to be transferred in the amounts, and to the recipients, specified by Borrower (and the Administrative Agent shall countersign any withdrawal certificates required under any Control Agreements to allow such transfers).

(d) OpCo Senior Collateral Accounts. Borrower shall cause the OpCo Loan Parties to make deposits and withdrawals in respect of the OpCo Senior Collateral Accounts in accordance with Section 5.29 of the OpCo Senior Credit Agreement.

Section 5.30 Causing of Subsidiary Distributions. Borrower shall cause each OpCo Loan Party to distribute the maximum amount of cash that such OpCo Loan Party is permitted by each of Applicable Law, the applicable provisions (if any) of the Material Project Documents, the terms of applicable Organizational Documents of such OpCo Loan Party, the OpCo Senior Credit Agreement and the other OpCo Senior Financing Documents, to distribute to Borrower, directly or indirectly, *provided* that, each OpCo Loan Party shall be permitted to retain cash in an amount not exceeding the aggregate amount required or permitted to be reserved under the OpCo Senior Credit Agreement and the other OpCo Senior Financing Documents or other amounts reserved in accordance with the Operating Budget that has been approved under this Agreement.

Section 5.31 Affirmative Covenants in OpCo Senior Transaction Documents. Borrower shall, and shall cause each OpCo Loan Party to, comply with all of its obligations under Article V of the OpCo Senior Transaction Documents.

Notwithstanding the foregoing or anything to the contrary herein, prior to the OpCo Senior Credit Agreement Drag Along Expiry Date, (i) to the extent that the OpCo Loan Parties are in compliance (which, for this purpose, shall take into effect any waivers in respect of, or amendments to the OpCo Senior Credit Agreement) with the applicable affirmative covenants set forth in the OpCo Senior Credit Agreement covering substantially the same subject matter as the affirmative covenants set forth in this Article V (such covenants, the "Correlative Affirmative Covenants"), such Loan Parties shall be deemed to be in compliance with the respective Correlative Affirmative Covenants herein without any further action of any party hereto and (ii) without limiting the generality of the foregoing, any approval by the OpCo Senior Administrative Agent in respect of any matter under any Correlative Affirmative Covenant shall satisfy the requirement for any approval by the Administrative Agent under the corresponding covenant set forth in this Article V.

ARTICLE VI

Each Loan Party hereby agrees that (i) from and after the Closing Date and prior to the OpCo Tranche A Funding Date, to the extent applicable (it being acknowledged and agreed that, prior to the OpCo Tranche A Funding Date, the Acquisition has not occurred, Project Company is not a Loan Party, and neither OpCo Borrower nor OpCo Holdings have rights to the Site or the Project or under any Material Project Document) (other than any Material Project Document to which OpCo Borrower is a party on the Closing Date) and (ii) on the OpCo Tranche A Funding Date (following the Acquisition) and thereafter, in all respects:

Section 6.01 Subsidiaries; Equity Issuances.

(a) No Loan Party shall (i) form or have any Subsidiary (other than (x) in the case of Pledgor, Borrower and (y) in the case of Borrower, OpCo Pledgor) or (ii) subject to Section 6.04 hereof, own, or otherwise Control any Capital Stock in, any other Person.

(b) Borrower shall not permit any OpCo Loan Party to form or have any Subsidiary or owner, or otherwise Control any Capital Stock in, any other Person, except as permitted under Section 6.01 of the OpCo Senior Credit Agreement.

Section 6.02 Indebtedness.

(a) Each Loan Party shall not create, incur, assume or suffer to exist any Indebtedness, other than (i) Indebtedness incurred under the Financing Documents and (ii) unsecured Indebtedness in an aggregate principal amount not exceeding $100,000 at any time outstanding (such Indebtedness under this Section 6.02, "Permitted Indebtedness").

(b) Absent the consent of the Required Lenders, Borrower shall not cause or permit any OpCo Loan Party to create, incur, assume or suffer to exist any Indebtedness, except for OpCo Senior Permitted Indebtedness.

Section 6.03 Liens, Etc.

(a) No Loan Party shall create, incur, assume or suffer to exist any Lien upon or with respect to any of its properties of any character (including accounts receivables) whether now owned or hereafter acquired, or assign any accounts or other right to receive income, other than Permitted Liens.

(b) Borrower shall not cause any OpCo Loan Party to create, incur, assume or suffer to exist any Lien upon or with respect to any of its properties of any character (including accounts receivables) whether now owned or hereafter acquired, or assign any accounts or other right to receive income, other than OpCo Senior Permitted Liens.

Section 6.04 Investments, Advances, Loans. No Loan Party shall not, and Borrower shall not cause any OpCo Loan Party to, make any advance, loan or extension of credit to, or make any acquisitions of or Investments (whether by way of transfers of property, contributions to

capital, acquisitions of stock, securities, evidences of Indebtedness or otherwise) in, or purchase any stock, bonds, notes, debentures or other securities of, any other Person, other than:

(a) (i) Pledgor's ownership of the Capital Stock of, and investments in, the Borrower (ii) the Borrower's ownership of the Capital Stock of, and investments in, the OpCo Pledgor, (iii) the OpCo Pledgor's ownership of the Capital Stock of, and investments in, the OpCo Borrower and (iv) following the consummation of the Acquisition, the OpCo Borrower's ownership of the Capital Stock of, and investments in, the Project Company;

(b) (i) Cash Equivalents and (ii) the investments, if any, made by, or with the consent of, the Administrative Agent under, and in accordance with, any Control Agreement with respect to the accounts on deposit in the applicable Collateral Account subject to such Control Agreement;

(c) extensions of trade credit in the ordinary course of business to the extent otherwise permitted under the Financing Documents;

(d) to the extent constituting investments, investments in contracts to the extent otherwise permitted under the Financing Documents; and

(e) in the case of any OpCo Loan Party, as permitted under Section 6.04 of the OpCo Senior Credit Agreement.

Section 6.05 Principal Place of Business; Business Activities.

(a) Each Loan Party shall not change its principal place of business from the State of California and shall not maintain any place of business outside of the State of California respectively unless it has given at least thirty (30) days' prior notice thereof to the Administrative Agent and the Collateral Agent, and each Loan Party has taken all steps then required pursuant to the Security Documents to ensure the maintenance and perfection of the security interests created or purported to be created thereby. Each Loan Party shall maintain at its principal place of business originals or copies of its principal books and records.

(b) Pledgor shall conduct at any time any activities other than those related to the ownership of Borrower, the transactions contemplated hereby and by the other Financing Documents and any activities incidental to the foregoing.

(c) Borrower shall not conduct any activities other than those related to the ownership of OpCo Pledgor, the transactions contemplated hereby and by the other Financing Documents and any activities incidental to the foregoing.

(d) Borrower shall not permit any OpCo Loan Party to, at any time, conduct any activities other than those related to (i) (x) in the case of OpCo Pledgor, the ownership of OpCo Borrower, (y) in the case of OpCo Borrower, (i) ownership of Project Company, (ii) the transactions contemplated by the OpCo Senior Credit Agreement and the other OpCo Senior Financing Documents, (iii) the Project and the Material Project Documents and (iv) any activities incidental to the foregoing and (z) in the case of Project Company, (i) the transactions contemplated by the OpCo Senior Credit Agreement and the other OpCo Senior Financing

Documents, (ii) the Project and the Material Project Documents and (iii) any activities incidental to the foregoing.

Section 6.06 Restricted Payments. Each Loan Party shall not declare or make, or agree to pay or make, directly or indirectly, any Restricted Payment, other than:

(a) Restricted Payments to Borrower or any OpCo Loan Party;

(b) Restricted Payments to the extent permitted under Section 6.10;

(c) Restricted Payments to any Lender to the extent required pursuant to Sections 5.29(a)(ii)(E) and (H);

(d) Restricted Payments permitted under Section 6.06(c) of the OpCo Senior Credit Agreement; and

(e) Restricted Payments to the extent permitted or required pursuant to Section 5.29(c)(ii).

Borrower shall not cause or permit any OpCo Loan Party to declare or make, or agree to pay or make, directly or indirectly, any Restricted Payment (as defined in the OpCo Senior Credit Agreement), other than as permitted under the OpCo Senior Credit Agreement.

Section 6.07 Fundamental Changes; Asset Dispositions and Acquisitions. Each Loan Party shall not, and Borrower shall not cause or permit any OpCo Loan Party to:

(a) in one transaction or a series of transactions, merge into or consolidate with, or acquire all or any substantial part of the assets or any class of stock or other ownership interests of, any other Person or sell, transfer or otherwise dispose of all or substantially all of its assets to any other Person;

(b) change its legal form, liquidate or dissolve; provided that, for a period ending thirty (30) Business Days following the Initial Funding Date, Borrower shall be permitted to cause OpCo Borrower to (i) convert Project Company to a Delaware limited liability company and (ii) change the name of Project Company;

(c) make or agree to make any amendment to its Organizational Documents to the extent that such amendment could reasonably be expected to be materially adverse to the interests of the Agents or the Lenders;

(d) purchase, acquire or lease any assets other than: (i) solely with respect to Borrower, receipt of distributions from OpCo Pledgor and Loan proceeds, (ii) solely with respect to Pledgor, distributions from Borrower permitted under this Agreement and (iii) solely with respect to any OpCo Loan Party (A) the purchase or lease of assets reasonably required for the Project in accordance with, as applicable, the Construction Budget or Operating Budget (as adjusted in accordance with the provisions of this Agreement) or required under the Material Project Documents to which it is a party, (B) the purchase or lease of assets reasonably required in connection with the Restoration of the Project permitted by this Agreement, (C) any Capital

Expenditures or other investments in assets necessary or useful for the business of the Project from the proceeds of any Disposition to the extent permitted hereunder, (D) the purchase or lease of assets otherwise permitted by the Material Project Documents to which it is a party that do not in the aggregate exceed the amount budgeted for such purchases or leases in the most recently approved Construction Budget or Operating Budget (each as approved hereunder by the Required Lenders), as applicable, (E) additional purchases, leases of assets or other Capital Expenditures not to exceed $5,000,000 in the aggregate prior to the Maturity Date (as defined in the OpCo Senior Credit Agreement as in effect as of the date hereof), (F) any assignment of a Material Project Document by GCE Holdings or OpCo Borrower (as applicable) to OpCo Borrower or Project Company (as applicable), (vii) the granting of any Permitted Liens permitted by Section 6.03 and (viii) any Permitted Account Transfer (as defined in the OpCo Senior Credit Agreement);

(e) with respect to any Loan Party, convey, sell, lease, transfer or otherwise dispose of, in one transaction or a series of transactions all or any part of its property, except as permitted under Section 5.29 of this Agreement;

(f) with respect to any OpCo Loan Party, convey, sell, lease, transfer or otherwise dispose of, in one transaction or a series of transactions, all or any part of its property in excess of $1,000,000 per year in the aggregate except as permitted under Section 6.07(e) of the OpCo Senior Credit Agreement; or

(g) with respect to OpCo Borrower, convey, sell, lease, transfer or otherwise dispose of equipment or other Property directly purchased by OpCo Borrower using the proceeds of loans and credit extensions under any OpCo Senior Working Capital Facility so long as such proceeds are applied to the repayment of obligations under such OpCo Senior Working Capital Facility.

Section 6.08 Accounting Changes. Each Loan Party shall not, and Borrower shall not cause any OpCo Loan Party to, change its fiscal year.

Section 6.09 Amendment or Termination of Material Project Documents; Other Restrictions on Material Project Documents; Amendment of OpCo Senior Financing Documents.

(a) Borrower shall not cause or permit any OpCo Loan Party to:

(i) without the prior written consent of the Administrative Agent (acting at the reasonable direction of the Required Lenders), directly or indirectly amend, modify, supplement or grant a consent, approval or waiver under, or permit or consent to the amendment, modification, supplement, consent, approval or waiver of any provision of any Material Project Document (each such amendment, modification, supplement, consent, approval or waiver, a "Project Document Modification"), except any Project Document Modification which, taken as a whole (and together with each other contemporaneous Project Document Modification), could not reasonably be expected to be materially adverse to the Loan Parties or the Lenders; provided that any Project Document Modification which (1) extends or postpones the date of or amends the definition of "Mechanical Completion", "Substantial Completion", "Final Acceptance", "Guaranteed Substantial Completion Date", "Guaranteed Final Acceptance Date" or any related concepts under the Material Construction Contracts, (2) extends the deadline for payment

of any liquidated damages under the Material Construction Contracts, (3) modifies any performance guarantee to reduce the level of such guaranteed performance thereunder, (4) reduces any liquidated damage amount under the Material Construction Contracts, (5) changes the definition of, procedures for or results of the Performance Tests, (6) amends or modifies the Material Construction Contracts or the ExxonMobil Offtake Agreement (as defined in the OpCo Senior Credit Agreement) (other than (x) ministerial or administrative amendments, modifications, waivers, consents and approvals and (y) in the case of any amendment or modification of the Material Construction Contracts, any Change Order permitted under clause (b) below) or (7) could otherwise reasonably be expected to have a Material Adverse Effect shall, in each case, require the consent of the Administrative Agent (acting at the reasonable direction of the Required Lenders);

(ii) directly or indirectly transfer, terminate, cancel or permit or consent to the transfer, termination or cancellation of any Material Project Document (including by exercising any contractual option to terminate, or failing to exercise any contractual option to extend); or

(iii) enter into an Additional Material Project Document unless such Additional Material Project Document could not reasonably be expected to be materially adverse to the Loan Parties or the Lenders.

(b) Notwithstanding anything to the contrary in Section 6.09(a)(i), Borrower shall not cause or permit any OpCo Loan Party to accept, approve or otherwise enter into any change order or similar document or instrument under any Material Project Document (each a "Change Order") without the prior written consent of the Administrative Agent, acting at the reasonable direction of the Required Lenders, unless such Change Order (i) does not utilize any of the contingency specified in the Construction Budget, and (ii) does not adversely affect or delay the reasonably anticipated timing of the completion of any Significant Milestone or Substantial Completion.

(c) Without the prior written consent of the Required Lenders (such consent not to be unreasonably withheld, conditioned or delayed), Borrower shall not cause or permit any OpCo Loan Party to, directly or indirectly amend, modify, supplement or grant a consent, approval or waiver under, or cause or permit or consent to the amendment, modification, supplement, consent, approval or waiver of any provision of the OpCo Senior Financing Documents, except to the extent any such amendment, modification, supplement, consent, approval or waiver could not reasonably be expected to be materially adverse to the Loan Parties or the Lenders.

(d) The Borrower shall not, and shall not permit any Loan Party to, enter into or become subject to any agreement expressly prohibiting or restricting the payment of the Loans, other than to the extent set forth in the OpCo Senior Credit Agreement.

(e) Except as provided herein and in the OpCo Senior Financing Documents, the Borrower shall not and shall not cause or permit its Subsidiaries to directly or indirectly create or otherwise cause or suffer to exist or become effective any consensual encumbrance or restriction of any kind on the ability of any such Subsidiary to: (1) pay dividends or make any other distribution on any of such Subsidiary's equity interests owned by Borrower or any Subsidiary; (2) pay any Indebtedness owed to Borrower or any other Subsidiary; (3) make loans or advances

to Borrower or any other Subsidiary; or (4) transfer any of its property or assets to Borrower or any other Subsidiary.

Notwithstanding anything to the contrary in this Section 6.09, each assignment of an Initial Material Project Document (as defined in the OpCo Senior Credit Agreement) by GCE Holdings or OpCo Borrower (as applicable) to OpCo Borrower or Project Company (as applicable) as contemplated by Article IV shall be permitted.

Section 6.10 Transactions with Affiliates. Each Loan Party shall not, and Borrower shall not cause any OpCo Loan Party to, directly or indirectly enter into any transaction or series of related transactions with an Affiliate of such Loan Party or such OpCo Loan Party, as applicable, without the prior written consent of the Administrative Agent (such consent not to be unreasonably withheld, conditioned or delayed), except for (i) (x) in the case of the Loan Parties, the transactions set forth on Schedule 3.23 and (y) in the case of the OpCo Loan Parties, the transactions set forth on Schedule 3.23 of the OpCo Senior Credit Agreement, (ii) Restricted Payments made in accordance with this Agreement, (iii) equity contributions from one or more parent companies of Pledgor and (iv) transactions in the ordinary course of such Loan Party's or such OpCo Loan Parties' (and such Affiliate's) business and upon fair and reasonable terms no less favorable to such Loan Party or such OpCo Loan Party, as applicable, than it would obtain in comparable arm's-length transactions with a Person acting in good faith which is not an Affiliate; provided, solely with respect to the foregoing clause (iv), that any transaction or series of related transactions with any Affiliate on or after the Closing Date that are not set forth on Schedule 3.23 of this Agreement or the OpCo Senior Credit Agreement shall require the consent of the Administrative Agent.

Notwithstanding anything to the contrary in this Section 6.10, each assignment of an Initial Material Project Document (as defined in the OpCo Senior Credit Agreement) by GCE Holdings or OpCo Borrower (as applicable) to OpCo Borrower or Project Company (as applicable) as contemplated by Article IV shall be permitted.

Section 6.11 Accounts.

(a) No Loan Party shall open, or instruct the Depositary Bank or any other Person to open, any bank accounts other than the Accounts and any other account permitted under this Agreement.

(b) Borrower shall not cause or permit any OpCo Loan Party to open, open, or instruct any Depositary Bank (as defined in the OpCo Senior Credit Agreement) or any other Person to open, any bank accounts other than the OpCo Senior Collateral Accounts and any other account permitted under the OpCo Senior Credit Agreement.

Section 6.12 Guarantees.

(a) Each Loan Party shall not assume, guarantee, endorse, contingently agree to purchase or otherwise become liable for Indebtedness or obligations of any other Person except as otherwise permitted under the terms of the Financing Documents.

(b) Borrower shall not cause or permit any OpCo Loan Party to assume, guarantee, endorse, contingently agree to purchase or otherwise become liable for Indebtedness or obligations

of any other Person except as otherwise permitted under the terms of the OpCo Senior Financing Documents.

Section 6.13 Hazardous Materials. Each Loan Party will not, and Borrower shall not cause or permit any OpCo Loan Party to, cause or permit any Releases of Hazardous Materials at, on or under the Site except to the extent such Release (a) is otherwise in compliance in all material respects with all Applicable Laws, including Environmental Laws, and applicable insurance policies or (b) could not otherwise reasonably be expected to have a Material Adverse Effect.

Section 6.14 No Speculative Transactions.

(a) No Loan Party shall enter into any Swap Agreement, foreign currency trading or other speculative transactions.

(b) Borrower shall not cause or permit any OpCo Loan Party to enter into any Swap Agreement, other than as permitted under the OpCo Senior Credit Agreement.

Section 6.15 Change of Auditors. Borrower shall not cause or permit any OpCo Loan Party to change the Independent Auditor, other than as permitted under the OpCo Senior Credit Agreement.

Section 6.16 Purchase of Capital Stock.

(a) Each Loan Party shall not, nor shall it permit any party to, purchase, redeem or otherwise acquire any of such Loan Party's issued Capital Stock (other than as contemplated by Borrower LLC Agreement) or otherwise reduce its Capital Stock; provided that the foregoing shall in no way be construed to limit such Loan Party's ability to make Restricted Payments.

(b) Borrower shall not cause or permit any OpCo Loan Party to, nor shall Borrower cause any OpCo Loan Party to permit any party to, purchase, redeem or otherwise acquire any of such OpCo Loan Party's issued Capital Stock (i) (other than in connection with OpCo Borrower's acquisition of the Capital Stock of Project Company in accordance with the SPA and (ii) in connection with the contribution of equity by OpCo Borrower by OpCo Pledgor (as long as such equity remains subject to the Security Documents) and, following the consummation of the Acquisition, by OpCo Borrower to Project Company) or otherwise reduce its Capital Stock; provided that the foregoing shall in no way be construed to limit such OpCo Loan Party's ability to make "Restricted Payments" (as defined in the OpCo Senior Credit Agreement in effect as of the date hereof).

Section 6.17 Withdrawals from the Collateral Account.

(a) No Loan Party shall make any withdrawals from the Accounts that are not in accordance with the Financing Documents. No Loan Party shall open a deposit account or securities account, or change the account number of the Accounts, without first obtaining a Control Agreement in respect of such account in favor of the Collateral Agent.

(b) Borrower shall not cause or permit any OpCo Loan Party to make any withdrawals from the OpCo Senior Collateral Accounts that is not in accordance with the OpCo Senior

Financing Documents. Borrower shall not cause or permit any OpCo Loan Party to open a deposit account or securities account, or change the account number of the OpCo Senior Collateral Accounts, other than as permitted under with the OpCo Senior Credit Agreement.

Section 6.18 Performance Tests and Substantial Completion. Borrower shall not cause or permit any OpCo Loan Party to materially revise any procedures in respect of the Performance Tests or accept the results of any Performance Test or any notice of Substantial Completion (as defined in the OpCo Senior Credit Agreement) under the applicable EPC Agreements, other than as permitted under with the OpCo Senior Credit Agreement and approved by the Required Lenders.

Section 6.19 OpCo Senior Working Capital Facility and Commodity Hedging Documentation. Borrower shall not cause or permit any OpCo Loan Party to amend, restate, modify or otherwise supplement any documentation of any OpCo Senior Working Capital Facility or the Commodity Hedging Documentation in any way prohibited by the Intercreditor Agreements (as defined in the OpCo Senior Credit Agreement), other than as permitted under the OpCo Senior Credit Agreement.

Section 6.20 Qualified President. Borrower shall not cause or permit any OpCo Loan Party to cause any Qualified President to cease to serve as the president of OpCo Borrower (other than by termination for cause (as reasonably determined by such OpCo Loan Party)), in each case, other than as permitted under the terms of the OpCo Senior Credit Agreement and approved by the Required Lenders.

Section 6.21 Negative Covenants in OpCo Senior Transaction Documents. To the extent not specifically required elsewhere in Article VI, Borrower shall, and shall cause each OpCo Loan Party to, comply with all of its obligations under Article VI of the OpCo Senior Transaction Documents.

Notwithstanding the foregoing or anything to the contrary herein, prior to the OpCo Senior Credit Agreement Drag Along Expiry Date, (i) to the extent that the OpCo Loan Parties are in compliance (which, for this purpose, shall take into effect any waivers in respect of, or amendments to the OpCo Senior Credit Agreement whose purpose and/or effect are to waive compliance) with the applicable negative covenants set forth in the OpCo Senior Credit Agreement covering substantially the same subject matter as the negative covenants set forth in this Article VI (such covenants, the "Correlative Negative Covenants"), such OpCo Loan Parties shall be deemed to be in compliance with the respective Correlative Negative Covenants herein without any further action of any party hereto and (ii) without limiting the generality of the foregoing, any approval by the OpCo Senior Administrative Agent in respect of any matter under any Correlative Affirmative Covenant shall satisfy the requirement for any approval by the Administrative Agent under the corresponding covenant set forth in this Article VI.

ARTICLE VII

EVENTS OF DEFAULT

Section 7.01 Events of Default. If any of the following events ("Events of Default") shall occur:

(a) Borrower shall fail to pay any principal of any Loan (including any Accrued Interest that has been added to principal) when and as the same shall become due and payable, whether at the due date thereof or, in the case of payments of principal due pursuant to Section 2.06(b), at a date fixed for prepayment thereof; or

(b) Borrower shall fail to pay, when the same shall be due and payable, (i) any interest on any Loan or Prepayment Premium or (ii) any fee or any other amount (other than an amount referred to in clause (a) or (b)(i) of this Section) payable under this Agreement or under any other Financing Document when and as the same shall become due and payable, and such failure shall pursuant to this clause (b)(ii) shall continue unremedied for a period of ten (10) Business Days; or

(c) any representation or warranty made by or deemed made by any Loan Party in this Agreement or any other Financing Document, or in any certificate or other document furnished to any Secured Party by or on behalf of such Loan Party in accordance with the terms hereof or thereof shall prove to have been incorrect in any material respect as of the time made or deemed made, confirmed or furnished; provided that such misrepresentation or such incorrect statement shall not constitute an Event of Default if (i) such condition or circumstance is not reasonably expected to result in a Material Adverse Effect and (ii) the facts or conditions giving rise to such misstatement are cured in such a manner as to eliminate such misstatement (or as to cure the adverse effects of such misstatement) within ten (10) Business Days after obtaining notice of such Default; or

(d) any Loan Party shall fail to observe or perform any covenant or agreement, as applicable, contained in:

(i) Section 5.01 (as to existence), Section 5.11(f), Section 5.13 or Article VI; or

(ii) (A) Section 5.10(a), Section 5.10(b) or Section 5.10(c), and such failure has continued unremedied for a period of ten (10) Business Days, or (B) Section 5.06(a), or

(iii) Section 5.10(e) and such failure has continued unremedied for thirty (30) days; or

(e) any Loan Party shall fail to observe or perform any covenant, condition or agreement contained in this Agreement or any other Financing Document (other than those specified in clause (a), (b), (c) or (d) of this Section) and such failure shall continue unremedied for a period of thirty (30) days; provided that, if (A) such failure is not reasonably susceptible to cure within such thirty (30) days, (B) such Loan Party is proceeding with diligence and good faith to cure such Default and such Default is susceptible to cure and (C) the existence of such failure has not resulted in a Material Adverse Effect, such thirty (30) day period shall be extended as may be necessary to cure such failure, such extended period not to exceed sixty (60) days in the aggregate (inclusive of the original thirty (30) day period); provided that, to the extent any such covenant, condition or agreement relates to or concerns an OpCo Loan Party or an OpCo Senior Financing Document and the failure to observe or perform such covenant, condition or agreement could result in a Default or an Event of Default under the OpCo Senior Credit Agreement, the

preceding proviso shall not apply and the period for remedy shall be ten (10) days instead of thirty (30) days;

(f) a Bankruptcy occurs with respect to any Loan Party; or

(g) a final non-appealable judgment or order for the payment of money is entered against any Loan Party in an amount exceeding $500,000 (exclusive of judgment amounts covered by insurance or bond where the insurer or bonding party has admitted liability in respect of such judgment), and such judgment remains unsatisfied without any procurement of a stay of execution for a period of sixty (60) days or more after the date of entry of judgment; or

(h) (i) any Security Document (A) is revoked, terminated or otherwise ceases to be in full force and effect (except in connection with its expiration in accordance with its terms in the ordinary course (and not related to any default thereunder)), or the enforceability thereof shall be challenged in writing by any Loan Party, (B) ceases to provide (to the extent permitted by law and to the extent required by the Financing Documents) a first priority perfected Lien on the assets purported to be covered thereby in favor of the Collateral Agent, free and clear of all other Liens (other than Permitted Liens), or (C) becomes unlawful or is declared void or (ii) any Financing Document (A) is revoked, terminated or otherwise ceases to be in full force and effect (except in connection with its expiration in accordance with its terms in the ordinary course (and not related to any default thereunder)), or (B) becomes unlawful or is declared void; or

(i) an ERISA Event has occurred which, either individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect; or

(j) a Change of Control has occurred;

(k) (i) OpCo Borrower shall be in breach in any material respect of, or in default in any material respect under, a Material Project Document and such breach or default shall continue unremedied for the period of time (without giving effect to any extension given to OpCo Senior Collateral Agent under any applicable Consent to Assignment (as defined in the OpCo Senior Credit Agreement) with respect thereto) under such Material Project Document which OpCo Borrower has available to it in which to remedy such breach or default;

(ii) (A) any Material Project Counterparty shall be in breach of, or in default under, a Material Project Document and such breach or default could reasonably be expected to have a Material Adverse Effect; (B) any Material Project Counterparty shall disaffirm or repudiate in writing its material obligations under any Consent to Assignment and such disaffirmation or repudiation is not rescinded and revoked in writing by such Material Project Counterparty within ninety (90) days thereof; (C) any representation or warranty made by any Material Project Counterparty in a Consent to Assignment shall be untrue or misleading in any material respect as of the time made and such untrue or misleading representation or warranty could reasonably be expected to result in a Material Adverse Effect; or (D) a Material Project Counterparty shall breach any material covenant of a Consent to Assignment (as defined in the OpCo Senior Credit Agreement) and such breach could reasonably be expected to have a Material Adverse Effect;

(iii) (x) any Material Project Document shall terminate or shall be declared null and void (except upon fulfillment of such party's obligations thereunder or the scheduled expiration of the term of such Material Project Document) or (y) any provision of any Material Project Document shall for any reason cease to be valid and binding on any party thereto (other than Borrower), other than any such failure to be valid and binding which could not reasonably be expected to have a Material Adverse Effect; or

(iv) a Bankruptcy occurs with respect to any Material Project Counterparty;

provided that no Event of Default shall be deemed to have occurred under this Section 7.01(k) if (i) to the extent the Term Conversion Date has occurred, the applicable Material Project Counterparty has finished performing all of its material obligations under such Material Project Document or (ii) OpCo Borrower shall have replaced the applicable Material Project Document with a Replacement Project Document (as defined in the OpCo Senior Credit Agreement) within thirty (30) days; or

(l) any Loan Party shall (i) default in making any payment of any principal, interest or premium of any Indebtedness (excluding the Loans and other Obligations) on the scheduled or original due date with respect thereto, in each case, beyond any grace periods applicable thereto; or (ii) default in the observance or performance of any other agreement or condition relating to any such Indebtedness (excluding the Obligations) or contained in any instrument or agreement evidencing, securing or relating thereto, or any other event shall occur or condition exist, in each case, beyond any grace periods applicable thereto, the effect of which default or other event or condition is to cause, or to permit the holder or beneficiary of such Indebtedness (or a trustee or agent on behalf of such holder or beneficiary) to cause, with or without the giving of notice, the lapse of time or both, such Indebtedness to become due prior to its stated maturity or to become subject to a mandatory offer to purchase by the obligor thereunder or (in the case of any such Indebtedness constituting a Guarantee) to become payable; or

(m) an uninsured Event of Loss or a Condemnation in an amount exceeding $2,000,000, in each case with respect to a material portion of the Site, shall occur; or

(n) an Event of Abandonment shall have occurred; or

(o) (i) the Term Conversion Date shall not have occurred by the Date Certain or (ii) any Significant Milestone shall have not been achieved by the date relating thereto in the Construction Schedule; or

(p) an OpCo Senior Event of Default shall have occurred and be continuing;

then, in every such event (other than an event with respect to a Loan Party described in clause (f) of this Section), and at any time thereafter during the continuance of such event, the Administrative Agent (at the direction of the Required Lenders) shall by notice to Borrower, take any or all of the following actions, at the same or different times: (i) terminate the Commitments, and thereupon the Commitments shall terminate immediately; and (ii) declare the Loan and all other amounts due under the Financing Documents (including the Prepayment Premium) then outstanding to be due and payable in whole (or in part, in which case any principal not so declared to be due and payable may thereafter

be declared to be due and payable), and thereupon the principal of the Loan so declared to be due and payable, together with accrued interest thereon and all fees and other obligations of Borrower accrued hereunder or under the Financing Documents (including the Prepayment Premium), shall become due and payable immediately, without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Loan Parties; and in case of any event with respect to a Loan Party described in clause (f) of this Section, the Commitments shall automatically terminate and the principal of the Loan then outstanding, together with accrued interest thereon and all fees and other obligations of Borrower accrued hereunder and under the Financing Documents (including the Prepayment Premium), shall automatically become due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Loan Parties. Upon the occurrence and during the continuance of any Event of Default, in addition to the exercise of remedies set forth in clauses (i) and (ii) above, each Secured Party shall be, subject to the terms of the Security Documents, entitled to exercise the rights and remedies available to such Secured Party under and in accordance with the provisions of the other Financing Documents to which it is a party or any Applicable Law.

Notwithstanding the foregoing or anything to the contrary herein, so long as the OpCo Senior Credit Agreement or any OpCo Senior Replacement Credit Agreement shall be in effect, no Event of Default shall have occurred or be continuing hereunder (other than under Section 7.01(b)(ii) or Section 7.01(f)) unless an OpCo Senior Event of Default shall have occurred and be continuing.

ARTICLE VIII

THE AGENTS

Section 8.01 Appointment and Authorization of the Agents.

(a) Each of the Lenders hereby irrevocably appoints each Agent to act on its behalf as its agent hereunder and under the other Financing Documents and authorizes each Agent in such capacity, to take such actions on its behalf and to exercise such powers as are delegated to it by the terms hereof or thereof, together with such actions and powers as are reasonably incidental thereto. Each Agent, by executing this Agreement, hereby accepts such appointment. The provisions of this Article are solely for the benefit of the Agents and the Lenders (other than the express rights of Borrower under Section 8.07), and none of the Loan Parties shall have rights as a third party beneficiary of any of such provisions.

(b) Each Agent is hereby authorized to execute, deliver and perform each of the Financing Documents to which such Agent is intended to be a party. Each Agent hereby agrees, and each Lender hereby authorizes such Agent, to enter into the amendments and other modifications of the Security Documents (subject to Section 10.02(b)).

Section 8.02 Rights as a Lender. Each Agent shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not an Agent, and such Person and its Affiliates may accept deposits from, lend money to and generally

engage in any kind of business with Borrower or any of Subsidiary or other Affiliate thereof as if it were not an Agent hereunder.

Section 8.03 Duties of Agent; Exculpatory Provisions. No Agent shall have any duties or obligations except those expressly set forth herein and in the other Financing Documents. All communications, notices, financial statements, projections, reports and other information received by any Agent in relation to Financing Documents must be provided to each Lender within one (1) Business Day after receipt. Without limiting the generality of the foregoing, no Agent (a) shall be subject to any fiduciary or other implied duties, regardless of whether a Default or Event of Default has occurred and is continuing, (b) shall have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Financing Documents that such Agent is required to exercise, and (c) shall, except as expressly set forth herein and in the other Financing Documents, have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to Borrower or any of its Subsidiaries that is communicated to or obtained by the financial institution serving as an Agent or any of its Affiliates in any capacity. No Agent shall be liable for any action taken or not taken by it with the consent or at the request of the Lenders or in the absence of its own gross negligence or willful misconduct as determined by a court of competent jurisdiction in a final, non-appealable decision. No Agent shall be deemed to have knowledge of any Default or Event of Default unless and until written notice thereof is given to such Agent by Borrower or a Lender, and no Agent shall be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with this Agreement or any other Financing Document, (ii) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or therein, (iv) the validity, enforceability, effectiveness or genuineness of this Agreement, any other Financing Document or any other agreement, instrument or document, or (v) the satisfaction of any condition set forth in Article IV or elsewhere herein or therein, other than to confirm receipt of items expressly required to be delivered to such Agent.

Section 8.04 Reliance by Agent. Each Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing believed by it to be genuine and to have been signed or sent by the proper Person. Each Agent also may rely upon any statement made to it orally or by telephone and believed by it to be made by the proper Person, and shall not incur any liability for relying thereon. Each Agent may consult with legal counsel, independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.

Section 8.05 Delegation of Duties. Each Agent may perform any and all its duties and exercise its rights and powers by or through any one or more sub-agents appointed by such Agent. Each Agent and any such sub-agent may perform any and all its duties and exercise its rights and powers through their respective Related Parties. The exculpatory provisions of the preceding paragraphs shall apply to any such sub-agent and to the Related Parties of each Agent and any such sub-agent, and shall apply to their respective activities as well as activities as each Agent.

Section 8.06

Withholding of Taxes by the Administrative Agent; Indemnification. To the extent required by any Applicable Law, the Administrative Agent may withhold from any payment to any Lender an amount equivalent to any applicable withholding Taxes. If any Governmental Authority asserts a claim that the Administrative Agent did not properly withhold Taxes from amounts paid to or for the account of any Lender because the appropriate form was not delivered or was not properly executed or because such Lender failed to notify the Administrative Agent of a change in circumstance which rendered the exemption from, or reduction of, withholding Taxes ineffective or for any other reason, or if the Administrative Agent reasonably determines that a payment was made to a Lender pursuant to this Agreement without deduction of applicable withholding tax from such payment, such Lender shall promptly indemnify the Administrative Agent fully for all amounts paid, directly or indirectly, by Administrative Agent as Taxes or otherwise, including any penalties or interest and together with all expenses (including legal expenses, allocated internal costs and out-of-pocket expenses) incurred. Each Lender shall severally indemnify the Administrative Agent, within ten days after demand therefor, for (i) any Indemnified Taxes or Other Taxes attributable to such Person (but only to the extent that Borrower has not already indemnified the Administrative Agent for such Indemnified Taxes or Other Taxes and without limiting the obligation of Borrower to do so), (ii) any Taxes attributable to such Person's failure to comply with the provisions of Section 10.04(f) relating to the maintenance of a Participant Register and (iii) any Excluded Taxes attributable to such Person, in each case, that are payable or paid by the Administrative Agent in connection with any Financing Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error. Each Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender under any Financing Document or otherwise payable by the Administrative Agent to the Lender from any other source against any amount due to the Administrative Agent under this Section 8.06.

Section 8.07 Resignation of Agent. Each Agent may resign at any time upon thirty days' notice by notifying the Lenders and Borrower, and any Agent may be removed at any time by the Required Lenders (with a prior written notice to Borrower). Upon any such resignation or removal, the Required Lenders shall have the right, with the consent of Borrower (such consent not to be unreasonably withheld), to appoint a successor Agent. If no successor shall have been so appointed by the Required Lenders and approved by Borrower and shall have accepted such appointment within thirty (30) days after the retiring Agent gives notice of its resignation or after the Administrative Agent's removal of the retiring Agent, then the retiring Agent may, on behalf of the Lenders, appoint a successor Agent, which shall be a Lender with an office in New York, New York, an Affiliate of a Lender or a financial institution with an office in New York, New York having a combined capital and surplus that is not less than $250,000,000. Upon the acceptance of its appointment as Agent hereunder by a successor, such successor shall succeed to and become vested with all the rights, powers, privileges and duties of the retiring (or retired) Agent and the retiring Agent shall be discharged from its duties and obligations hereunder (if not already discharged therefrom as provided above in this Section 8.07). The fees payable by Borrower to a successor Agent shall be the same as those payable to its predecessor unless otherwise agreed between Borrower and such successor. After the Agent's resignation or removal hereunder, the provisions of this Article and Section 10.03 shall continue in effect for its benefit in respect of any actions taken or omitted to be taken by it while it was acting as Agent.

Section 8.08

Non-Reliance on Agent or Other Lenders. Each Lender acknowledges that it has, independently and without reliance upon any Agent, the Affiliates of any Agent or any other Lender and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each Lender also acknowledges that it will, independently and without reliance upon any Agent, the Affiliates of any Agent or any other Lender and based on such documents and information as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any other Financing Document or any related agreement or any document furnished hereunder or thereunder.

Section 8.09 No Other Duties; Etc. The parties agree that neither the Administrative Agent nor the Collateral Agent shall have any obligations, liability or responsibility under or in connection with this Agreement and the other Financing Documents and that none of the Agents shall have any obligations, liabilities or responsibilities except for those expressly set forth herein and in the other Financing Documents. The Collateral Agent shall have all of the rights (including indemnification rights), powers, benefits, privileges, exculpations, protections and immunities granted to the Collateral Agent under the other Financing Documents, all of which are incorporated herein mutatis mutandis.

Section 8.10 Certain ERISA Matters.

(a) Each Lender (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of the Administrative Agent, the Collateral Agent and each of their respective Affiliates, and not, for the avoidance of doubt, to or for the benefit of Borrower or any other Loan Party, that at least one of the following is and will be true:

(i) such Lender is not using "plan assets" (within the meaning of 29 CFR § 2510.3-101, as modified by Section 3(42) of ERISA) of one or more employee benefit plans (as defined in Section 3(2) of ERISA) in connection with the Loans or the Commitments;

(ii) the prohibited transaction exemption set forth in one or more PTEs, such as PTE 84-14 (a class exemption for certain transactions determined by independent qualified professional asset managers), PTE 95-60 (a class exemption for certain transactions involving insurance company general accounts), PTE 90-1 (a class exemption for certain transactions involving insurance company pooled separate accounts), PTE 91-38 (a class exemption for certain transactions involving bank collective investment funds) or PTE 96-23 (a class exemption for certain transactions determined by in-house asset managers), is applicable so as to exempt from the prohibitions of ERISA Section 406 and Code Section 4975, such Lender's entrance into, participation in, administration of and performance of the Loans, the Commitments and this Agreement;

(iii) (A) such Lender is an investment fund managed by a "Qualified Professional Asset Manager" (within the meaning of Part VI of PTE 84-14), (B) such Qualified Professional Asset Manager made the investment decision on behalf of such Lender to enter into, participate in, administer and perform the Loans, the Commitments and this Agreement, (C) the

entrance into, participation in, administration of and performance of the Loans, the Commitments and this Agreement satisfies the requirements of sub-sections (b) through (g) of Part I of PTE 84-14 and (D) to the best knowledge of such Lender, the requirements of subsection (a) of Part I of PTE 84-14 are satisfied with respect to such Lender's entrance into, participation in, administration of and performance of the Loans, the Commitments and this Agreement; or

(iv) such other representation, warranty and covenant as may be agreed in writing between the Administrative Agent, in its sole discretion, and such Lender.

(b) In addition, unless sub-clause (i) in the immediately preceding clause (a) is true with respect to a Lender or such Lender has not provided another representation, warranty and covenant as provided in sub-clause (iv) in the immediately preceding clause (a), such Lender further (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of the Administrative Agent, the Collateral Agent and each of their respective Affiliates, and not, for the avoidance of doubt, to or for the benefit of Borrower or any other Loan Party, that none of the Administrative Agent, the Collateral Agent or their respective Affiliates is a fiduciary with respect to the assets of such Lender (including in connection with the reservation or exercise of any rights by the Administrative Agent under this Agreement, any Financing Document or any documents related to hereto or thereto).

ARTICLE IX

GUARANTY

Section 9.01 Guaranty.

(a) For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, each of Pledgor and each other Person (if any) that shall, at any time after the date hereof, provide a Guarantee pursuant to this Article IX pursuant to a joinder agreement or similar instrument (Pledgor and such other Persons (if any), the "Guarantors"), jointly and severally, hereby unconditionally and irrevocably guarantees the full and punctual payment and performance (whether at stated maturity, upon acceleration or otherwise) of all Guaranteed Obligations, in each case as primary obligor and not merely as surety and with respect to all such Guaranteed Obligations howsoever created, arising or evidenced, whether direct or indirect, absolute or contingent, now or hereafter existing, or due or to become due. This is a guaranty of payment and not merely of collection.

(b) All payments made by the Guarantors under this Article IX shall be payable in the manner required for payments by Borrower hereunder, including: (i) the obligation to make all such payments in Dollars, free and clear of, and without deduction for, any Taxes (including withholding taxes), (ii) the obligation to pay interest at the Post-Default Rate and (iii) the obligation to pay all amounts due under the Loan in Dollars.

(c) Any term or provision of this guaranty to the contrary notwithstanding the aggregate maximum amount of the Guaranteed Obligations for which any Guarantor shall be liable

(in the case of Pledgor, subject to Section 9.07) under this guaranty shall not exceed the maximum amount for which such Guarantor can be liable without rendering this guaranty or any other Financing Document, as it relates to such Guarantor void or voidable under Applicable Law relating to fraudulent conveyance or fraudulent transfer.

Section 9.02 Guaranty Unconditional. The Guaranteed Obligations shall be unconditional and absolute and, without limiting the generality of the foregoing, shall not be released, discharged or otherwise affected by:

(a) any extension, renewal, settlement, compromise, waiver or release in respect of any obligations of any Loan Party under the Financing Documents and/or any Commitments under the Financing Documents, by operation of law or otherwise (other than with respect to any such extension, renewal, settlement, compromise, waiver or release agreed in accordance with the terms hereunder as expressly applying to the Guaranteed Obligations);

(b) any modification or amendment of or supplement to this Agreement or any other Financing Document (other than with respect to any modification, amendment or supplement agreed in accordance with the terms hereunder as expressly applying to the Guaranteed Obligations);

(c) any release, impairment, non-perfection or invalidity of any Collateral;

(d) any change in the corporate existence, structure or ownership of any Loan Party or any other Person, or any event of the type described in Sections 5.01, 6.01 or 6.07 with respect to any Person;

(e) the existence of any claim, set-off or other rights that the Guarantors may have at any time against any Loan Party, any Secured Party or any other Person, whether in connection herewith or with any unrelated transactions;

(f) any invalidity or unenforceability relating to or against any Loan Party for any reason of any Financing Document, or any provision of Applicable Law purporting to prohibit the performance by any Loan Party of any of its obligations under the Financing Documents (other than any such invalidity or unenforceability with respect solely to the Guaranteed Obligations);

(g) the failure of any Material Project Counterparty to make payments owed to any Loan Party; or

(h) any other act or omission to act or delay of any kind by any Loan Party, any Secured Party or any other Person or any other circumstance whatsoever that might, but for the provisions of this Section 9.02, constitute a legal or equitable discharge of the obligations of any Loan Party under the Financing Documents.

Section 9.03 Discharge Only Upon Payment in Full; Reinstatement in Certain Circumstances. The Guaranteed Obligations shall remain in full force and effect until all of Borrower's obligations under the Financing Documents shall have been paid or otherwise performed in full and all of the Commitments shall have terminated. If at any time any payment made under this Agreement or any other Financing Document is rescinded or must otherwise be

restored or returned upon the insolvency, bankruptcy, reorganization or similar event of any Loan Party or any other Person or otherwise, then the Guaranteed Obligations with respect to such payment shall be reinstated at such time as though such payment had been due but not made at such time.

Section 9.04 Waiver by the Guarantors.

(a) Each Guarantor hereby irrevocably and unconditionally waives, to the fullest extent permitted by Applicable Law: (i) notice of acceptance of the guaranty provided in this Article IX and notice of any liability to which this guaranty may apply, (ii) all notices that may be required by Applicable Law or otherwise to preserve intact any rights of any Secured Party against any Loan Party, including any demand, presentment, protest, proof of notice of non-payment, notice of any failure on the part of any Loan Party to perform and comply with any covenant, agreement, term, condition or provision of any agreement and any other notice to any other party that may be liable in respect of the Guaranteed Obligations (including any Loan Party) except any of the foregoing as may be expressly required hereunder, (iii) any right to the enforcement, assertion or exercise by any Secured Party of any right, power, privilege or remedy conferred upon such Person under the Financing Documents or otherwise and (iv) any requirement that any Secured Party exhaust any right, power, privilege or remedy, or mitigate any damages resulting from a default, under any Financing Document, or proceed to take any action against any Collateral or against any Loan Party or any other Person under or in respect of any Financing Document or otherwise, or protect, secure, perfect or ensure any Lien on any Collateral.

(b) Each Guarantor agrees and acknowledges that the Administrative Agent and each holder of any Guaranteed Obligations may demand payment of, enforce and recover from each Guarantor or any other Person obligated for any or all of such Guaranteed Obligations in any order and in any manner whatsoever, without any requirement that the Administrative Agent or such holder seek to recover from any particular Guarantor or other Person first or each Guarantor or other Persons *pro rata* or on any other basis.

Section 9.05 Subrogation. Upon any Guarantor making any payment under this Article IX, such Guarantor, as applicable, shall be subrogated to the rights of the payee against Borrower with respect to such obligation; provided that no Guarantor shall enforce any payment by way of subrogation, indemnity, contribution or otherwise, or exercise any other right, against any other Loan Party (or otherwise benefit from any payment or other transfer arising from any such right) so long as any obligations under the Financing Documents (other than on-going but not yet incurred indemnity obligations) remain unpaid and/or unsatisfied.

Section 9.06 Acceleration. All amounts subject to acceleration under this Agreement shall be payable by the Guarantors hereunder immediately upon demand by the Administrative Agent.

Section 9.07 Limited Recourse Against Pledgor. Notwithstanding anything to the contrary in this Article IX, the obligations of Pledgor under, and recourse against Pledgor for, the Guaranteed Obligations shall be limited to the Collateral pledged by Pledgor pursuant to the Security Agreement.

ARTICLE X

MISCELLANEOUS

Section 10.01 Notices. Except as otherwise expressly provided herein or in any Financing Document, all notices and other communications provided for hereunder or thereunder shall be (i) in writing (including facsimile and email) and (ii) sent by facsimile, email or overnight courier (if for inland delivery) or international courier (if for overseas delivery) to a party hereto at its address and contact number specified below, or at such other address and contact number as is designated by such party in a written notice to the other parties hereto:

(a) Borrower:

BKRF HCB, LLC
c/o Global Clean Energy Holdings, Inc.
2790 Skypark Drive, Suite 105
Torrance, CA 90505
Attention: General Counsel

(b) Administrative Agent and Collateral Agent:

Orion Energy Partners TP Agent, LLC
350 5th Ave #6740
New York, NY 10118
Attention: Ethan Shoemaker and Mark Friedland
Email: Ethan@OrionEnergyPartners.com; Mark@OrionEnergyPartners.com;
ProjectGoldenBear@orionenergypartners.com

(c) Pledgor:

BKRF HCP, LLC
c/o Global Clean Energy Holdings, Inc.
2790 Skypark Drive, Suite 105
Torrance, CA 90505
Attention: General Counsel

In each of the foregoing (a) and (b), with a copy to:

TroyGould PC
1801 Century Park East, Suite 1600
Los Angeles, CA 90067
Attention: Istvan Benko
Email: ibenko@troygould.com

(d) If to a Lender, to it at its address (or facsimile number) set forth in its Administrative Questionnaire.

All notices and communications shall be effective when received by the addressee thereof during business hours on a Business Day in such Person's location as indicated by such Person's address in paragraphs (a) to (e) above, or at such other address as is designated by such Person in a written notice to the other parties hereto.

Section 10.02 Waivers; Amendments.

(a) No Deemed Waivers; Remedies Cumulative. No failure or delay on the part of any Agent or any Lender in exercising any right, power or privilege hereunder or under any other Financing Document and no course of dealing between any Loan Party, or any of Borrower's Affiliates, on the one hand, and any Agent or Lender on the other hand, shall impair any such right, power or privilege or operate as a waiver thereof; nor shall any single or partial exercise of any right, power or privilege hereunder or under any other Financing Document preclude any other or further exercise thereof or the exercise of any other right, power or privilege hereunder or thereunder. The rights, powers and remedies herein or in any other Financing Document expressly provided are cumulative and not exclusive of any rights, powers or remedies which any party thereto would otherwise have. No notice to or demand on Borrower in any case shall entitle Borrower to any other or further notice or demand in similar or other circumstances or constitute a waiver of the rights of any Agent or any Lender to any other or further action in any circumstances without notice or demand.

(b) Amendments. No amendment or waiver of any provision of this Agreement or any other Financing Document (other than any Agent Reimbursement Letter and any fee letter between one or more Loan Parties and a Lender, each of which may be waived, amended or modified by the parties thereto in accordance with the terms thereof), and no consent to any departure by Borrower shall be effective unless in writing signed by the Administrative Agent, the Required Lenders and Borrower; provided that no such amendment, waiver or consent shall:

(i) change the *pro rata* agreements in Sections 2.06(b)(i), 2.12(c), 2.12(d) or 5.29(a)(ii) without the consent of each Lender affected thereby;

(ii) increase the aggregate amount of any Loans required to be made by any Lender pursuant to its Commitments, extend the Availability Period of Loans made by a Lender, extend any Maturity Date for any Lender's Loan, extend the maturity of any scheduled principal payment date, or reduce any fees described in Article II payable to any Lender, in each case without the consent of such Lender (it being agreed, however, that any vote to rescind any acceleration made pursuant to Article VII of amounts owing with respect to the Loans and other Obligations shall only require the vote of the Required Lenders) (it being understood that waivers or modifications of conditions precedent, covenants, Defaults or Events of Default or of a mandatory reduction in the aggregate Commitments shall not constitute an increase of the Commitments of any Lender);

(iii) reduce or forgive the principal amount of or reduce the rate of interest on any Lender's Loan or extend the date on which interest, fees, or premium are payable to any Lender, in each case without the consent of such Lender (*provided* that, the vote of Required Lenders shall be sufficient to waive the payment, or reduce the increased portion, of interest accruing under Section 2.08(b));

(iv) except as otherwise expressly provided in a Financing Document, release (i) a Loan Party from its Obligations under the Financing Documents (including any guaranty) or (ii) all or substantially all of the Collateral, in each case without the consent of all Lenders; or

(v) waive the conditions precedent set forth in Section 4.02(e) or Section 4.02(k)(i) without the consent of all Lenders affected thereby;

provided further that (A) no amendment, waiver or consent shall, without the written consent of the relevant Agent, affect the rights or duties of such Agent under this Agreement or any other Financing Document and (B) any separate fee agreement between Borrower and the Administrative Agent in its capacity as such or between Borrower and the Collateral Agent in its capacity as such may be amended or modified by such parties. Notwithstanding anything herein, or in any other Financing Document to the contrary, the Loan Parties and the Agents may (but shall not be obligated to) amend or supplement any Security Document without the consent of any Lender to cure any ambiguity, defect or inconsistency which is not material, or to make any change that would provide any additional rights or benefits to the Lenders.

Notwithstanding anything to the contrary in any Financing Document, the Borrower, the Administrative Agent and the Collateral Agent may, without the need to obtain consent of any other Lender, enter into an amendment to this Agreement and the other Financing Documents to (i) correct or cure any ambiguities, errors, omissions, mistakes, inconsistencies or defects jointly identified by the Borrower and the Administrative Agent, (ii) to effect administrative changes of a technical or immaterial nature, or (iii) to fix incorrect cross-references or similar inaccuracies in this Agreement or the applicable Financing Document.

Section 10.03 Expenses; Indemnity; Etc.

(a) Costs and Expenses.

(i) Borrower agrees to pay or reimburse each of the Agents and the Lenders for: (I) all reasonable and documented out-of-pocket costs and expenses of the Agents and the Lenders (including the reasonable fees and expenses of Latham & Watkins LLP, New York counsel to the Administrative Agent and the Collateral Agent (or such other external counsel that the Agents may select from time to time) and experts engaged by the Agents or the Lenders from time to time in connection with (A) the negotiation, preparation, execution, delivery and performance of this Agreement and the other Financing Documents and the extension of credit under this Agreement (whether or not the transaction contemplated hereby and thereby shall be consummated) or (B) any amendment, modification or waiver of any of the terms of this Agreement or any other Financing Documents); (II) all reasonable costs and expenses of the Lenders (including payment of the fees provided for herein) and the Agents (including external counsels' fees and expenses and reasonable experts' fees and expenses) in connection with (A) any Default or Event of Default and any enforcement or collection proceedings resulting from such Default or Event of Default or in connection with the negotiation of any restructuring or "work-out" (whether or not consummated) of the obligations of the Loan Parties under this Agreement or any other Financing Document or Material Project Documents and (B) the enforcement of this Section 10.03 or the preservation of their respective rights; and (III) all costs, expenses, Taxes, assessments and other charges incurred in connection with any

filing, registration, recording or perfection of any security interest contemplated by any Security Document or any other document referred to therein. Notwithstanding anything to the contrary in this Agreement, the costs and expenses reimbursable pursuant to this Section 10.03(a)(i) shall be subject to the limitations set forth in the Agent Reimbursement Letter.

(ii) [Reserved].

(b) Indemnification by Borrower. Each Loan Party agrees to indemnify and hold harmless each of the Agents and the Lenders and their affiliates and their respective directors, officers, employees, administrative agents, attorneys-in-fact and controlling persons (each, an "Indemnified Party") from and against any and all losses, claims, damages and liabilities (other than Excluded Taxes, Indemnified Taxes and Other Taxes), joint or several, to which such Indemnified Party may become subject related to or arising out of any transaction contemplated by the Financing Documents or the execution, delivery and performance of the Financing Documents or any other document in any way relating to the Financing Documents and the transactions contemplated by the Financing Documents (including, for avoidance of doubt, any liabilities arising under or in connection with Environmental Law) and will reimburse any Indemnified Party for all expenses (including reasonable and documented out-of-pocket external counsel fees and expenses) as they are incurred in connection therewith. Borrower will not be liable under the foregoing indemnification provision to an Indemnified Party to the extent that any loss, claim, damage, liability or expense (x) is found in a final non-appealable judgment by a court of competent jurisdiction to have resulted directly and primarily from such Indemnified Party's gross negligence or willful misconduct or (y) is found in a final non-appealable judgment by a court of competent jurisdiction to have resulted from disputes among Indemnified Parties (other than any claims arising out of any act or omission on the part of any Loan Party or its respective Affiliates). Borrower also agrees that no Indemnified Party shall have any liability (whether direct or indirect, in contract or tort or otherwise) to it, or any of its security holders or creditors related to or arising out of the execution, delivery and performance of any Financing Document or any other document in any way relating to the Financing Documents or the other transactions contemplated by the Financing Documents, except to the extent that any loss, claim, damage or liability is found in a final non-appealable judgment by a court to have resulted directly and primarily from such Indemnified Party's gross negligence or willful misconduct as determined by a court of competent jurisdiction in a final, non-appealable decision. To the extent permitted by Applicable Law, Borrower shall not assert and hereby waives, any claim against any Indemnified Party, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any Financing Document or any agreement or instrument contemplated hereby, any Loan or the use of the proceeds thereof.

(c) Indemnification by Lenders. To the extent that Borrower fails to pay any amount required to be paid to any Agent, their affiliates or agents under Section 10.03(a) or Section 10.03(b), each Lender severally agrees to pay ratably in accordance with the aggregate principal amount of the Loan held by the Lender to such Agent, affiliate or agent such unpaid amount; provided that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against such Agent, affiliate or agent in its capacity as such.

(d) Settlements; Appearances in Actions. Borrower agrees that, without each Indemnified Party's prior written consent, it will not settle, compromise or consent to the entry of any judgment in any pending or threatened claim, action or proceeding in respect of which indemnification could be sought by or on behalf of such Indemnified Party under this Section (whether or not any Indemnified Party is an actual or potential party to such claim, action or proceeding), unless such settlement, compromise or consent includes an unconditional release of such Indemnified Party from all liability arising out of such claim, action or proceeding. In the event that an Indemnified Party is requested or required to appear as a witness in any action brought by or on behalf of or against Borrower or any Affiliate thereof in which such Indemnified Party is not named as a defendant, Borrower agrees to reimburse such Indemnified Party for all reasonable expenses incurred by it in connection with such Indemnified Party's appearing and preparing to appear as such a witness, including the reasonable and documented out-of-pocket fees and disbursements of its external legal counsel. In the case of any claim brought against an Indemnified Party for which Borrower may be responsible under this Section 10.03, the Agents and Lenders agree (at the expense of Borrower) to execute such instruments and documents and cooperate as reasonably requested by Borrower in connection with Borrower's defense, settlement or compromise of such claim, action or proceeding.

Section 10.04 Successors and Assigns.

(a) Assignments Generally. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that (i) the Loan Parties may not assign or otherwise transfer, directly or indirectly, any of their respective rights or obligations hereunder or under any other Financing Document without the prior written consent of each Lender (and any attempted assignment or transfer by such Loan Party without such consent shall be null and void) and (ii) no Lender may assign or otherwise transfer, directly or indirectly, any of its rights or obligations hereunder except in accordance with this Section 10.04. Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants (to the extent provided in Section 10.04(f)) and, to the extent expressly contemplated hereby, the Indemnified Parties referred to in Section 10.03(b) and the Related Parties of each of the Administrative Agent and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) Assignments by Lenders. Any Lender may assign to one or more Persons all or a portion of its rights and obligations under this Agreement (including all or a portion of its Loan at the time owing to it); provided that:

(i) except in the case of an assignment to a Lender or an Affiliate or Related Fund of a Lender, the amount of the Loan of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent) shall not be less than $500,000 unless Borrower and the Administrative Agent otherwise consent;

(ii) except in the case of an assignment to a Lender or an Affiliate or Related Fund of a Lender, the Administrative Agent must give its prior written consent to such assignment, in each case not to be unreasonably withheld, conditioned or delayed;

(iii) each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement;

(iv) except in the case of an assignment to an Affiliate, the parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with a processing and recordation fee of $3,500;

(v) the assignee, if it shall not be a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire; and

(vi) the Borrower's consent shall be required if the assignee is (x) a direct competitor of ExxonMobil (or any Person that owns, directly or indirectly, at least majority of the Capital Stock of any such direct competitor) or (y) any Person whose primary investment strategy is purchasing credits of companies in financial distress, including any such Person that is or would reasonably be recognized or categorized as a vulture fund by reputable institutions that are participants in the financial markets;

provided further that any consent of Borrower otherwise required under this clause (b) shall not be required if any Event of Default under paragraphs (a), (b) or, solely with respect to Borrower, (f) has occurred and is continuing and shall be deemed given if Borrower has not responded to a request for such consent within five (5) Business Days of the request. Upon acceptance and recording pursuant to Section 10.04(d), from and after the effective date specified in each Assignment and Assumption, the assignee thereunder shall be a party hereto and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Sections 2.11, 2.12 and 10.03). Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this Section 10.04(b) shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with Section 10.04(f).

(c) Maintenance of Register by the Administrative Agent. The Administrative Agent, acting for this purpose as an agent of Borrower, shall maintain at one of its offices in New York City a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, principal amount of the Loan owing to each Lender pursuant to the terms hereof from time to time and the amount of any Accrued Interest owing from time to time (the "Register"). The entries in the Register shall be conclusive absent manifest error, and Borrower, the Administrative Agent and the Lenders may treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by Borrower and any Lender, at any reasonable time and from time to time upon reasonable prior notice. The Administrative Agent shall give to any Lender promptly upon request therefor, a complete and correct copy of the names and addresses of all registered Lenders.

(d) Effectiveness of Assignments. Upon its receipt of a duly completed Assignment and Assumption executed by an assigning Lender and an assignee, the assignee's completed Administrative Questionnaire (unless the assignee shall already be a Lender hereunder), the processing and recordation fee referred to in Section 10.04(b) and any written consent to such assignment required by Section 10.04(b), the Administrative Agent shall accept such Assignment and Assumption and record the information contained therein in the Register. No assignment shall be effective for purposes of this Agreement unless it has been recorded in the Register as provided in this Section 10.04(d).

(e) Limitations on Rights of Assignees. An assignee Lender shall not be entitled to receive any greater payment under Section 2.11 or 2.12 than the assigning Lender would have been entitled to receive with respect to the interest assigned to such assignee (based on the circumstances existing at the time of the assignment), unless Borrower's prior written consent has been obtained therefor.

(f) Participations. Any Lender may, without the consent of Borrower or the Administrative Agent, sell participations to one or more banks or other entities (a "Participant") in all or a portion of such Lender's rights and obligations under this Agreement and the other Financing Documents (including all or a portion of the Loan owing to it); provided that (i) such Lender's obligations under this Agreement and the other Financing Documents shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (iii) the Loan Parties, the Administrative Agent and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement and the other Financing Documents. Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and the other Financing Documents and to approve any amendment, modification or waiver of any provision of this Agreement or any other Financing Document; provided that, such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver described in the first proviso to Section 10.02(b) that affects such Participant. Subject to Section 10.04(g), Borrower agrees that each Participant shall be entitled to the benefits of Sections 2.11 and 2.12 to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to Section 10.04(b). Each Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of Borrower, maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest) of each Participant's interest in the Loan or other obligations under the Financing Documents held by it (the "Participant Register"); provided that no Lender shall have any obligation to disclose all or any portion of the Participant Register (including the identity of any Participant or any information relating to a Participant's interest in any Commitments, Loan or its other obligations under any Financing Document) to any Person except to the extent that such disclosure is necessary to establish that such participation complies with this Section 10.04 and that such commitment, loan, letter of credit or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations and Section 1.163-5(b) of the proposed United States Treasury Regulations (or any amended or successor version thereof). The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. For the avoidance of doubt, the

Administrative Agent (in its capacity as Administrative Agent) shall have no responsibility for maintaining a Participant Register.

(g) Limitations on Rights of Participants. A Participant shall not be entitled to receive any greater payment under Sections 2.11 or 2.12 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, unless (i) the sale of the participation to such Participant is made with Borrower's prior written consent, or (ii) such entitlement to receive a greater payment results from a Change in Law that occurs after the Participant acquired the applicable participation. A Participant shall not be entitled to the benefits of Section 2.11 unless the Participant agrees, for the benefit of Borrower, to comply with Section 2.11(e) as though it were a Lender (it being understood that the documentation required under Section 2.11(e) shall be delivered to the participating Lender).

(h) Certain Pledges.

(i) Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, including any such pledge or assignment to a Federal Reserve Bank, the European Central Bank or any other central bank or similar monetary authority in the jurisdiction of such Lender, and this Section shall not apply to any such pledge or assignment of a security interest; provided that no such pledge or assignment of a security interest shall release a Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto; and provided further that any payment in respect of such pledge or assignment made by any Loan Party to or for the account of the pledging or assigning Lender in accordance with the terms of this Agreement shall satisfy such Loan Party's obligations hereunder in respect of such pledged or assigned Loan to the extent of such payment.

(ii) Notwithstanding any other provision of this Agreement, any Lender may, without informing, consulting with or obtaining the consent of any other party to the Financing Documents and without formality under any Financing Documents, assign by way of security, mortgage, charge or otherwise create security by any means over, its rights under any Financing Document to secure the obligations of that Lender to any Person that would be a permitted assignee (without the consent of Borrower or any Agent) pursuant to Section 10.04(b) including (A) to the benefit of any of its Affiliates and/or (B) within the framework of its, or its Affiliates, direct or indirect funding operations.

(i) No Assignments to Borrower or Affiliates. Anything in this Section to the contrary notwithstanding, no Lender may assign or participate any interest in any Loan held by it hereunder to any Loan Party or any Affiliate of Borrower without the prior written consent of each other Lender.

Section 10.05 Survival. All covenants, agreements, representations and warranties made by the Loan Parties herein and in the certificates or other instruments delivered in connection with or pursuant to this Agreement shall be considered to have been relied upon by the other parties hereto and shall survive the execution and delivery of this Agreement and the making of any Loan, regardless of any investigation made by any such other party or on its behalf and notwithstanding that the Administrative Agent or any Lender may have had notice or knowledge of any Default or

Event of Default or incorrect representation or warranty at the time any credit is extended hereunder, and shall continue in full force and effect as long as the principal of or any accrued interest on any Loan or any fee or any other amount payable under this Agreement is outstanding and unpaid. The provisions of Sections 2.09, 2.11, 2.12, 10.03, 10.05, 10.12, 10.13, 10.14, 10.15 and Article VIII shall survive and remain in full force and effect regardless of the consummation of the transactions contemplated hereby, the repayment of the Loan, the expiration or termination of the Commitments or the termination of this Agreement or any provision hereof.

Section 10.06 Counterparts; Integration; Effectiveness. This Agreement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement and the other Financing Documents to which a Loan Party is party constitute the entire contract between and among the parties relating to the subject matter hereof and thereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Except as provided in Section 4.01, this Agreement shall become effective when it shall have been executed by the Administrative Agent and when the Administrative Agent shall have received counterparts hereof which, when taken together, bear the signatures of each of the other parties hereto, and thereafter shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns. Delivery of an executed counterpart of a signature page to this Agreement by telecopy or scanned electronic transmission shall be effective as delivery of a manually executed counterpart of this Agreement.

Section 10.07 Severability. Any provision of this Agreement held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions hereof; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction.

Section 10.08 Right of Setoff. If an Event of Default shall have occurred and be continuing, each Lender and any of its Affiliates is hereby authorized at any time and from time to time, to the fullest extent permitted by law, to set off and apply any and all deposits (general or special, time or demand, provisional or final) at any time held, and any other indebtedness at any time owing, by such Lender or any such Affiliate to or for the credit or the account of Borrower against any of and all the obligations of Borrower now or hereafter existing under this Agreement held by such Lender, irrespective of whether or not such Lender shall have made any demand under this Agreement and although such obligations may be unmatured or denominated in a currency other than Dollars. The rights of each Lender or any such Affiliate under this Section are in addition to other rights and remedies (including other rights of setoff) which such Lender may have.

Section 10.09 Governing Law; Jurisdiction; Etc.

(a) Governing Law. THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES UNDER THIS AGREEMENT AND ANY DISPUTE OF CLAIMS ARISING IN CONNECTION THEREWITH SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

(b) Submission to Jurisdiction. Any legal action or proceeding with respect to this Agreement or any other Financing Document to which a Loan Party is a party shall, except as provided in clause (d) below, be brought in the courts of the State of New York, or of the United States District Court for the Southern District of New York, in each case, seated in the County of New York and, by execution and delivery of this Agreement, each party hereto hereby irrevocably accepts for itself and in respect of its property, generally and unconditionally, the jurisdiction of the aforesaid courts. Each party hereto agrees that a judgment, after exhaustion of all available appeals, in any such action or proceeding shall be conclusive and binding upon it, and may be enforced in any other jurisdiction, including by a suit upon such judgment, a certified copy of which shall be conclusive evidence of the judgment.

(c) Waiver of Venue. Each party hereto hereby irrevocably waives any objection that it may now have or hereafter have to the laying of the venue of any suit, action or proceeding arising out of or relating to this Agreement or any other Financing Document to which it is a party brought in the Supreme Court of the State of New York or in the United States District Court for the Southern District of New York, in each case, seated in the County of New York and hereby further irrevocably waives any claim that any such suit, action or proceeding brought in any such court has been brought in an inconvenient forum.

(d) Rights of the Secured Parties. Nothing in this Section 10.09 shall limit the right of the Secured Parties to refer any claim against a Loan Party to any court of competent jurisdiction in any State where any Collateral is located, nor shall the taking of proceedings by any Secured Party before the courts in one or more jurisdictions preclude the taking of proceedings in any other jurisdiction whether concurrently or not.

(e) WAIVER OF JURY TRIAL. EACH PARTY TO THIS AGREEMENT HEREBY EXPRESSLY WAIVES ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION ARISING UNDER ANY FINANCING DOCUMENT OR IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF THE PARTIES HERETO OR ANY OF THEM WITH RESPECT TO ANY FINANCING DOCUMENT, OR THE TRANSACTIONS RELATED THERETO, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER FOUNDED IN CONTRACT OR TORT OR OTHERWISE; AND EACH PARTY HEREBY AGREES AND CONSENTS THAT ANY SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY, AND THAT ANY PARTY TO THIS AGREEMENT MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS SECTION WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF THE SIGNATORIES HERETO TO THE WAIVER OF THEIR RIGHT TO TRIAL BY JURY.

(f) Waiver of Immunity. To the extent that a Loan Party has or hereafter may acquire any immunity from jurisdiction of any court or from any legal process (whether through service of notice, attachment prior to judgment, attachment in aid of execution, execution, sovereign immunity or otherwise) with respect to itself or its property, it hereby irrevocably waives such immunity, to the fullest extent permitted by law, in respect of its obligations under this Agreement and the other Financing Documents.

Section 10.10

Acknowledgment Regarding Any Supported QFCs. To the extent that the Financing Documents provide support, through a guarantee or otherwise, for Swap Agreements or any other agreement or instrument that is a QFC (such support, "QFC Credit Support" and each such QFC a "Supported QFC"), the parties acknowledge and agree as follows with respect to the resolution power of the Federal Deposit Insurance Corporation under the Federal Deposit Insurance Act and Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (together with the regulations promulgated thereunder, the "U.S. Special Resolution Regimes") in respect of such Supported QFC and QFC Credit Support (with the provisions below applicable notwithstanding that the Financing Documents and any Supported QFC may in fact be stated to be governed by the laws of the State of New York and/or of the United States or any other state of the United States).

(a) In the event a Covered Entity that is party to a Supported QFC (each, a "Covered Party") becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer of such Supported QFC and the benefit of such QFC Credit Support (and any interest and obligation in or under such Supported QFC and such QFC Credit Support, and any rights in property securing such Supported QFC or such QFC Credit Support) from such Covered Party will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if the Supported QFC and such QFC Credit Support (and any such interest, obligation and rights in property) were governed by the laws of the United States or a state of the United States. In the event a Covered Party or a BHC Act Affiliate of a Covered Party becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights under the Financing Documents that might otherwise apply to such Supported QFC or any QFC Credit Support that may be exercised against such Covered Party are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if the Supported QFC and the Financing Documents were governed by the laws of the United States or a state of the United States. Without limitation of the foregoing, it is understood and agreed that rights and remedies of the parties with respect to a defaulting Lender shall in no event affect the rights of any Covered Party with respect to a Supported QFC or any QFC Credit Support.

(b) As used in this Section 10.10, the following terms have the following meanings:

(i) "BHC Act Affiliate" of a party means an "affiliate" (as such term is defined under, and interpreted in accordance with, 12 U.S.C. 1841(k)) of such part.

(ii) "Covered Entity" means any of the following:

(A) a "covered entity" as that term is defined in, and interpreted in accordance with, 12 C.F.R. §252.82(b);

(B) a "covered bank" as that term is defined in, and interpreted in accordance with, 12 C.F.R. §47.3(b); or

(C) a "covered FSI" as that term is defined in, and interpreted in accordance with, 12 C.F.R. §382.2(b).

(iii) "Default Right" has the meaning assigned to that term in, and shall be interpreted in accordance with, 12 C.F.R. §§ 252.81, 47.2 or 382.1, as applicable.

(iv) "QFC" has the meaning assigned to the term "qualified financial contract" in, and shall be interpreted in accordance with, 12 U.S.C. 5390(c)(8)(D).

Section 10.11 Headings. Article and Section headings and the Table of Contents used herein are for convenience of reference only, are not part of this Agreement and shall not affect the construction of, or be taken into consideration in interpreting, this Agreement.

Section 10.12 Confidentiality. Each of the Agents and the Lenders agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (i) to its and its Affiliates' directors, officers, employees, board members (and members of committees thereof), managers, members, partners, equity holders, agents, consultants, Persons providing administration and settlement services and other professional advisors, including accountants, auditors, legal counsel, investment advisers or managers (to the extent providing investment advice relating to the transactions contemplated by this Agreement) and other advisors with a need to know (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential), (ii) to the extent requested by any applicable regulatory or supervisory body or authority (including, without limitation, the National Association of Insurance Commissioners, the SVO or any similar organization, and any nationally recognized rating agency that requires access to information about any Lender's investment portfolio), by Applicable Laws or regulations or by any subpoena, oral question posed at any deposition, interrogatory or similar legal process (including, for the avoidance of doubt, to the extent requested in connection with any pledge or assignment pursuant to Section 10.04(h)); provided that the party from whom disclosure is being required shall give notice thereof to Borrower as soon as practicable (unless restricted from doing so and except where disclosure is to be made to a regulatory or supervisory body or authority during the ordinary course of its supervisory or regulatory function), (iii) to any other party to this Agreement, (iv) subject to an agreement containing provisions substantially the same as those of this Section 10.12, to any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights or obligations under this Agreement, (v) with the consent of Borrower, (vi) to the extent such Information (A) becomes publicly available other than as a result of a breach of this Section 10.12 or (B) becomes available to any Agent or any Lender on a nonconfidential basis from a source other than Borrower or (vii) to any Person with whom Borrower, an Agent or a Lender has entered into (or potentially may enter into), whether directly or indirectly, any transaction under which payments are to be made or may be made by reference to, one or more Financing Documents and/or any Loan Party and/or any OpCo Loan Party or to any of such Person's Affiliates, representatives, agents or professional advisors. For the purposes of this Section 10.12, "Information" means all information received from the Loan Parties relating to such Loan Party's business or otherwise furnished pursuant to this Agreement or any other Financing Document, other than any such information that is available to the Agents or any Lender on a nonconfidential basis prior to disclosure by Borrower. Any Person required to maintain the confidentiality of Information as provided in this Section shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.

Section 10.13 Non-Recourse. Anything herein or in any other Financing Document to the contrary notwithstanding, the obligations of the Loan Parties under this Agreement and each other

Financing Document to which each Loan Party is a party, and any certificate, notice, instrument or document delivered pursuant hereto or thereto, are obligations solely of such Loan Party and do not constitute a debt, liability or obligation of (and no recourse shall be made with respect to) any of their respective Affiliates (including Sponsor and its Affiliates (other than any Loan Party)), or any shareholder, partner, member, officer, director or employee of the Loan Parties or such Affiliates (collectively, the "Non-Recourse Parties"), except that the foregoing shall not limit the obligations or liabilities of any Non-Recourse Party under any Financing Document to which such Non-Recourse Party is a party. No action under or in connection with this Agreement or any other Financing Document to which each Loan Party is a party shall be brought against any Non-Recourse Party, and no judgment for any deficiency upon the obligations hereunder or thereunder shall be obtainable by any Secured Party against any Non-Recourse Party, except that the foregoing shall not limit the obligations or liabilities of any Non-Recourse Party under any Financing Document to which such Non-Recourse Party is a party. Notwithstanding any of the foregoing, it is expressly understood and agreed that nothing contained in this Section shall in any manner or way (i) restrict the remedies available to any Agent or Lender to realize upon the Collateral or under any Financing Document, or constitute or be deemed to be a release of the obligations secured by (or impair the enforceability of) the Liens and security interests and possessory rights created by or arising from any Financing Document or (ii) release, or be deemed to release, any Non-Recourse Party from liability for its own willful misrepresentation, fraudulent actions, gross negligence or willful misconduct or from any of its obligations or liabilities under any Financing Document to which such Non-Recourse Party is a party.

Section 10.14 No Third Party Beneficiaries. The agreement of the Lenders to make the Loan to Borrower on the terms and conditions set forth in this Agreement, is solely for the benefit of the Loan Parties, the Agents and the Lenders, and no other Person (including any Material Project Counterparty, contractor, subcontractor, supplier, workman, carrier, warehouseman or materialman furnishing labor, supplies, goods or services to or for the benefit of the Project) shall have any rights under this Agreement or under any other Financing Document or Material Project Document as against the Agent or any Lender or with respect to any extension of credit contemplated by this Agreement.

Section 10.15 Reinstatement. The obligations of Borrower under this Agreement shall be automatically reinstated if and to the extent that for any reason any payment by or on behalf of Borrower in respect of the Secured Obligations is rescinded or must be otherwise restored by any holder of any of the Secured Obligations, whether as a result of any proceedings in Bankruptcy or reorganization or otherwise, and Borrower agrees that it will indemnify each Secured Party on demand for all reasonable costs and expenses (including fees of external counsel) incurred by such Secured Party in connection with such rescission or restoration, including any such costs and expenses incurred in defending against any claim alleging that such payment constituted a preference, fraudulent transfer or similar payment under any Bankruptcy, insolvency or similar law.

Section 10.16 USA PATRIOT Act. Each Lender hereby notifies the Loan Parties that pursuant to the requirements of the USA PATRIOT Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the " USA PATRIOT Act "), it is required to obtain, verify and record information that identifies such Loan Party, which information includes the name and address of

such Loan Party and other information that will allow such Lender to identify such Loan Party in accordance with the USA PATRIOT Act.

Section 10.17 Electronic Execution of Assignments and Certain Other Documents. The words "execution," "execute", "signed," "signature," and words of like import in or related to any document to be signed in connection with this Agreement and the transactions contemplated hereby (including without limitation Assignment and Assumptions, amendments or other Borrowing Requests, waivers and consents) shall be deemed to include electronic signatures, the electronic matching of assignment terms and contract formations on electronic platforms approved by the Administrative Agent, or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the day and year first above written.

BKRF HCB, LLC, as Borrower

By: **/s/** RICHARD PALMER
Name: Richard Palmer
Title: President

BKRF HCP, LLC, as Pledgor

By: **/s/** RICHARD PALMER
Name: Richard Palmer
Title: President

ORION ENERGY PARTNERS TP AGENT, LLC
as Administrative Agent

By: **/s/** GERRIT NICHOLAS
Name: Gerrit Nicholas
Title: Managing Partner

ORION ENERGY PARTNERS TP AGENT, LLC
as Collateral Agent

By: **/s/** GERRIT NICHOLAS
Name: Gerrit Nicholas
Title: Managing Partner

LENDERS

ORION ENERGY CREDIT OPPORTUNITIES FUND II, L.P.,
a Delaware limited partnership
By: Orion Energy Credit Opportunities Fund II GP, L.P., its general partner
By: Orion Energy Credit Opportunities Fund II Holdings, LLC, its general partner
By: /s/ GERRIT NICHOLAS
Name: Gerrit Nicholas
Title: Managing Partner

ORION ENERGY CREDIT OPPORTUNITIES FUND II PV, L.P.,
a Delaware limited partnership
By: Orion Energy Credit Opportunities Fund II GP, L.P., its general partner
By: Orion Energy Credit Opportunities Fund II Holdings, LLC, its general partner
By: /s/ GERRIT NICHOLAS
Name: Gerrit Nicholas
Title: Managing Partner

ORION ENERGY CREDIT OPPORTUNITIES FUND II GPFA, L.P.,
a Delaware limited partnership
By: Orion Energy Credit Opportunities Fund II GP, L.P., its general partner
By: Orion Energy Credit Opportunities Fund II Holdings, LLC, its general partner
By: /s/ GERRIT NICHOLAS
Name: Gerrit Nicholas
Title: Managing Partner

ORION ENERGY CREDIT OPPORTUNITIES GCE CO-INVEST, L.P.,
a Delaware limited partnership
By: Orion Energy Credit Opportunities Fund II GP, L.P., its general partner
By: Orion Energy Credit Opportunities Fund II Holdings, LLC, its general partner
By: /s/ GERRIT NICHOLAS
Name: Gerrit Nicholas
Title: Managing Partner

VOYA RETIREMENT INSURANCE AND ANNUITY COMPANY
ReliaStar Life Insurance Company
By: Voya Investment Management LLC, as Agent
By: /s/ THOMAS EMMONS
Name: Thomas Emmons
Title: Senior Vice President

LABOR IMPACT FUND, L.P.
By: GCM Investments GP, LLC, its General Partner
By: /s/ TODD HENIGAN
Name: Todd Henigan
Title: Authorized Signature

Confidential
Execution Version

CERTAIN CONFIDENTIAL INFORMATION IN THIS EXHIBIT HAS BEEN OMITTED AND REPLACED WITH "[…*…]" BECAUSE IT IS NOT MATERIAL AND WOULD BE COMPETITIVELY HARMFUL IF PUBLICLY DISCLOSED.**

PRODUCT OFFTAKE AGREEMENT

BETWEEN

GCE HOLDINGS ACQUISITIONS LLC

AND

EXXONMOBIL OIL CORPORATION

PRODUCT OFF-TAKE AGREEMENT

This Product Off-take Agreement ("Agreement"), dated April 10, 2019 ("Effective Date"), is made by and between GCE Holdings Acquisitions, LLC, a Delaware limited liability company ("GCE"), and ExxonMobil Oil Corporation, a New York corporation ("EXXONMOBIL"). GCE and EXXONMOBIL are each individually referred to herein as a "Party", and collectively as the "Parties".

WHEREAS, GCE intends to produce, among other things, renewable diesel fuel in Bakersfield, California;

WHEREAS, EXXONMOBIL desires to purchase and GCE desires to sell certain quantities of renewable diesel fuel, on the terms and conditions contained herein;

NOW, THEREFORE, in consideration of the aforesaid premises and the mutual covenants contained herein, the Parties hereby agree:

ARTICLE I

DEFINITIONS

Unless the context indicates otherwise, as used in this Agreement, the following terms have the meanings indicated below:

"Additional Renewal Term" shall have the meaning given to that term in Section 2.3(c).

"Affiliate" means, with respect to a person, any other person which controls, either directly or indirectly, such person or which is controlled directly or indirectly by such person, or is directly or indirectly controlled by a person which directly or indirectly controls such person. "Control" for purposes of the immediately preceding sentence means the power to direct or cause the direction of the management and policies of the company, partnership or legal entity, whether through the ownership directly or indirectly of more than fifty percent (50%) of the voting securities, by contract or otherwise.

"Agreement" shall have the meaning given to that term in the preamble to this Agreement.

"API" means the American Petroleum Institute.

"API 1640" shall have the meaning given to that term in Section 9.4.

"Applicable Law" means all statutes, ordinances, rules, regulations, orders, and directives of federal, state, or local authority, including those applicable to environmental pollution, and all presidential proclamations which apply to either Party or the Project.

"Barrel" means a volume equal to forty-two (42) Gallons.

"Business Day" means a day (except Saturdays and Sundays and public holidays) when deposit-taking banks are open in New York, New York, for the business of over-the-counter deposit-taking.

"CARB" means the California Air Resources Board.

"Camelina Grain" shall have the meaning given to that term in Schedule 2.2.

"CI" shall have the meaning given to that term in Section 4.5(b).

"Co-Products" means naphtha, liquefied petroleum gas, lean gas and any other byproducts or waste streams resulting from the conversion of feedstocks to Renewable Diesel.

"Commercial Operations Date" means the date that the Project has completed required testing and commissioning under the engineering, procurement and construction agreements for the Project and can start producing Renewable Diesel for sale.

"Committed Volume" shall have the meaning given to that term in Section 2.2(a).

"Condition Precedent" shall have the meaning given to that term in Section 2.4.

"CP Date" shall have the meaning given to that term in Section 2.4.

"Delivery Point" means: (a) for transport by truck, the point at which the Renewable Diesel in question passes the vehicle's flange connection on loading into the vehicle; (b) for transport by rail, the point at which the Renewable Diesel in question passes the rail tank wagon's flange connection on loading into the rail tank wagon; and (c) for transport by pipeline, the point mutually agreed by the Parties in accordance with Section 3.2.

"Delivery Week" means one calendar week, beginning Monday 12:00 AM local time through Sunday 11:59 PM local time.

"Effective Date" shall have the meaning given to that term in the preamble to this Agreement.

"EMTS" shall have the meaning given to that term in Section 5.3.

"EPA" means the U.S. Environmental Protection Agency.

"FBTC" means the Federal Blenders Tax Credit, which applies to Blenders of Biodiesel (including Renewable Diesel) mixtures as set forth in Internal Revenue Code Sections 6426(a) and (c), and persons that sell or use alternative fuel as a fuel in a motor vehicle or motorboat and in aviation, as set forth in Internal Revenue Code Sections 6426(a) and (d).

"Force Majeure" shall have the meaning given to that term in Section 12.1.

"FPTC" means Federal Producer Tax Credit, which applies to Producers of Biodiesel (including Renewable Diesel).

"Gallon" means a unit of volume equivalent to 231 cubic inches measured at 60 degrees Fahrenheit.

"GCE" shall have the meaning given to that term in the preamble to this Agreement.

"GCE Renewable Diesel Price" means the price per Gallon of Renewable Diesel as per the formula set forth in Schedule 2.1.

"Governmental Authority" means, in respect of any country, any national, regional, state, or local government, any subdivision, agency, commission or authority thereof (including any quasi-governmental agency) having jurisdiction over a Party, the Project or Renewable Diesel to be delivered pursuant to this Agreement, and acting within its legal authority.

"Governmental Authorization" means all permits, authorizations, variances, approvals, registrations, certificates of legal status, certificates of occupancy, orders or other approvals or licenses (and in any case, any amendments or supplements thereto) granted or issued by any Governmental Authority having or asserting jurisdiction over matters covered in this Agreement or with respect to a Party.

"Initial Term" shall have the meaning given to that term in Section 2.3(a).

"Information" shall have the meaning given to that term in Section 15.4.

"Intellectual Property Right" shall have the meaning given to that term in Section 9.3.

"Invalid RIN" shall have the meaning given to that term in Section 5.5.

"IRS" means the United States Internal Revenue Service.

"LCFS" shall have the meaning given to that term in Section 4.5(a).

"Lenders" means (a) any and all banks, financial institutions and other financing parties providing all or a portion of any financing, refinancing or credit support to GCE or its Affiliates related to the Project or the general business operations of GCE or its Affiliates, and any trustee or agent acting on behalf of such banks, financial institutions or financing parties, and (b) any provider of any hedging arrangement required under the terms of clause (a) above, including any interest rate swap transaction, forward interest rate swap transaction, and any trustee or agent acting on behalf of such provider.

"LIBOR" means the rate per annum equal to the London Interbank Offered Rate as administered by ICE Benchmark Administration Limited (or any Person which takes over the administration of that rate for USD) and displayed on the page designated as the Reuters screen "LIBOR01" (or any successor or substitute page of such rate, or any successor to or substitute for such rate, for such publication service) (in each case for purposes of this

definition, the "Screen Rate") for three (3) month deposits in USD as published at approximately 11:00 a.m. London time on any Business Day provided that if the Screen Rate shall be less than zero, the rate shall be deemed to be zero for the purposes of this Agreement.

"Livestock Feed" shall have the meaning given to that term in Schedule 2.2.

"Marketing Agreement" shall have the meaning given to that term in Section 2.4(h).

"Monthly Delivery Schedule" shall have the meaning given to that term in Section 3.1(b).

"Off-Specification Renewable Diesel" shall have the meaning given to that term in Section 4.4.

"Offtake Shortfall Volumes" shall have the meaning given to that term in Section 2.2(d).

"Oil Mill" shall have the meaning given to that term in Schedule 2.2.

"OPIS" means Oil Price Information Service as published by UGC Holdings LP or its successors.

"Party" shall have the meaning given to that term in the preamble to this Agreement.

"PPI" or "Producer Price Index" means the index which tracks changes in the wholesale prices of goods bought and sold in bulk as published by the US Bureau of Labor Statistics on a monthly basis.

"Project" means the renewable diesel facility located in Bakersfield, California that GCE intends to convert, own and operate to process approximately 15,000 Barrels per day of renewable feedstock into renewable diesel utilizing Haldor Topsoe HydroFlex technology. At design capacity, the Project is expected to produce approximately two hundred ten (210) million Gallons per Year of Renewable Diesel as well as other Co-Products.

"Purchased Grain" shall have the meaning given to that term in Schedule 2.2.

"Quarterly Requirements" shall have the meaning given to that term in Section 3.1(a).

"Ratably" means the reasonably evenly apportioned production and offtake for product movements on a monthly basis in accordance with the Monthly Delivery Schedule (taking into consideration any Project outages, major maintenance, events of Force Majeure and the like).

"Renewable Diesel" means product that meets the Specifications in Schedule 1.1.

"Renewal Term" shall have the meaning given to that term in Section 2.3(b).

"Representatives" shall have the meaning given to that term in Section 15.5(i).

"RFS2" shall have the meaning given to that term in Section 2.6(a).

"RINs" shall have the meaning given to that term in Section 5.1.

"Rules" shall have the meaning given to that term in Section 13.1.

"Sales Price" shall have the meaning given to that term in Section 2.2(d)(i).

"Specifications" means the specifications for renewable diesel, as set forth in Schedule 1.1.

"Start Date" shall have the meaning given to that term in Section 2.3(a).

"SUSOILS" means Sustainable Oils Company.

"Taxes, Fees, and/or Other Similar Levies" means all taxes, fees, levies or charges imposed by any Governmental Authority, including federal manufacturers excise taxes, environmental taxes, state and local motor fuel excise taxes, state and local sales and use taxes, gross receipts or franchise taxes, business and occupation taxes, state and local inspection fees, and federal, state and local oil spill taxes or fees.

"Term" means collectively, the Initial Term and any subsequent Renewal Term or Additional Renewal Term.

"Transfer Date" shall have the meaning given to that term in Section 5.3.

"Year" shall mean each twelve (12) month period commencing when the Initial Term commences.

Terms not otherwise defined in this Section 1 shall have the meanings ascribed to such terms elsewhere in the Agreement.

ARTICLE II

AGREEMENT TO PURCHASE; TERM

2.1 Purchase of Products. During the Term of this Agreement, EXXONMOBIL agrees to purchase and receive Renewable Diesel from GCE, and GCE agrees to sell and deliver Renewable Diesel to EXXONMOBIL, in each case in accordance with the terms and conditions of this Agreement and at the prices determined under this Agreement.

2.2 Volume.

(a) Each Year, EXXONMOBIL agrees to purchase eighty-five (85) million Gallons of Renewable Diesel (the "Committed Volume") from GCE.

(b) For each Year during the Initial Term and any Renewal Term, EXXONMOBIL shall have the right to increase the Committed Volume by an additional twenty (20) million Gallons by delivering written notice of exercise to GCE on or before the date that is six (6) months before the start of such Year. Any such increase in volume will be effective only for the immediately succeeding Year, and the Committed Volume will automatically be reduced to eighty-five (85) million Gallons for the subsequent Year unless EXXONMOBIL exercises its right to increase the Committed Volume for such subsequent Year in accordance with this Section 2.2(b).

(c) In the event of a shortfall in Renewable Diesel production at the Project, GCE shall curtail all other purchasers of Renewable Diesel prior to curtailing any portion of the Committed Volume.

(d) […***…].

(e) The remedies set forth in Section 2.3(d)(i)-(ii) are the sole and exclusive remedies of EXXONMOBIL for any failure on the part of GCE to supply Renewable Diesel in accordance with this Agreement. The remedies set forth in Section 2.2(d) are the sole and exclusive remedies of GCE for any failure on the part of EXXONMOBIL to purchase and offtake Renewable Diesel in accordance with this Agreement.

2.3 Term.

(a) The initial delivery term of the Agreement ("Initial Term") shall be sixty (60) months, commencing upon the date that the Project commences operations (the "Start Date"), as notified by GCE to EXXONMOBIL in accordance with Section 2.5.

(b) EXXONMOBIL shall have a one-time option to extend the Term for an additional five (5) Year period (a " Renewal Term") which must be exercised, if at all, by delivery of written notice to GCE at least […***…] prior to expiry of the Initial Term. If EXXONMOBIL fails to deliver timely notice of its exercise of this option for a Renewal Term, the Term of this Agreement will expire at the end of the Initial Term.

(c) If EXXONMOBIL exercises its Renewal Term option, EXXONMOBIL will have an additional right to require the Parties to enter into good faith negotiations on a pricing structure for […***…] beyond the end of the Renewal Term (an "Additional Renewal Term") in which both Parties […***…] per Gallon above production and transportation costs. EXXONMOBIL must exercise its option to enter into good faith negotiations relating to an Additional Renewal Term (if at all) not later than 12 months prior to expiry of the Renewal Term.

(d) Either Party may terminate this Agreement upon delivery of written notice to the other Party as follows:

(i) if, during the period starting on the Start Date and ending on the last day of the sixth month of the Initial Term, GCE fails to make available for delivery a minimum of […***…] Gallons of Renewable Diesel, to the extent such failure is not attributable to (i) Force Majeure, (ii) reasons attributable to a breach of this Agreement by EXXONMOBIL, or (iii) any reason otherwise excusing such failure by another provision of this Agreement;

(ii) if, during the period starting on the expiration of the first six months of the Initial Term and ending on the first anniversary of the Start Date, GCE fails to make available for delivery a minimum […***…] Gallons of Renewable Diesel to the extent such failure is not attributable to (i) Force Majeure, (ii) reasons attributable to a breach of this Agreement by EXXONMOBIL, or (iii) any reason otherwise excusing such failure by another provision of this Agreement;

(iii) if the CP Date has not occurred by […***…], such deadline to be automatically extended for the duration of any delay attributable to Force Majeure; and

(iv) if the Start Date has not occurred by the last date in Section 2.5 (a), such deadline to be automatically extended for the duration of any delay attributable to Force Majeure.

Upon termination pursuant to this Section 2.3(d), each Party shall be relieved of any further obligations hereunder, without prejudice to any rights that may have accrued prior to such termination.

2.4 Effectiveness; Conditions Precedent. This Agreement shall become effective on the Effective Date; provided that GCE's obligation to sell Renewable Diesel to EXXONMOBIL, and EXXONMOBIL's obligation to purchase Renewable Diesel from GCE, shall become effective upon the CP Date, with deliveries to commence on the Start Date. The "CP Date" shall be the date as of which the last of the conditions set forth below (each, a "Condition Precedent") shall have been satisfied or waived by GCE in the case of (a), (c), (d) or (e), satisfied or waived by EXXONMOBIL in the case of (h), or by both Parties in the case of (b), (f) or (g):

(a) GCE has made a final investment decision to proceed with the Project;

(b) GCE has acquired the refinery located in Bakersfield, California that GCE intends to convert, own and operate in connection with the Project;

(c) GCE has received all Governmental Authorizations necessary to convert, own and operate the Project;

(d) GCE has procured, or caused to be procured, all rights-of-way, easement or other property or contractual rights, including technology licensing agreements, necessary for the Project;

(e) GCE has: (1) entered into the necessary licensing, engineering, procurement and construction agreements for the Project and (2) issued full notices to proceed to its contractors;

(f) GCE has obtained all of the financing (either in the form of equity or debt) necessary to fund the completion of such conversion (and any conditions precedent associated with the initial funding of such amounts have been satisfied in full);

(g) […***…]; and

(h) […***…].

[…***…]

2.5 Notice of Anticipated Start Date.

(a) The Start Date is anticipated to be between […***…] and […***…].

(b) GCE shall keep EXXONMOBIL reasonably informed as to the progress being made in connection with the completion of the Project.

(c) Within five (5) Business Days following the CP Date, GCE shall provide EXXONMOBIL with its best estimate of the three (3) month period during which the Start Date is expected to occur, which date must fall within the window period under Section 2.5(a).

(d) On or prior to the Commercial Operations Date, GCE shall provide EXXONMOBIL with notice of the five (5) day period during which the Start Date is expected to occur.

(e) Within five (5) Business Days following the Commercial Operations Date of the Project, GCE shall provide EXXONMOBIL with the date constituting the Start Date.

2.6 […***…].

2.7 Default. In addition to the provisions of Section 12.1, this Agreement may be terminated by a non-defaulting Party, upon notice to the defaulting Party, if one or more of the following events have occurred and remain uncured within the specified time period:

(a) the other Party defaults, in any material respect, in the performance or observance of any material term, covenant or agreement contained in this Agreement (other than a default relating to any payment obligation or any default for which a sole and exclusive

remedy is provided in this Agreement), (ii) such default has a material adverse impact on the (A) defaulting Party's performance of its obligations to purchase or sell Renewable Diesel hereunder and (B) non-defaulting Party, (iii) and such default is not cured within thirty (30) days following receipt by the defaulting Party of written notice of such default from the non-defaulting Party or, if the defaulting Party has commenced a cure and is diligently pursuing cure to completion, such period of time as reasonably needed by the defaulting Party to complete such cure;

(b) the other Party fails to pay any amount owed hereunder on the due date for such payment, except for any amounts being disputed in good faith, and such amount (and any interest accrued thereon) remains unpaid for ten (10) days following receipt by such Party of written notice from the non-defaulting Party of such failure to pay;

(c) the other Party commences any case, proceeding or any other action: (1) under any existing or future law of any jurisdiction relating to bankruptcy, insolvency, reorganization or relief of debtors, seeking to have an order for relief entered with respect to it, or seeking to adjudicate it a bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to it or its debt; or (2) seeking appointment of a receiver, trustee, custodian or other similar official for it or for all or any substantial part of its assets or the other Party shall make a general assignment for the benefit of its creditors;

(d) there is commenced against the other Party any case, proceeding or other action of a nature referred to in clause (c) above that has not been dismissed within sixty (60) days;

(e) there is commenced against the other Party any case, proceeding or other action seeking issuance of a warrant of attachment, execution or similar process against all or any substantial part of its assets; or

(f) the other Party takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the acts set forth in clause (c) (d), or (e) above.

ARTICLE III

PROGRAMMING OF DELIVERIES

3.1 Quarterly Requirements.

(a) On a quarterly basis at least forty-five (45) days prior to the first day of each given calendar quarter during the Term, GCE shall provide EXXONMOBIL with written notice of the estimated quantity of Renewable Diesel to be delivered by GCE to EXXONMOBIL during such upcoming calendar quarter ("Quarterly Requirements"), including allowances for scheduled maintenance. Unless otherwise agreed in writing

by the Parties, the Quarterly Requirements in any calendar quarter shall not be below […***…] or above […***…] of the portion of the Committed Volume for such calendar quarter.

(b) On or prior to the fifteenth (15th) day of each month during the Term, GCE shall provide to EXXONMOBIL a Ratable delivery schedule for the upcoming month (the "Monthly Delivery Schedule"). Unless otherwise agreed in writing by the Parties, the aggregate volumes of Renewable Diesel to be delivered under the Monthly Delivery Schedules for a calendar quarter shall not be less than or exceed the limits set forth in Section 3.1(a). GCE agrees to use commercially reasonable efforts to modify any Monthly Delivery Schedule to the extent reasonably requested by EXXONMOBIL; provided, that GCE is able to deliver the total Quarterly Requirements during other parts of the calendar quarter in which such month falls (taking into consideration GCE's other commercial obligations and the anticipated operations of the Project). Moreover, on a day-ahead basis, GCE shall have the right to modify the Monthly Delivery Schedule as may be reasonably necessary to accommodate any operational issues relating to the Project.

(c) […***…].

3 . 2 Deliveries. Renewable Diesel will be delivered to EXXONMOBIL Ex works for trucks at Project site, Bakersfield, California, with title transferring in accordance with Section 11.1. The Project shall have capabilities to load Renewable Diesel onto trucks and rail tank wagons. Renewable Diesel may also be delivered by pipeline on terms and conditions mutually agreed by the Parties (in each Party's sole and absolute discretion), which terms and conditions shall identify the Delivery Point for pipeline deliveries. Costs and expenses associated with developing, constructing, owning and operating any related pipelines, interconnection or the like shall be mutually agreed by the Parties (in each Party's sole and absolute discretion) except that GCE will grant at no charge to EXXONMOBIL any real property rights (that GCE can legally grant on property that GCE owns) that may be reasonably necessary to install any connecting pipeline on the Project site).

3.3 Operational Covenants. GCE will operate all loading facilities at the Project 24 hours a day, 7 days a week, subject to scheduled outages and Force Majeure.

(a) EXXONMOBIL shall be entirely responsible (at its sole risk, cost and expense) for loading and transporting the Renewable Diesel in trucks from the Delivery Point. EXXONMOBIL shall cause its transporters and contractors and their respective employees to comply with all Applicable Law and all generally applicable access; loading; scheduling; environmental, health and safety and insurance requirements put in place by GCE in connection with the operations of the Project.

(b) GCE shall be entirely responsible (at its sole risk, cost and expense) for loading and transporting the Renewable Diesel into rail tank wagons from the Delivery Point.

(c) EXXONMOBIL shall be responsible for delivery of rail tank wagons to the Project site in accordance with the Monthly Delivery Schedule. Once on site, GCE shall be responsible to move rail tank wagons as required within the Project site for product delivery.

3.4 Opportunity to SellRenewable Jet Fuel.
At EXXONMOBIL's written request, and provided that the Parties mutually determine that a sale of renewable jet fuel will benefit GCE and EXXONMOBIL (in each Party's sole and absolute discretion), GCE shall make modifications to the refinery to supply renewable jet fuel meeting specifications and at pricing, in each case, mutually acceptable to both Parties (in each Party's sole and absolute discretion).

ARTICLE IV

PRICE

4.1 Price of Renewable Diesel.

[…***…]

ARTICLE V

RENEWABLE IDENTIFICATION NUMBERS (RINS)

5 . 1 RINS. As of the Effective Date, the Parties anticipate that each Gallon of Renewable Diesel sold and purchased hereunder shall have one and seven-tenths (1.7) times the associated Renewable Identification Numbers ("RINs") in which the "RR" component of each RIN, as defined at 40 CFR Section 80.1425(f), has a value of 17, in accordance with calculation contemplated under 40 CFR Section 80.1425(f) and 40 CFR Section 80.1415(b)(4), and the "D" code of each RIN as defined at 40 CFR Section 80.1425(g)(2) has a value of 4.

5 . 2 Representations and Warranties Regarding RINS. With respect to the RINs transferred under this Agreement, GCE, without prejudice to EXXONMOBIL's remedies contained herein, warrants that upon delivery of the Renewable Diesel:

(i) GCE will have the right to transfer such RINs pursuant to the applicable RFS2 Regulations;

(ii) GCE will have good and marketable title to the RINs, and such RINs will be free and clear of any GCE created claims, liens, charges, encumbrances, pledges, or security interests whatsoever;

(iii) The RINs will have been assigned to the volume of Renewable Diesel transferred under this Agreement and have not been previously transferred to another party; and

(iv) GCE will not have taken any action or made an omission that would prohibit or limit EXXONMOBIL's use of the RINs.

With respect to the RINs transferred under this Agreement, EXXONMOBIL covenants that it will use, transfer, or retire the RINs in compliance with the applicable RFS2 Regulations and all other Applicable Law.

GCE shall participate in an EPA-certified Quality Assurance Plan (QAP) under 40 C.F.R. §80.1469 and 80.1472 as a way to ensure all RINS generated at the Project are properly generated under the EPA regulations.

5.3 RIN Title and Risk Transfer. GCE shall transfer title to EXXONMOBIL of the quantity of RINs properly allocable to the quantities of Renewable Diesel purchased under this Agreement through the EPA Moderated Transaction System ("EMTS") under 40 C.F.R. §80.1452 within five (5) Business Days after the date of delivery of the associated Renewable Diesel under this Agreement ("Transfer Date"). GCE shall enter a "sell" transaction into EMTS for the subject RINs on or before the Transfer Date, identifying [the purchaser/transferee/assignee] as EXXONMOBIL, assignment code, RIN D code, period of generation, quantity, volume of associated Renewable Diesel, and the mutually agreed per-Gallon price of associated Renewable Diesel transferred. EXXONMOBIL shall enter a corresponding "purchase" transaction into EMTS in accordance with the RFS2 Regulation. Title to and risk of loss of the RINs shall pass from GCE to EXXONMOBIL upon EXXONMOBIL's completion of the "purchase" transaction into EMTS.

5.4 RIN Product Transfer Documents. GCE shall provide EXXONMOBIL a "Product Transfer Document" that fulfills all of the requirements set forth in 40 C.F.R. § 80.1453, and shall include, but not be limited to, the following information:

(i) The name and address of seller and buyer;

(ii) GCE's and buyer's EPA company registration number;

(iii) The volume of Renewable Diesel transferred;

(iv) The date of transfer;

(v) The quantity of RINs being transferred;

(vi) The RIN type(s) ("D" code) and Assignment Code(s) ("K" code);

(vii) The RIN generation year; and

(viii) The EMTS field description of the reason for the transfer (e.g., standard trade).

5 . 5 Remedies for Invalid RINS. A RIN shall be deemed invalid (a) if it meets the invalid RIN criteria described in 40 CFR Subpart M § 80.1431 - Treatment of invalid RINs or (b) if the EPA has provided notice to a party regulated under the regulations or otherwise has made its determination public that the RIN is invalid (in each case, an "Invalid RIN"). In the event that GCE transfers , GCE shall, at GCE's sole expense, transfer to EXXONMOBIL qualified replacement RINs in an amount equal to the amount of Invalid RINs within thirty (30) days of the later of: (i) the discovery of the invalid RINs; or (ii) EXXONMOBIL's demand for replacement. For the purpose of this Section, qualified replacement RINs may be either assigned or separated RINs, but must be the same D code and must be the same year of generation, if available; otherwise, such replacement RINs shall be the next unexpired year of generation. In the event that GCE fails or refuses to transfer sufficient qualified replacement RINs, GCE shall, within ten (10) days of EXXONMOBIL's written request, reimburse EXXONMOBIL's actual costs and expenses incurred in connection with EXXONMOBIL obtaining qualified replacement RINs where the cost of such qualified replacement RINs purchased by EXXONMOBIL was no less favorable than that available to EXXONMOBIL through good faith negotiations in an arms-length transaction. GCE shall reimburse EXXONMOBIL for any penalties or fines imposed upon EXXONMOBIL by government authorities as a result of EXXONMOBIL's use of RINs supplied to it under this Agreement that are subsequently found to be invalid RINs.

5.6 Reporting of Transactions. Both Parties shall report transactions under this Agreement to the EPA in accordance with the requirements set forth in the RFS2 Regulation.

5.7 Obligation. Notwithstanding anything in this Agreement to the contrary, GCE's obligation to supply RINs does not apply in the event RFS2 is repealed or modified as described in Section 2.6.

ARTICLE VI

PAYMENT

6 . 1 Invoicing. GCE will electronically invoice EXXONMOBIL within […***…] Business Days following each […***…] for the Renewable Diesel sold and delivered during […***…].

6.2 Payment. Payment shall be made by EXXONMOBIL to GCE no later than […***…]following the date of receipt of GCE's initial valid invoice. All payments hereunder shall be made in U.S. dollars, by means of a wire transfer of immediately available funds to the account designated by GCE in the relevant invoice and, except to the extent required by Applicable Law, without any discount, allowance, set-off, retention or deduction. All payments otherwise due on a Saturday, Sunday, or a United States banking holiday will be deemed due the following Business Day.

6.3 Disputed Invoices. In the event EXXONMOBIL in good faith disagrees with any invoice, it shall immediately notify GCE of the reasons for the dispute. In such event, GCE shall promptly issueof the initial invoice, without prejudice to any rights of GCE with respect to the disputed portion. The Parties shall endeavor to resolve the disputed portion within thirty (30) days. Failing resolution, either Party may pursue dispute resolution in accordance with Article 13. Promptly after resolution of any dispute, and upon receipt of invoice for the remaining portion, payment shall be made to GCE under the agreed payment terms.

6.4 Interest. Amounts not paid by a Party to another Party when due (including any payments of disputed amounts under Section 6.3 above) under any provisions of this Agreement shall bear interest at a per annum rate of interest equal to the lesser of (a) LIBOR, plus two percent (2%), or (b) the maximum rate permitted by Applicable Law from the date such payment is due until and including the date of payment.

6.5 Taxes. Subject to the immediately succeeding sentence, any and all Taxes Fees, and/or Other Similar Leviesimposed or assessed by a Governmental Authority on or with respect to Renewable Diesel prior to the Delivery Point shall be borne by GCE. Any and all Taxes, Fees, and/or Other Similar Levies imposed or assessed by a Governmental Authority on or with respect to Renewable Diesel at and after the Delivery Point shall be borne by EXXONMOBIL. Any Taxes, Fees, and/or Other Similar Levies, the taxable incident of which is the transfer of title or the delivery of the Renewable Diesel hereunder, or the receipt of payment therefor, regardless of the character, method of calculation or measure of the levy or assessment, shall be paid by If EXXONMOBIL claims exemption from any of the aforesaid taxes, then EXXONMOBIL, in lieu of payment of or reimbursement of such taxes/fees to GCE, shall furnish GCE with a properly completed and executed exemption certificate in the form prescribed by the appropriate taxing authority. EXXONMOBIL shall promptly notify GCE in writing of any change in the status of its exemption or registration. EXXONMOBIL shall promptly furnish GCE any renewal certificate as requested by GCE. Notwithstanding anything contained herein to the contrary neither Party shall be responsible for the income, franchise, ad valorem or similar taxes of the other Party and each Party agrees to defend, indemnify and hold the other Party harmless from and against any such tax asserted by any Governmental Authority to be due and payable by the other Party.

ARTICLE VII

LCFS PATHWAYS AND CI VALUES

7.1 CARB LCFS Pathways and Approved CI Values. As of the Effective Date, the Parties anticipate that each Gallon of Renewable Diesel sold and purchased hereunder shall have an assigned CI value from one or more approved fuel pathways in the CARB LCFS program, which will ultimately generate LCFS credits to a regulated party if blended for use in the California transportation fuel market. The method for determining the LCFS Values is set forth in Section 4.5.

7 . 2 Representations and Warranties Regarding LCFS CI Values. With respect to the LCFS transactions under this Agreement and the extent Renewable Diesel has an assigned CI value from one or more approved fuel pathways in the CARB LCFS program, GCE, without prejudice to EXXONMOBIL's remedies contained herein, warrants that upon delivery of the Renewable Diesel:

(i) the

(ii) to the extent that GCE as the producer is treated as the initial regulated party under the LCFS Program, GCE shall use all commercially reasonable efforts to enable EXXONMOBIL to become the regulated party upon title transfer of the Renewable Diesel.

7.3 LCFS Product Transfer Documents. GCE shall provide EXXONMOBIL a "Product Transfer Document" that fulfills all of the requirements of the CARB LCFS regulation, and shall include, but not be limited to, the following information:

(i) Transferor Company Name, Address and Contact Information;

(ii) Transferee Company Name, Address and Contact Information;

(iii) Transaction Date;

(iv) For Non-Aggregated Transactions: Date of Title Transfer;

(v) Fuel Pathway Code (FPC) and CI;

(vi) Volume/Amount and Units;

(vii) A statement identifying whether the LCFS Obligation is passed to the transferee; and

(viii) Fuel Production Company ID and Facility ID as registered with the LCFS program;

7.4 Reporting of Transactions. Both Parties shall report transactions under this Agreement to CARB in accordance with the requirements set forth in the CARB LCFS regulation.

7.5 Obligation. Notwithstanding anything in the Agreement to the contrary, GCE's obligations pursuant to this Article VII shall not apply in the event the CARB LCFS regulation is repealed or materially changed after the Effective Date. If the CARB LCFS regulation is repealed or materially changed, such event will be treated as a change in law and handled in accordance with Article VIII below.

ARTICLE VIII

NEW OR CHANGED LAW

8.1 New or Changed Applicable Law. […***…].

8.2 Consequences. […***…].

ARTICLE IX

WARRANTY, QUANTITY AND QUALITY DETERMINATIONS

9.1 Warranty. GCE warrants that with regards to the Renewable Diesel to be delivered under this Agreement:

(a) the Renewable Diesel will meet the Specifications, as may be amended from time to time in accordance with the provisions of this Section;

(b) GCE will have free and clear title to the Renewable Diesel delivered under this Agreement;

(c) such Renewable Diesel will be delivered free from lawful security interests, liens, and encumbrances, except those generated in the ordinary course of business; and

(d) registrations, certificates

EXCEPT AS EXPRESSLY PROVIDED IN SECTION 5.2, THIS SECTION 9.1, AND SECTION 9.3, GCE MAKES NO WARRANTIES OF ANY KIND WHATSOEVER, EITHER EXPRESS OR IMPLIED, WITH RESPECT TO THE FEEDSTOCK OR THE RESULTING RENEWABLE DIESEL, RINS OR OTHER ENVIRONMENTAL ATTRIBUTES, INCLUDING ANY WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, CONFORMITY TO MODELS OR SAMPLES, OR OTHERWISE, AND ALL SUCH WARRANTIES WITH RESPECT TO SUCH PRODUCTS ARE HEREBY

EXPRESSLY DISCLAIMED AND EXCLUDED FROM THIS AGREEMENT.

To the extent that EXXONMOBIL wishes to change the Specifications, EXXONMOBIL agrees to provide GCE a reasonable notification period prior to the desired adoption of any new Specifications. GCE agrees to use commercially reasonable efforts to work with EXXONMOBIL to amend or update the Specifications following receipt of such a request; provided, that such changes: (i) are achievable within the existing design basis and technology limits of the Project, (ii) are consistent with prudent operating practices, (iii) would not give rise to any concerns regarding the environment, health or safety, (iv) will not violate any Applicable Law, (v) would not result in a breach of GCE's obligations to its other customers, and (vi) are not expected to reduce Project output or give rise to additional costs to GCE unless EXXONMOBIL agrees to equitably compensate GCE for any resulting economic losses. To the extent new Specifications are agreed to, Schedule 1.1 will be amended to reflect such changes. If any requested Specifications require material upgrades or changes to the Project, the Parties must first mutually agree (in each Party's respective sole discretion) on sharing the potential additional costs associated with such upgrades or changes.

Both Parties agree alternative markets may exist to sell the Renewable Diesel outside of California, which may have colder climates and require different cold temperature properties. Based on the mutual agreement of both Parties (in each Party's respective sole discretion), Renewable Diesel may be produced with cold temperature properties for specific markets, based on the technology and capability of the Project, and the GCE Renewable Diesel Price will be adjusted on the mutual agreement of both Parties (in each Party's respective sole discretion), due to the lower yield from the Project.

9.2 Indemnity. […***…].

9 . 3 Intellectual Property Matters. For purposes of this Section, "Intellectual Property Right" means any patent, trademark, copyright, trade secret, or other proprietary right of a third party. GCE warrants and represents that the Renewable Diesel, when delivered, will be free from any valid claim of a third party for infringement or misappropriation of an Intellectual Property Right. GCE shall defend at GCE's expense and indemnify and hold EXXONMOBIL and Affiliates harmless against any and all expenses, liability or loss from any claim or lawsuit for alleged infringement or misappropriation of any Intellectual Property Right resulting from the manufacture, sale, use, possession or other disposition of any Renewable Diesel sold pursuant to this Agreement. The indemnities set forth in this paragraph shall include, without limitation, payment as incurred and when due of all penalties, awards, and judgments; all court and arbitration costs; attorney's fees and other reasonable out-of-pocket costs incurred in connection with such claims or lawsuits. EXXONMOBIL or an Affiliate, as applicable, may, at its option, be represented by counsel of its own selection, at its own expense. GCE shall not consent to (i) an injunction against EXXONMOBIL or its Affiliate's operations, (ii) the payment of money damages by

EXXONMOBIL, (iii) the granting of a license by EXXONMOBIL or (iv) the parting of anything of value EXXONMOBIL or an Affiliate with respect to resolution or settlement of any claim or lawsuit. Nothing in this Agreement shall be construed as granting to EXXONMOBIL any right or interest in the intellectual property of GCE, SUSOILS, or their respective Affiliates.

9.4 Data Integrity. In connection with this Agreement, where GCE must perform or desires to perform any product quality test on product it delivers to EXXONMOBIL, GCE is accountable for the integrity and results of any such product quality test, whether performed by it, or by a third party laboratory or inspector employed by it. Furthermore, GCE is accountable for recording and retaining such data for five (5) years, whether GCE performs the product quality test itself, or employs a third party laboratory or inspector to do so. GCE shall ensure that with respect to any such test performed by it or on its behalf:

(i) Product quality test measurements are complete, accurate and timely and that such test measurements are performed upon unaltered samples collected in a manner that: (i) is expected to yield samples representative of the product per ASTM/API MPMS sampling guidelines or industry standards; or (ii) complies with the manner of collection specified by written agreement between the Parties.

(ii) Any samples used for quality test measurements as required by this Agreement are retained for a period of not less than forty-five (45) days after such tests are performed.

(iii) Specified industry standard test methods including sampling and instrument calibration procedures are used without modification, unless: (i) that modification has been approved by written agreement between the Parties; and (ii) the certificates of analysis of such data indicate such test method or procedure was altered.

(iv) Except where agreed in writing with EXXONMOBIL, GCE does not employ a modified test method or instrument calibration procedure if such method or calibration procedure may be expected to yield materially different test results.

(v) Documentation and records of quality results state clearly the test method used to obtain the results.

(vi) A quality assurance system is in place for any laboratory facility involved. This system must be designed to aid in the deterrence, detection and correction of any incorrect data generated or communicated and must also assure the data generated meets the relevant industry standards for precision and bias as well as assuring the maintenance and calibration of measurement instruments.

(vii) Testing and measurement personnel involved are trained in the necessary skills required for data generation and data management. This training must include: (i) initial and ongoing personnel training; (ii) testing; and (iii) standards to ensure that all such personnel possess the skills required by this subsection (vii).

(viii) GCE utilizes a self-monitoring and assessment system to determine the extent to which GCE is complying with the requirements set forth above. This system must include a method for resolving problems found in the assessments, and must include plans and responsibilities for appropriate follow-up.

GCE acknowledges that it is familiar with American Petroleum Institute's Recommended Practice 1640, Product Quality in Light Product Storage and Handling Operations, First Edition, August providing guidance on the minimum equipment standards and operating procedures for the receipt, storage, blending and delivery of non-aviation light products, their blend components, and additives at distribution and intermediate storage, including related operations of pipeline, road and rail transport.

9 . 5 Independent Inspector. EXXONMOBIL may request a quality inspection be performed by a mutually-agreed laboratory or inspector with tests specified by EXXONMOBIL. Such quality inspections shall be performed no more frequently than four times per Year. The cost of such quality inspection service will be shared equally between the Parties.

9.6 Quantity Determinations.

(a) At each respective Delivery Point, the quantity of Renewable Diesel delivered to EXXONMOBIL by GCE shall be established by outbound meter tickets expressed in Gallons in accordance with standards commonly used within the renewable diesel industry in the U.S. GCE shall provide copies of meter tickets when requested by EXXONMOBIL. Calculations from the meter readings for determining such quantities shall conform to the procedures set out below:

(i) GCE agrees to maintain and calibrate all its meters and associated equipment in accordance with the latest edition of API Manual of Petroleum Measurement Standards Chapters 4, 5, 6 and 12.

(ii) GCE shall provide ten (10) days' notice to EXXONMOBIL of the date and time of meter calibrations. EXXONMOBIL shall be entitled to have representatives present to witness such tests and to verify GCE calibrations.

(iii) GCE will retain records of such calibrations for three (3) years and make such records available to EXXONMOBIL at its written request.

(iv) Meters shall be mechanically adjusted to operate with as close to zero error as possible, or the meter factor adjusted to achieve zero error.

(b) The following provisions govern the measurement of product at the point of custody transfer:

(i) GCE is responsible for measuring the quantity of Renewable Diesel delivered and shall use calibrated and proved meters to measure quantities.

(ii) GCE shall ensure that such meters and temperature probes are operated, calibrated, and, proved, in accordance with then-current API Manual of Petroleum Measurement Standards (API MPMS), but in any event, calibration and proving must occur not less frequently than once every six (6) months. If EXXONMOBIL has reasonable cause, it will have the right to independently certify, at its own expense, the calibration of such meters and temperature probes. EXXONMOBIL may request copies of previous or future calibration and proving results for any equipment used for transfers under this Agreement without giving cause.

(iii) Each Party has the right to have one representative present at all deliveries (in addition to the independent inspector if present) to witness all gauges, tests, and measurements. Such representative must comply with any applicable dock, terminal, and/or pipeline facilities' safety procedures or requirements. If the independent inspector is present, however, the independent inspector's gauges, tests, and measurements will be binding upon the Parties absent fraud or manifest error.

(iv) Unless otherwise specified elsewhere in this Agreement, all quantities measured will be adjusted to net Gallons at 60 degrees F. in accordance with ASTM D-1250 Petroleum Measurement Tables, as revised from time to time.

(c) […***…].

ARTICLE X

ADDITIONAL OPTION

[…***…]

ARTICLE XI

TRANSFER OF TITLE AND RISK OF LOSS

11.1 Transfer of Title. Title and risk of loss for the Renewable Diesel delivered into rail car, pipeline or tank trucks shall transfer from the GCE to EXXONMOBIL as the Renewable Diesel passes the Delivery Point.

ARTICLE XII

FORCE MAJEURE

12.1 Force Majeure. Neither Party will be liable to the other for failure to perform any obligations under this Agreement (other than the payment of money which shall not be subject to this Section 12.1) to the extent that such failure is caused by a Force Majeure event. As used in this Agreement, a "Force Majeure" event means any event, cause or circumstance beyond the reasonable control of the Party claiming suspension of its obligations, including but not limited to, acts of God, fire, flood, or governmental regulation, governmental direction or government request, accident, strikes, lockouts, wars, protests, and breakdowns of production or transportation facilities. Either Party shall have the right to (i) suspend the Agreement if a Force Majeure event occurs and continues for sixty (60) consecutive days, provided that the other Party receives written notification, and (ii) terminate the Agreement if the Force Majeure event occurs and continues for 365 consecutive days or more.

12.2 Duty to Mitigate. In the event that a Party is affected by a Force Majeure event, it shall endeavor to mitigate the effects of such Force Majeure event on the performance of its obligations hereunder. In addition, nothing in this Agreement may be construed as requiring either Party to settle any strikes or labor differences.

ARTICLE XIII

RESOLUTION OF DISPUTES

13.1 Arbitration. Any controversy, dispute or claim arising out of, in connection with, or in relation to the interpretation, performance, nonperformance, validity or breach of this Agreement, including any claim based in contract, tort, statute or constitution, shall be settled exclusively and finally by arbitration. The arbitration shall be conducted and finally settled by three (3) arbitrators in New York, NY, in accordance with the then-existing Rules for Complex Arbitration of the American Arbitration Association (the "Rules"), and any judgment, ruling or determination rendered by the arbitrators shall be final, binding and unappealable, and such judgment, ruling or determination may be entered by any state or Federal court having jurisdiction thereof. The pre-trial discovery procedures of the then-existing Federal Rules of Civil Procedure and the then-existing Rules 46 and 47 of the Civil

Rules for the United States District Court for the Southern District of New York shall apply to any arbitration. EXXONMOBIL and GCE shall each select one such arbitrator, and the two arbitrators so selected shall select the third arbitrator. Each arbitrator shall sign an oath agreeing to be bound by the Code of Ethics for Arbitrators in Commercial Disputes promulgated by the AAA for Neutral Arbitrators. It is the intent of the Parties to avoid the appearance of impropriety due to bias or partiality on the part of any arbitrator. Prior to each arbitrator's formal appointment, such arbitrator shall disclose to the Parties and the other arbitrators any financial, fiduciary, kinship or other relationship between such arbitrator and any Party or its counsel, or between such arbitrator and any individual or entity with any financial, fiduciary, kinship or other relationship with any Party. For the purpose of this Agreement, "appearance of impropriety" shall be defined as such relationship or behavior as would cause a reasonable person to believe that bias or partiality on the part of the arbitrator may exist in favor of any Party. Any award or portion thereof, whether preliminary or final, shall be in a written opinion containing findings of fact and conclusions of law signed by each arbitrator. The arbitrators shall hear and determine any preliminary issue of law asserted by a Party to be dispositive of any claim or for summary judgment, pursuant to such terms and procedures as the arbitrators deem appropriate. It is the intent of the Parties that, barring extraordinary circumstances, any arbitration hearing shall be concluded within two months of the date the statement of claim is received by the American Arbitration Association. The arbitrators shall use their best efforts to issue the final award or awards within a period of 30 days after closure of the proceedings. Failure to do so shall not be a basis for challenging the award. The Parties and the arbitrators shall treat all aspects of the arbitration proceedings, including discovery, testimony, and other evidence, briefs and the award, as strictly confidential. The Parties intend that the provisions to arbitrate set forth in this Agreement be valid, enforceable and irrevocable. In their award the arbitrators shall allocate, in their discretion, among the Parties to the arbitration all costs of the arbitration, including the fees and expenses of the arbitrators and reasonable attorneys' fees, costs and expert witness expense of the Parties. The undersigned agree to comply with any award made in any such arbitration proceedings that has become final in accordance with the Rules and agree to the entry of a judgment in any jurisdiction upon any award rendered in such proceedings becoming final under the Rules. The arbitrators shall be entitled, if appropriate, to award any remedy in such proceedings, including monetary damages, specific performance and all other forms of legal and equitable relief.

ARTICLE XIV

AUDIT

1 4 . 1 Audits. Each Party, through its authorized representatives, has the right to witness custody transfer measurement procedures in accordance with Section 9.6(b)(iii). In addition, each Party shall permit the other Party and its duly authorized representatives to have access to the laboratory test records and other documents maintained by the other Party or subcontractors relating to any performance under this Agreement. Each Party shall

keep and maintain in accordance with generally accepted accounting practices the complete books, invoices, and records relating to its performance hereunder for a period of at least three (3) years after the performance to which such books, invoices and records relate. Either Party has the right, upon reasonable notice during normal business hours, at its expense, to audit such books, invoices and records, including the work sites, personnel and subcontractors, for the sole purpose of verifying compliance with the terms and conditions of this Agreement. Each Party shall have the right to reproduce documents reviewed during audit to be used for auditor work paper documentation. Each Party will not be liable for any of the other Party or subcontractor's cost resulting from an audit. This Section 14.1 shall survive termination of this Agreement for a period of three (3) years.

14.2 Claims. EXXONMOBIL shall assert any claims it has as to shortage in quantity or defects in quality by providing written notice (together with all necessary supporting documentation) to GCE within ninety (90) days after the delivery in question. If EXXONMOBIL fails to assert such claims within this time frame, such claims will be deemed to have been waived. Except in the case where a mutually acceptable independent inspector has been appointed and issued a certificate of quality, in the event of a dispute between the Parties relating to conflicting data from multiple laboratory analyses of product quality, the protocol outlined in ASTM D3244 or ISO 4259 shall be applied to resolve the differences between EXXONMOBIL's quality test results and GCE's quality determination, unless otherwise agreed between the Parties.

ARTICLE XV

BUSINESS ETHICS AND CONFIDENTIALITY

15.1 Compliance. The Parties shall each comply with all Applicable Laws relating to the observance or performance of their respective obligations under this Agreement.

15.2 Accurate Records. The Parties acknowledge that all reports and billings rendered by one Party to the other Party under this Agreement shall properly reflect the facts of all activities and transactions handled and subject to Article 5, Section 9.4 and Article 14, may be relied upon as being complete and accurate in any further recording or reporting made by the other Party for any purpose.

15.3 Notification. Each Party shall notify the other Party in writing promptly upon discovery of any failure to comply with Section 15.1 or upon either Party having reason to believe that any data supplied pursuant to Section 15.2 is no longer accurate and complete and in the latter event such Party shall then provide the other Party with the accurate and complete data in question.

15.4 Confidential Information. The Parties agree that all information, documentation, data and reports provided by either Party in the course of the performance of services and supply of Renewable Diesel under this Agreement but specifically excluding information

on the quality of Renewable Diesel which is normally divulged in the marketing of such Renewable Diesel shall constitute confidential information ("Information"). The Parties agree not to divulge Information to any outside source (including governmental agencies) unless:

(i) Prior written approval to divulge or use the Information has been received from the other Party, which approval shall not be unreasonably withheld or delayed; or

(ii) the Information is determined to be part of the public knowledge or literature; or

(iii) the Information was known by the other Party prior to its disclosure by the divulging Party, having become known by the other Party in a bona fide manner; or

(iv) The Information is required by Applicable Law or stock exchange to be disclosed provided that the request for such disclosure is proper and the disclosure does not exceed that which is required.

15.5 Permitted Disclosure.

(i) Notwithstanding Section 15.4, each Party shall be permitted to disclose Information to its Affiliates, and, in the case of GCE, existing or prospective Lenders to or investors in the Project, and its and their respective employees, officers, directors, consultants, contractors, attorneys, accountants, financial advisors, and other representatives (collectively, "Representatives") who have a need to know such Information. Prior to the first disclosure of Information to a Lender or investor in the Project (or any of its Representatives), GCE shall give prior to notice to EXXONMOBIL. Each Party shall be responsible for any improper disclosure of any Information in violation of this Agreement by its Representatives.

(ii) Notwithstanding Section 15.4(iv), each Party, upon receiving a request for Information from any Governmental Authority, stock exchange, or from any party in a proceeding pending before any court or governmental body, the Party to whom the request has been made shall provide the other Party written notice of such request as soon as reasonably practicable. The Parties shall reasonably cooperate with each other in exercising any applicable rights to oppose the disclosure of the requested Information.

ARTICLE XVI

MISCELLANEOUS

16.1 Hazardous Warning Responsibilities. GCE shall provide EXXONMOBIL with a Material Safety Data Sheet for any Renewable Diesel delivered hereunder. Each Party acknowledges that it is aware of hazards or risks in handling or using such Renewable Diesel. GCE and EXXONMOBIL shall maintain compliance with all safety and health

related governmental requirements concerning such Renewable Diesel and shall take steps as are reasonable and practicable to inform their employees, agents, contractors and customers of any hazards or risks associated with such Renewable Diesel, including but not limited to, dissemination of pertinent information contained in the Safety Data Sheet, as appropriate.

16.2 Assignment.

(a) No Party may assign its rights and obligations under this Agreement without the prior written consent of the other Party, provided, however, that (i) GCE may assign the Agreement to an Affiliate that owns the Project without consent, and (ii) EXXONMOBIL may assign the Agreement to a majority controlled Affiliate without consent. For the avoidance of doubt, any assignment of this Agreement shall not constitute a novation of this Agreement unless expressly agreed by the Parties.

(b) Notwithstanding the provisions of Section 16.2(a), GCE (or any assignee of GCE in accordance with Section 16.2(a)) may assign, mortgage, or pledge all or any of its rights, interests, and benefits under this Agreement to one or more Lenders to secure payment of any indebtedness or working capital incurred or to be incurred in connection with the acquisition, construction, procurement, upgrading, converting, financing, refinancing, maintenance and operation of any portion of the Project or any modifications thereto. Any such assignment to Lenders shall not relieve GCE of any obligations hereunder. EXXONMOBIL shall provide to the Lenders a consent to assignment or similar agreement, covering matters that are customary in financings of projects of this type (including the Lenders' security rights with respect to this Agreement, certain notices to Lenders and extended cure rights).

16.3 Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK APPLICABLE TO AGREEMENTS MADE AND TO BE PERFORMED ENTIRELY WITHIN NEW YORK, WITHOUT REGARD TO THE CONFLICTS OF LAW PRINCIPLES OF NEW YORK.

16.4 Waiver and Amendment. No waiver shall be deemed to have been made by any Party of any of its rights under this Agreement unless the waiver is in writing and is signed on its behalf by its authorized officer. Any such waiver shall constitute a waiver only with respect to the specific matter described in such writing and shall in no way impair the rights of the Party granting such waiver in any other respect or at any other time. To be binding, any amendment of this Agreement must be effected by an instrument in writing signed by the Parties.

16.5 No Consequential Damages. Notwithstanding anything to the contrary contained in this Agreement, except in the case of gross negligence or willful misconduct, neither Party shall be liable to the other Party for any incidental or consequential damages that

such other Party may suffer. The Parties acknowledge that this Section 16.5 is intended only to limit their liability to each other for consequential loss or damage, and shall not be construed so as to limit their liability to third parties or their right to seek indemnification for third party claims in accordance with any other Section.

16.6 Headings. The headings contained in this Agreement are for convenience of reference only and shall not in any way affect the meaning or interpretation of this Agreement.

16.7 Notices. All notices, demands, instructions, waivers, consents or other communications that are required or may be given under this Agreement shall be in writing and shall be deemed to have been duly given: (i) when received, if personally delivered; (ii) when transmitted, if transmitted by electronic or digital transmission method subject to the sender confirming receipt, provided, that a notice given in accordance with this sentence but received on a non-working day or after business hours in the place of receipt will be deemed to be given on the next working day in that place. In each case notice shall be sent to the following addresses:

(i) if to GCE, to:

GCE Holdings Acquisitions LLC
2790 Skypark Drive, Suite 105
Torrance, CA 90505
Attention: Richard Palmer, CEO

(ii) If to EXXONMOBIL, to:

ExxonMobil Oil Corporation
22777 Springwoods Village Parkway
Spring, TX 77389
Attention: Americas Trading Manager

Or to such other address as EXXONMOBIL or GCE shall have specified by notice in writing in the manner specified in this Section.

16.9 Entire Agreement. This Agreement, including the Schedules hereto, which are hereby incorporated by reference, sets forth the entire understanding and agreement between the Parties as to matters covered herein and supersedes any prior understanding, agreement or statement (written or oral) of intent between the Parties with respect to the subject matter hereof. In the event that there is a conflict between this Agreement and any Schedules hereto, the terms of this Agreement shall prevail.

16.10 No Partnership. Nothing contained in this Agreement shall constitute, or be construed to be, or create a partnership or joint venture between the Parties, or their

respective Affiliates, successors and assigns, nor shall either Party be liable for any debts incurred on behalf of the other Party, or be able to bind the other Party.

16.11 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which together shall be deemed to be one and the same instrument. Electronic signatures shall have the same effect as originals.

16.12 Severability. The provisions of this Agreement shall be deemed severable and the invalidity or unenforceability of any provision shall not affect the validity or enforceability of the other provisions hereof. If any provision of this Agreement, or the application thereof to any Party or any circumstance, is invalid or unenforceable, (i) a suitable and equitable provision shall be substituted therefor in order to carry out, so far as may be valid and enforceable, the intent and purpose of such invalid or unenforceable provision; and (ii) the remainder of this Agreement and the application of such provision to the other Party or circumstances shall not be affected by such invalidity or unenforceability, nor shall such invalidity or unenforceability affect the validity or enforceability of such provision, or the application thereof, in any other jurisdiction.

16.13 Third-Party Rights. This Agreement is for the sole benefit of the Parties hereto and their permitted assigns and nothing herein express or implied shall give or be construed to give to any person, other than the Parties hereto and such assigns, any legal or equitable rights hereunder.

16.14 Press Releases. No press releases, media interviews, and any other public announcements relating to the Project or the Agreement will be made by either Party unless determined jointly by the Parties and mutually agreed by the Parties in writing. Notwithstanding […***…].

16.15 Representations. Each Party represents and warrants to the other, as of the Effective Date, that

(a) it is duly organized and validly existing under the laws of the jurisdiction of its organization or incorporation and, if relevant under such laws, in good standing, and has all company or corporate authority to execute this Agreement and any other related documentation that it is required by this Agreement to deliver and to perform its obligations under this Agreement, and has taken all necessary action to authorize such execution, delivery and performance;

(b) this Agreement constitutes a valid and binding agreement, enforceable in accordance with its terms;

(c) execution, delivery and performance of this Agreement do not violate or conflict with any Applicable Law in any material respect, any provision of its constitutional

documents, order or judgment of any court or Governmental Authority or, in any material respect, any of its assets or any contractual restriction binding on or affecting it or any of its assets;

(d) its obligations under this Agreement constitute its legal, valid and binding obligations, enforceable in accordance with their respective terms (subject to applicable bankruptcy, reorganization, insolvency, moratorium or similar laws affecting creditors' rights generally and subject, as to enforceability, to equitable principles of general application regardless of whether enforcement is sought in a proceeding in equity or at law);

(e) it is not relying upon any representations of any other Party other than those expressly set forth in this Agreement;

(f) is not bound by any agreement that would preclude or hinder its execution, delivery, or performance of its material obligations under this Agreement; and

(g) neither it nor any of its Affiliates has been contacted by or negotiated with any finder, broker or other intermediary in connection with the sale of Renewable Diesel or other products hereunder who is entitled to any compensation with respect thereto.

16.16 Interpretation.

(a) The topical headings used in this Agreement are for convenience only and shall not be construed as having any substantive significance or as indicating that all of the provisions of this Agreement relating to any topic are to be found in any particular Article or that an Article relates only to the topical heading.

(b) Reference to the singular includes a reference to the plural and vice versa.

(c) Reference to any gender includes a reference to all other genders.

(d) Unless otherwise provided, reference to any Article, Section, Schedule, means an Article, Section, or Schedule of this Agreement.

(e) The words "include" and "including" means include or including without limiting the generality of the description preceding such term and are used in an illustrative sense and not a limiting sense.

(f) Unless the context otherwise requires, any reference to a statutory provision is a reference to such provision as amended or re-enacted or as modified by other statutory provisions from time to time and includes subsequent legislation and regulations made under the relevant statute.

(g) References to United States Dollars shall be a reference to the lawful currency from time to time of the United States of America.

16.16 No Recourse. EACH PARTY SHALL LOOK ONLY TO THE OTHER PARTY FOR THE PERFORMANCE OF SUCH OTHER PARTY'S RESPECTIVE OBLIGATIONS UNDER THIS AGREEMENT, AND ALL LIABILITIES AND INDEMNITY OBLIGATIONS HEREUNDER SHALL BE WITH RECOURSE ONLY TO THE PARTIES THEMSELVES, AND NONE OF THE LENDERS, AFFILIATES OF A PARTY, OR THE EMPLOYEES, SHAREHOLDERS, OFFICERS, DIRECTORS, OR AGENTS OF ANY OF THEM, SHALL HAVE ANY LIABILITY TO THE OTHER PARTY OR TO ANY OTHER PERSON UNDER OR PURSUANT TO THIS AGREEMENT.

IN WITNESS WHEREOF, the Parties have caused their duly authorized representatives to execute this Agreement as of the day and year first above written.

GCE HOLDINGS ACQUISITIONS LLC		**EXXONMOBIL OIL CORPORATION**	
By:	**/s/** RICHARD PALMER	**By:**	**/s/** JARRETT MCCLESKEY
Name:	Richard Palmer	**Name:**	Jarrett McCleskey
Title:	CEO	**Title:**	Americas Sales and Trading Manager

SCHEDULE 1.1

[…***…]

SCHEDULE 2.1

[…***…]

SCHEDULE 2.2

[…***…]

SCHEDULE 3.1

[…***…]

SCHEDULE 3.2

[…***…]

Exhibit 10.27

Confidential

Execution Version

CERTAIN CONFIDENTIAL INFORMATION IN THIS EXHIBIT HAS BEEN OMITTED AND REPLACED WITH "[…*…]" BECAUSE IT IS NOT MATERIAL AND WOULD BE COMPETITIVELY HARMFUL IF PUBLICLY DISCLOSED.**

TURNKEY AGREEMENT WITH A GUARANTEED MAXIMUM PRICE

for the

ENGINEERING, PROCUREMENT AND CONSTRUCTION

of the

BAKERSFIELD RENEWABLE FUELS PROJECT

by and between

GCE HOLDINGS ACQUISITIONS, LLC

as Owner

and

ARB, INC.

as Contractor

Dated as of the 30th Day of April, 2020

TABLE OF CONTENTS

LIST OF ATTACHMENTS AND SCHEDULES

ENGINEERING, PROCUREMENT AND CONSTRUCTION AGREEMENT

THIS ENGINEERING, PROCUREMENT AND CONSTRUCTION AGREEMENT (this "***Agreement***"), dated as of the __ Day of _____, 2020 (the "***Effective Date***"), is entered into by and between **GCE HOLDINGS ACQUISITIONS, LLC** ("***Owner***"), and **ARB, INC.** ("***Contractor***" and, together with Owner, each a "***Party***" and together the "***Parties***").

WHEREAS, Owner desires to enter into an agreement with Contractor to provide services for the engineering, procurement, construction, pre-commissioning, commissioning, start-up and testing of a renewable diesel production facility and related facilities (as more fully described in Attachment A, the "***Project***") to be located near Bakersfield, California (the "***Site***," as further described in Attachment T), all as further described herein; and

WHEREAS, Contractor, itself or through its vendors, suppliers, and subcontractors, desires to provide the foregoing engineering, procurement, construction, pre-commissioning, commissioning, start-up and testing on a cost plus fee basis subject to a Guaranteed Maximum Price (as described herein);

NOW THEREFORE, in consideration of the mutual covenants herein contained and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties, hereby agree as follows:

Article 1

DEFINITIONS

1.1 Defined Terms. In addition to other defined terms used throughout this Agreement, when used herein, the following capitalized terms have the meanings specified in this Section 1.1.

"***Abnormal Weather***" means weather conditions abnormal to the Site and to the season of the year, including above normal continuous days of precipitation, above normal amount of precipitation within a twenty four (24) hour period, or above normal days of extreme cold or hot temperatures affecting installation/application of the Work due to manufacturer or specification limitations, in each case as substantiated with evidence from a weather bureau or other authoritative source. Normal conditions at the Site shall be defined as the average number of Days, amounts, or both over a five (5)-year period averaged per season.

[…***…].

"***Affiliate***" means (i) any Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with a Party, or (ii) any Person that, directly or indirectly, is the beneficial owner of fifty percent (50%) or more of any class of equity securities of, or other ownership interests in, a Party or of which the Party is directly or indirectly the owner of fifty percent (50%) or more of any class of equity securities or other ownership interests. For purposes of this definition, "control" (including, with correlative meanings, the terms "controlled by" and "under common control with") means the possession,

directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities or otherwise.

[…***…]

[…***…]

[…***…]

"***Agreement***" means this Agreement for the performance of the Work (including all Attachments and Schedules attached hereto), as it may be amended from time to time in accordance with this Agreement.

"***Applicable Codes and Standards***" means any and all codes, standards or requirements set forth herein (including Attachment A) or in any Applicable Law, which codes, standards and requirements shall govern Contractor's performance of the Work, as provided herein. In the event of an inconsistency or conflict between any of the Applicable Codes and Standards, the highest performance standard as contemplated therein shall govern Contractor's performance under this Agreement.

"***Applicable Law***" means all laws, statutes, ordinances, certifications, orders (including presidential orders or proclamations), tariffs, quotas, duties, decrees, injunctions, licenses, Permits, approvals, agreements, rules and regulations, including any conditions thereto, of any Governmental Instrumentality having jurisdiction over any Party, all or any portion of the Site or the Project or performance of all or any portion of the Work, or other legislative or administrative action of a Governmental Instrumentality, or a final decree, judgment or order of a court which relates to the performance of Work hereunder or the interpretation or application of this Agreement, including (i) any and all Permits, (ii) any Applicable Codes and Standards set forth in Applicable Law, and (iii) any Applicable Law related to (y) conservation, improvement, protection, pollution, contamination or remediation of the environment or (z) Hazardous Materials or any handling, storage, release or other disposition of Hazardous Materials.

"***approval***" and "***consent***" means, unless specified otherwise herein, written approval and written consent. Wherever in this Agreement a provision is made for the giving or issuing of any consent by a Party, unless otherwise specified, such consent shall be in writing and the words "consent", "approve", "accept" or "certify" are to be construed accordingly.

"***Books and Records***" has the meaning set forth in Section 3.13.1.

"***Business Day***" means every Day other than a Saturday, a Sunday or a Day that is an official holiday for employees of the federal government of the United States of America.

"***CAD***" has the meaning set forth in Section 3.3.5.

"***Change Order***" means a written order issued by Owner to Contractor after the execution of this Agreement, in the form of Schedule D-2, or a written instrument signed by both Parties after the execution of this Agreement in the form of Schedule D-1, that authorizes an addition to, deletion from, suspension of, or any other modification or adjustment to the requirements of this

Agreement, including an addition to, deletion from or suspension of the Work or any modification or adjustment to any Changed Criteria. Owner and Contractor are entitled to a Change Order in accordance with Article 6.

"***Changed Criteria***" has the meaning set forth in Section 6.1.1.

"***Changes in Law***" means any amendment, modification, superseding act, deletion, addition or change in or to Applicable Law including tariffs that occurs and takes effect after the Effective Date, *provided that* Contractor did not know, or reasonably would not have known, that such amendment, modification, superseding act, deletion, addition or change in or to Applicable Law would occur following the Effective Date, *provided further that* a Change in Law shall not include (i) variances from any applicable Permit granted by a Governmental Instrumentality, which are requested or promoted by Contractor to Owner to benefit Contractor's performance of the Work, (ii) additional restrictions or new or different obligations imposed by any Governmental Instrumentality arising out of any violation of Applicable Law (including applicable Permits) by Contractor or any of its Subcontractors or Sub-subcontractors, or (iii) changes to Tax laws where such Taxes are based upon Contractor's inventory, revenue, income, profits/losses or cost of finance or withholding Tax.

"***Claims***" means liabilities, judgments, losses, costs (including court costs, reasonable attorneys' fees and costs of investigation), fines, penalties, expenses, damages, claims, suits and demands, of whatsoever kind or nature.

"***Compensation***" has the meaning set forth in Section 7.1.

"***Confidential Information***" has the meaning set forth in Section 19.3.

"***Construction Equipment***" means the equipment, machinery, structures, scaffolding, materials, tools, supplies and systems, purchased, owned, rented or leased by Contractor or its Subcontractors or Sub-subcontractors for use in accomplishing the Work, but not intended for incorporation into the Project.

"***Contractor***" has the meaning set forth in the preamble hereto.

"***Contractor Indemnified Parties***" means (i) Contractor, its parent, and each of their respective Affiliates and (ii) the respective directors, officers, agents, members, partners, shareholders, employees, representatives and invitees of each Person specified in clause (i) above. A "***Contractor Indemnified Party***" means any of the Contractor Indemnified Parties.

"***Contractor Representative***" means that Person or Persons designated by Contractor in a written notice to Owner and acceptable to Owner, who shall have complete authority to act on behalf of Contractor on all matters pertaining to this Agreement or the Work, including giving instructions and making changes in the Work.

"***Contractor-Supplied Equipment***" means all Equipment other than Owner-Supplied Items and Existing Plant Equipment.

"***Contractor's Confidential Information***" has the meaning set forth in Section 19.2.

[…***…].

"***Contractor's Intellectual Property***" has the meaning set forth in Section 11.2.

[…***…].

"***Corrective Work***" has the meaning set forth in Section 13.3.

"***CPM Schedule***" has the meaning set forth in Section 5.4.1.

"***Crown***" means Crown Iron Works.

"***Day***" means a calendar day.

"***Default***" has the meaning set forth in Section 16.1.1.

"***Defect***" or "***Defective***" has the meaning set forth in Section 13.1.1.

"***Defect Correction Period***" means the period commencing upon Substantial Completion and ending eighteen (18) Months thereafter (as may be extended pursuant to Section 13.3.2), except that with respect to Subcontractors, such period shall end twelve (12) months after Substantial Completion (as may be extended pursuant to Section 13.3.2), unless Contractor can obtain a longer period from such Subcontractors using commercially reasonable efforts.

"***Delay Liquidated Damages***" has the meaning set forth in Section 14.2.

"***Design Basis***" means the basis of design and technical limits and parameters of the Project as set forth in Attachment A.

"***Direct Costs of the Work***" has the meaning set forth in Section 7.3.

"***Disallowed Cost***" has the meaning set forth in Section 7.6.

"***Disclosing Party***" has the meaning set forth in Section 19.3.

"***Dispute***" means any claim, dispute, controversy, difference, disagreement, or grievance (of any and every kind or type, whether based on contract, tort, statute, regulation or otherwise) arising out of, connected with or relating in any way to this Agreement (including the construction, validity, interpretation, termination, enforceability or breach of this Agreement).

"***Drawings***" means the graphic and pictorial documents (in written or electronic format) showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules and diagrams, which are prepared as a part of and during the performance of the Work.

"***Effective Date***" has the meaning set forth in the preamble.

"***EH&S***" has the meaning set forth in Section 3.10.

"***Equipment***" means all equipment, materials, supplies and systems required for the completion of and incorporation into the Work, including all Contractor-Supplied Equipment, Existing Plant Equipment, and all Owner-Supplied Items.

"***Existing Plant Equipment***" means existing plant equipment at the Site, a portion of which is intended to be incorporated into the Work of the Contractor, as more fully described in Attachment A.

"***FEED Verification Agreement***" means the Front End Engineering Design (FEED) Verification Agreement between Owner and Contractor, dated June 14, 2019, as amended.

"***Final Completion***" means all obligations of Contractor under this Agreement (excluding only the completion of items which survive the termination or expiration of this Agreement, including obligations for Warranties and correction of Defective Work and any other obligations covered under Section) are fully and completely performed in accordance with the terms of this Agreement, including: (i) the successful achievement of Mechanical Completion and Substantial Completion; (ii) any and all Delay Liquidated Damages due and owing have been paid (directly, by offset, or by collection on the Letter of Credit, at Owner's sole discretion) to Owner; (iii) the completion of all Punchlist items; (iv) delivery by Contractor to Owner of a fully executed Lien and Claim Waiver upon Final Payment in the forms of Schedules K-2 and K-4; (v) delivery by Contractor to Owner of all documentation related to the Work required to be delivered under this Agreement including final, "as-built" Drawings and Specifications and Owner's Confidential Information; (vi) removal from the Site of all of Contractor's, Subcontractors' and Sub-subcontractors' personnel, supplies, waste, materials, rubbish, and temporary facilities; (vii) Contractor shall have removed all Contractor Equipment and all Contractor stored materials from the Site; (viii) delivery by Contractor to Owner of evidence acceptable to Owner that all Subcontractors and Sub-subcontractors have been fully and finally paid, including fully executed Final Lien and Claim Waivers upon Final Payment from all Major Subcontractors in the forms in Schedules K-2 and K-5, and if requested by Owner, fully executed Final Lien and Claim Waivers upon Final Payment from Major Sub-subcontractors in a form substantially similar to the forms in Schedules K-2 and K-5; (ix) delivery by Contractor to Owner of a Final Completion Certificate in the form of Attachment N and as required under Section 12.6, which Owner has accepted by signing such certificate; and (x) performance by Contractor of all other obligations required under this Agreement for Final Completion.

"***Final Completion Certificate***" has the meaning set forth in Section 12.6.

"***Force Majeure***" means Abnormal Weather, storms, floods or lightning, tornadoes, hurricanes, earthquakes, named tropical storms and other acts of God, wars, civil disturbances, terrorist attacks, revolts, insurrections, sabotage, commercial embargoes, epidemics, quarantine restrictions, fires and explosions; *provided that* such act or event (i) delays or renders impossible the affected Party's performance of its obligations under this Agreement, (ii) is beyond the reasonable control of the affected Party, not due to its fault or negligence and was not reasonably foreseeable, and (iii) could not have been prevented or avoided by the affected Party through the exercise of due diligence, including the expenditure of any reasonable sum taking into account the Guaranteed Maximum Price subject to Contractor's entitlement to an adjustment of the Guaranteed Maximum Price in accordance with Section 6.7. For avoidance of doubt, Force Majeure shall not

include any of the following: (a) economic hardship, (b) changes in market conditions, (c) late delivery or failure of Construction Equipment or Equipment unless otherwise due to an event of Force Majeure, (d) labor availability (unless unavailability is otherwise the result of Force Majeure events), strikes, or other similar labor actions, or (e) climatic conditions (including rain, snow, wind, temperature and other weather conditions) normal for the time of year and location which do not constitute abnormal tides or seasons, or Abnormal Weather.

"***GAAP***" means generally accepted accounting principles.

"***Good Engineering and Construction Practices***" or "***GECP***" means the generally accepted practices, methods, skill, care, techniques and standards employed by the United States engineering and construction industries with respect to: (i) engineering, procurement, construction, pre-commissioning, commissioning, start-up and testing of renewable diesel production facilities, all in compliance with Applicable Codes and Standards, Applicable Law, and the standards recommended by the suppliers and manufacturers of Equipment provided hereunder; (ii) personnel and facility safety and environmental protection; (iii) optimizing the scheduling of Work; and (iv) optimizing the reliability and availability of the Project under the operating conditions reasonably expected at the Site, as specified in Attachment A. GECP are not intended to be limited to the optimum practices, methods, techniques or standards to the exclusion of all others, but rather to be a spectrum of reasonable and prudent practices, methods, techniques and standards employed by the United States engineering and construction industries.

"***Governmental Instrumentality***" means any federal, state or local department, office, instrumentality, agency, board or commission having jurisdiction over a Party or any portion of the Work, the Project or the Site.

"***Guaranteed Final Completion Date***" has the meaning set forth in Section 5.3.2.

"***Guaranteed Maximum Price***" or "***GMP***" has the meaning set forth in Section 7.2.

"***Guaranteed Substantial Completion Date***" has the meaning set forth in Section 5.3.1.

"***Guarantor***" means Primoris Services Corporation.

"***Hazardous Materials***" means any substance that under Applicable Law is considered to be hazardous or toxic or is or may be required to be remediated, including (i) any petroleum or petroleum products, radioactive materials, asbestos in any form, transformers or other equipment that contain dielectric fluid containing polychlorinated biphenyls and processes and certain cooling systems that use chlorofluorocarbons, (ii) any chemicals, materials or substances which are now or hereafter become defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous wastes," "restricted hazardous wastes," "toxic substances," "toxic pollutants," or any words of similar import pursuant to Applicable Law, or (iii) any other chemical, material, substance or waste, exposure to which is now or hereafter prohibited, limited or regulated by any Governmental Instrumentality, or which may be the subject of liability for damages, costs or remediation.

"***Hourly Rates***" has the meaning set forth in Section 7.3.1.1.

"***Indemnified Party***" means any Owner Indemnified Party or Contractor Indemnified Party, as the context requires.

"***Indemnifying Party***" means Owner or Contractor, as the context requires.

"***Investment Grade***" has the meaning set forth in Section 10.2.

"***Invoice***" means Contractor's request for a payment pursuant to Section 7.8 for progress payments and pursuant to Section 7.9 for final payment, which invoice shall be in the form of Schedule I-1 for progress payments and Schedule I-2 for final payment.

"***JAMS***" has the meaning set forth in Section 18.1.

"***Key Personnel***" or "***Key Persons***" has the meaning set forth in Section 2.2.1.

"***Lender***" means (i) any and all Persons or successors in interest thereof (including any agent, trustee or other representative thereof) lending money or extending credit to Owner for the interim or permanent financing or refinancing of the Project or for working capital or other ordinary business requirements of the Project (including the maintenance, repair, replacement or improvement of the Project); or (ii) any lessor under a lease finance arrangement relating to the Project.

"***Letter of Credit***" has the meaning set forth in Section 10.2.

"***Lien and Claim Waiver(s) upon Final Payment***" means the waiver and release provided to Owner by Contractor, Major Subcontractors and Major Sub-subcontractors in accordance with the requirements of Section 7.9, which shall be in the forms of Schedules K-2, K-3, K-4 and K-5.

"***Lien Waiver(s) upon Progress Payment***" means the waiver and release provided to Owner by Contractor, Major Subcontractors and Major Sub-subcontractors in accordance with the requirements of Section 7.8.4, which shall be in the form of Schedule K-1.

"***Limited Notice to Proceed***" or "***LNTP***" has the meaning set forth in Section 5.2.1.

"***Limited Notice to Proceed No. 1***" or "***LNTP No. 1***" has the meaning set forth in Section 5.2.1.

"***Major Subcontract***" means (i) any Subcontract having an aggregate value in excess of five hundred thousand U.S. Dollars (U.S.$ 500,000), (ii) multiple Subcontracts with one Subcontractor that have an aggregate value in excess of five hundred thousand U.S. Dollars (U.S.$ 500,000), (iii) any Affiliate Subcontract entered into with an Affiliate Subcontractor or (iv) or any Subcontractor performing a portion of the Work listed in Attachment G.

"***Major Subcontractor***" means any Affiliate Subcontractor or Subcontractor with whom Contractor enters, or intends to enter, into a Major Subcontract.

"***Major Sub-subcontract***" means (i) any Sub-subcontract having an aggregate value in excess of five hundred thousand U.S. Dollars (U.S.$ 500,000), or (ii) multiple Sub-subcontracts

with one Sub-subcontractor that have an aggregate value in excess of five hundred thousand U.S. Dollars (U.S.$ 500,000).

"***Major Sub-subcontractor***" means any Sub-subcontractor with whom a Subcontractor or Sub-subcontractor enters, or intends to enter, into a Major Sub-subcontract.

"***Material Adverse Change***" has the meaning set forth in Section 10.3.2.

"***Mechanical Completion***" means that, with respect to the Project that, with the exception of Punchlist items, all of the following have occurred: (i) Contractor has completed all procurement, fabrication, assembly, erection, installation and pre-commissioning checks and tests of all Work (including all Equipment and all systems and components of Equipment, such as all operating, protection, fire, safety and other related systems required or necessary prior to start-up) to ensure that the entire Work, and each component thereof, was correctly specified, designed, fabricated, assembled, erected and installed and is capable of safely commencing start-up and commissioning within the requirements contained in this Agreement, all as set forth in greater detail in Attachment A and the Mechanical Completion checklists agreed by Owner and Contractor in accordance with Section 12.1 (ii) all pre-commissioning, commissioning, testing and start-up spare parts necessary for the Project to achieve Substantial Completion have been delivered to the Site; (iii) Contractor has submitted an initial Punchlist of items as set forth in Section 12.5; (iv) Contractor has delivered to Owner a Mechanical Completion Certificate in the form of Attachment L and Owner has accepted such certificate by signing such certificate; and (v) performance by Contractor of all other obligations required under the Agreement for Mechanical Completion.

"***Mechanical Completion Certificate***" has the meaning set forth in Section 12.1.

"***Milestone***" is a stage of completion of the Project, as more particularly described in Attachment E.

"***Milestone Dates***" means the schedule of dates in which Contractor is required to achieve the Milestones, including the Guaranteed Substantial Completion Date and the Guaranteed Final Completion Date, as more particularly described in Section 5.3 and Attachment E.

"***Minimum Acceptance Criteria***" or "***MAC***" has the meaning set forth in Attachment Q.

"***Minimum Acceptance Criteria Correction Period***" has the meaning set forth in Section 12.4.1.

[…***…].

"***Month***" means a Gregorian calendar month; "***month***" means any period of thirty (30) consecutive Days.

"***Monthly***" means an event occurring or an action taken once every Month.

"***Monthly Progress Reports***" has the meaning set forth in Section 3.20.1.2.

"***Notice to Proceed***" or "***NTP***" means a full notice to proceed issued by Owner in accordance with Section 5.2.2 for all of the Work.

"***Overhead Costs***" has the meaning set forth in Section 7.4.2.

[…***…].

"***Owner***" has the meaning set forth in the preamble hereto.

"***Owner Indemnified Parties***" means (i) the Owner, its parent, Lender, and each of their respective Affiliates, and (ii) the respective directors, officers, agents, members, partners, shareholders, employees, representatives and invitees of each Person specified in clause (i) above. An "***Owner Indemnified Party***" means any one of the Owner Indemnified Parties.

"***Owner-Supplied Items***" has the meaning set forth in Section 4.7.

"***Owner Representative***" means that Person or Persons designated by Owner in a written notice to Contractor who shall have complete authority to act on behalf of Owner on all matters pertaining to the Work, including giving instructions and making changes in the Work. Owner designates Richard Palmer as the Owner Representative. Notification of a change in Owner Representative shall be provided to Contractor.

"***Owner's Confidential Information***" has the meaning set forth in Section 19.1.

"***Parent Guarantee***" has the meaning set forth in Section 21.13.

"***Party***" or "***Parties***" means Owner or Contractor and their permitted successors and permitted assigns.

"***Payment Schedule***" means the terms for payment as set forth in Attachment C.

"***Performance Tests***" means those tests performed to determine whether the Work meets the Minimum Acceptance Criteria set forth in Attachment Q, which tests shall be as set forth in such Attachment Q.

"***Permit***" means any waiver, certificate, approval, consent, license, exemption, variance, franchise, permit, authorization or similar order or authorization from any Governmental Instrumentality required to be obtained or maintained in connection with the Project, the Site or the Work.

"***Person***" means any individual or any company, joint venture, corporation, partnership, association, joint stock company, limited liability company, trust, estate, unincorporated organization, Governmental Instrumentality or other entity having legal capacity, including the Parties, any Subcontractors and Sub-subcontractors, and their respective directors, officers, agents, employees, representatives.

"***Pre-Existing Hazardous Materials***" has the meaning set forth in Section 3.17.

"***PDF***" means portable document format.

"***Process License Agreements***" means any agreements related to the supply of equipment for this Project between Owner and Haldor Topsoe or Owner and Crown (if the equipment supplied by Crown is installed).

"***Process Licensor***" means Haldor Topsoe or Crown (if the equipment supplied by Crown is installed).

"***Progress As-Built Drawings and Specifications***" means Drawings and Specifications that show all current "as-built" conditions, as required under Attachment A.

"***Project***" has the meaning set forth in the Recitals.

"***Punchlist***" means a list of those finishing items required to complete the Work, the completion of which shall not interrupt, disrupt or interfere with the safe and reliable operation or use of all or any part of the Project as contemplated by this Agreement, as more fully described in Section 12.5 of this Agreement and Attachment A.

"***Receiving Party***" has the meaning set forth in Section 19.3.

"***Record As-Built Drawings and Specifications***" means final, record Drawings and Specifications showing the "as-built" conditions of the completed Work, as required under Attachment A.

"***Recovery Schedule***" has the meaning set forth in Section 5.5.

"***Rely Upon Information***" means the information identified in Attachment S.

"***Rules***" has the meaning set forth in Section 18.1.

[…***…].

"***Scope of Work***" means the description of Work to be performed by Contractor as set forth in this Agreement, including Section 3.1 and Attachment A.

"***Show-up Pay***" has the meaning set forth in Section 7.3.1.4.

"***Site***" has the meaning set forth in the Recitals.

"***Specifications***" means those documents consisting of the written requirements for Equipment, standards and workmanship for the Work and performance of related services, which are prepared as a part of and during the performance of the Work.

"***Subcontract***" means an agreement by Contractor with a Subcontractor for the performance of any portion of the Work.

"***Subcontractor***" means any Person who has a direct contract with Contractor to manufacture or supply Contractor-Supplied Equipment which is a portion of the Work, to lease

Construction Equipment to Contractor in connection with the Work, to perform a portion of the Work or to otherwise furnish labor or Contractor-Supplied Equipment in connection with the Work.

"***Substantial Completion***" means that all of the following have occurred with respect to the Project: (i) Mechanical Completion has been achieved; (ii) Contractor has paid Delay Liquidated Damages (directly, by offset, or by collection on the Letter of Credit, at Owner's sole discretion) to Owner; (iii) Contractor and Owner have agreed upon a revised and updated Punchlist of items as set forth in Section 12.5; (iv) Contractor has delivered to Owner a Substantial Completion Certificate in the form of Attachment M and as required under Section 12.2 and Owner has accepted such certificate by signing such certificate; (v) the Work is available for full commercial operation without any defect or deficiency (other than those covered by the agreed upon Punchlist), is fit for the purpose specified in this Agreement, and is capable of being safely operated in accordance with the requirements and specifications of this Agreement and GECP, Applicable Law and Applicable Codes and Standards without damage to the Work, the Project, the Site or any other property and without injury to any Person; (vi) all Performance Tests have been performed and as measured by such Performance Tests, the Project has achieved or exceeded each of the Minimum Acceptance Criteria; (vii) Contractor has obtained all Permits required to be taken under Contractor's name for the Work other than those listed in Attachment P as being the responsibility of Owner; (viii) Contractor has delivered to Owner fully executed Lien Waivers upon Progress Payment in the form of Schedule K-1, fully executed Lien Waivers upon Progress Payment from all Major Subcontractors in the form of Schedule K-1 and, if requested by Owner, fully executed Lien Waivers upon Progress Payment from all Major Sub-subcontractors substantially in the form of Schedule K-1, covering all Work up to the date of Substantial Completion; (ix) Contractor has assigned to or provided Owner with all Warranties to the extent Contractor is obligated to do so pursuant to this Agreement; and (x) Contractor has performed all other obligations required under this Agreement for Substantial Completion.

"***Substantial Completion Certificate***" has the meaning set forth in Section 12.2.

"***Sub-subcontract***" means any agreement by a Subcontractor with a Sub-subcontractor or by a Sub-subcontractor with another Sub-subcontractor for the performance of any portion of the Work.

"***Sub-subcontractor***" means any Person who has a direct or indirect contract with a Subcontractor or another Sub-subcontractor to manufacture or supply Contractor-Supplied Equipment which comprises a portion of the Work, to lease Construction Equipment to Subcontractor or another Sub-subcontractor in connection with the Work, to perform a portion of the Work or to otherwise furnish labor or Contractor-Supplied Equipment in connection with the Work.

"***Taxes***" means any and all taxes, assessments, levies, tariffs, duties, fees, charges and withholdings of any kind or nature whatsoever and howsoever described, including gross receipts, payroll, income, franchise, value-added, sales and use, property, excise, capital stock, import, stamp, transfer, employment, occupation, generation, privilege, utility, regulatory, energy, consumption, lease, filing, recording and activity taxes, levies, duties, fees, charges, imposts and

withholding, together with any and all penalties, interest and additions thereto, but excluding any California state and local sales and use taxes.

"***Third Party Intellectual Property***" has the meaning set forth in Section 11.2.

"***Two Week Look-ahead Schedule***" has the meaning set forth in Section 5.4.4.

"***U.S. Dollars***" or "***U.S.$***" means the legal tender of the United States of America.

"***Unforeseen Subsurface Conditions***" means any subsurface conditions at the Site that (i) differ from those indicated in any documents provided by or on behalf of Owner, (ii) differ materially from those ordinarily found to exist and generally recognized as inherent in activities of the character provided for in the Agreement, and (iii) were not discovered or reasonably discoverable by Contractor or any of its Subcontractors or Sub-subcontractors, acting in accordance with GECP, from inspections and investigations performed by Contractor or any of its Subcontractors or Sub-subcontractors or from the general knowledge of the Contractor or any of its Subcontractors or Sub-subcontractors relating to site conditions in the area of the Site.

"***Warranty***" or "***Warranties***" has the meaning set forth in Section 13.1.1.

"***Work***" means all obligations, duties and responsibilities required of Contractor pursuant to this Agreement, including all Construction Equipment; pre-commissioning, commissioning, start-up and Performance Tests; engineering, procurement, fabrication, manufacture, delivery and transportation of Contractor-Supplied Equipment; unloading, storage, assembly, erection, and installation of all Equipment; construction, workmanship, labor, inspection, testing and any other services, work or things; in all cases furnished or used or required to be furnished or used, by Contractor in the performance of this Agreement, including that set forth in Attachment A and Section 3.1.1 and any Corrective Work.

"***Work Product***" has the meaning set forth in Section 11.1.

1.2 Interpretation. The meanings specified in this Article 1 are applicable to both the singular and plural. As used in this Agreement, the terms "herein," "herewith," "hereunder" and "hereof" are references to this Agreement taken as a whole, and the terms "include," "includes" and "including" mean "including, without limitation," or variant thereof. Unless expressly stated otherwise, reference in this Agreement to an Article or Section shall be a reference to an Article or Section contained in this Agreement (and not in any Attachments or Schedules to this Agreement) and a reference in this Agreement to an Attachment or Schedule shall be a reference to an Attachment or Schedule attached to this Agreement. The word "or" shall have the inclusive meaning represented by the phrase "and/or".

Article 2

RELATIONSHIP OF OWNER, CONTRACTOR AND SUBCONTRACTORS

2.1 Status of Contractor. The relationship of Contractor to Owner shall be that of an independent contractor. Any provisions of this Agreement which may appear to give Owner or the Owner Representative the right to direct or control Contractor as to details of performing the

Work, or to exercise any measure of control over the Work, shall be deemed to mean that Contractor shall follow the desires of Owner or the Owner Representative in the results of the Work only and not in the means by which the Work is to be accomplished, and Contractor shall have the complete right, obligation and authoritative control over the Work as to the manner, means or details as to how to perform the Work. Nothing herein shall be interpreted to create a master-servant or principal-agent relationship between Contractor, or any of its Subcontractors or Sub-subcontractors, and Owner. Nevertheless, Contractor shall strictly comply with all provisions, terms and conditions of this Agreement, and the fact that Contractor is an independent contractor does not relieve it from its responsibility to fully, completely, timely and safely perform the Work in strict compliance with this Agreement.

2.2 **Key Personnel, Organization Chart and Contractor Representative.**

2.2.1. ***Key Personnel and Organization Chart***. Attachment F sets forth Contractor's organizational chart to be implemented for the Work and also contains a list of key personnel ("***Key Personnel***" or "***Key Persons***") from Contractor's organization who will be assigned to the Work. Owner shall have the right, but not the obligation, at any time to request that Contractor replace any Key Person with another employee acceptable to Owner. Neither Owner's request for removal of any Key Person or Owner's approval of any Key Personnel shall relieve Contractor of its obligations under this Agreement. Except where a Key Person has retired, resigned (and not taken employment with any of the Affiliates of Contractor), or been terminated (and not taken employment with any of the Affiliates of Contractor) or is otherwise unavailable beyond the reasonable control of Contractor due to death, disability or serious illness, Contractor shall not remove or replace any Key Personnel without Owner's express prior written approval. Furthermore, Owner and Contractor acknowledge and agree the continuity of the Key Personnel on this Project is a material requirement of this Agreement, and that replacement of a Key Person will be detrimental to the Owner and the overall quality of the Work.

2.2.2. ***Contractor Representative***. Contractor designates Larry Jansen as the Contractor Representative. The Contractor Representative is a Key Person.

2.3 Subcontractors and Sub-subcontractors. Owner acknowledges and agrees that Contractor intends to have portions of the Work accomplished by Subcontractors pursuant to written Subcontracts between Contractor and such Subcontractors, and that such Subcontractors may have certain portions of the Work performed by Sub-subcontractors. All Subcontractors and Sub-subcontractors shall be reputable, qualified firms with an established record of successful performance in their respective trades performing identical or substantially similar work. All contracts with Subcontractors and Sub-subcontractors shall be consistent with the terms and provisions of this Agreement. No Subcontractor or Sub-subcontractor is intended to be or shall be deemed a third-party beneficiary of this Agreement. Contractor shall be fully responsible to Owner for the acts and omissions of Subcontractors and Sub-subcontractors and of Persons directly or indirectly employed by any of them, as Contractor is for the acts or omissions of Persons directly employed by Contractor. The work of any Subcontractor or Sub-subcontractor shall be subject to inspection by Owner, Lender or any of their representative to the same extent as the Work of Contractor. All Subcontractors and Sub-subcontractors and their respective personnel are to be instructed by Contractor in the terms and requirements of Owner-approved

access, safety and environmental protection policies and procedures. In the event that any personnel do not adhere to such policies and procedures, such personnel shall be removed by Contractor. In no event shall Contractor be entitled to any adjustment of the Guaranteed Maximum Price or Milestone Dates as a result of compliance with such policies and procedures or any removal of personnel necessitated by non-compliance. Nothing contained herein shall create any contractual relationship between any Subcontractor and Owner, or between any Sub-subcontractor and Owner, or obligate Owner to pay any amounts of any nature to any Subcontractor or Sub-subcontractor.

2.4 Subcontracts and Sub-subcontracts.

2.4.1. ***Proposed Major Subcontractors and Major Sub-subcontractors***.

2.4.1.1. **Approvals**. As a part of the Work, Contractor shall provide all necessary services related to the bidding of Major Subcontracts by new or replacement Major Subcontractors, including the following: (a) preparing lists of prospective bidders; (b) preparing proposed forms of Subcontract and purchase orders; (c) establishing bid schedules; (d) advertising for bids and developing bidder interest in the Project; (e) furnishing information concerning the Project to prospective bidders; (f) conducting pre-bid conferences; (g) receiving bids and analyzing bids; (h) investigating the acceptability and responsibility of Subcontractors and advising Owner of such evaluations; (i) negotiating with Subcontractors concerning any matter related to the Project; and (j) such other services required by Owner with respect to the bidding process. Within forty-five (45) Days after the Effective Date, Contractor shall submit its procurement process to Owner for approval, which at a minimum shall include a requirement to obtain at least three (3) bids from three competitive bidders for each portion of the Work that is awarded to a Major Subcontractor to the extent commercially available, *provided that* no such procurement process is required for the Subcontractors listed in Attachment G. Contractor shall be responsible for Major Subcontractor bid solicitation, scope confirmation, and bid evaluation and shall keep all bids, scoping documents and evaluations in an organized format and available to Owner at any time. Contractor shall prepare, on a form acceptable to Owner, an Owner authorization sheet which summarizes Contractor's proposed award to a Major Subcontractor. Contractor shall obtain Owner authorization prior to the award of any Major Subcontract (unless such Major Subcontract is with a Subcontractor listed in Attachment G, as such Subcontractors have already been approved), but such Owner approval shall not relieve Contractor of its responsibility of Subcontractors. Contractor shall also ensure that all Major Subcontractors include in their Subcontracts with Major Sub-subcontractors the requirements in this Section 2.4.1.1.

2.4.2. **Selection**. Subject to the terms of Section 2.4.1.1, in the event that Contractor is considering the selection of a Subcontractor or Sub-subcontractor that would qualify as a Major Subcontractor or Major Sub-subcontractor, or is considering replacing a Major Subcontractor or Major Sub-subcontractor, Contractor shall (i) notify Owner of its proposed Major Subcontractor or Major Sub-subcontractor as soon as possible during the

selection process and furnish to Owner all information reasonably requested by Owner with respect to Contractor's selection criteria (including copies of bid packages furnished to prospective Major Subcontractors and Major Sub-subcontractors and the qualifications and responding bids of the proposed Major Subcontractors or Major Sub-subcontractors), and (ii) notify Owner no less than fifteen (15) Days prior to the execution of a Major Subcontract with a Major Subcontractor or Major Sub-subcontract. Owner shall have the discretion, not to be unreasonably exercised, to reject any proposed Major Subcontractor or Major Sub-subcontractor for a Major Subcontract or Major Sub-subcontract. Contractor shall not enter into any Major Subcontract with a proposed Major Subcontractor or Major Sub-subcontract with a Major Sub-subcontractor that is rejected by Owner in accordance with the preceding sentence. Owner shall undertake in good faith to review the information provided by Contractor pursuant to this Section 2.4.2 expeditiously and shall notify Contractor of its decision to accept or reject a proposed Major Subcontractor or Major Sub-subcontractor as soon as practicable after such decision is made. Failure of Owner to accept a proposed Major Subcontractor or Major Sub-subcontractor within fifteen (15) Days shall be deemed to be acceptance of such Major Subcontractor or Major Sub-subcontractor.

2.4.3. ***Other Additional Proposed Subcontractors and Sub-subcontractors***. For any Subcontractor not covered by Section 2.4.1, Contractor shall, within fifteen (15) Days prior to the selection of any such Subcontractor, notify Owner in writing of the selection of such Subcontractor and inform Owner generally what portion of the Work such Subcontractor is performing at the Site.

2.4.4. ***Delivery of Major Subcontracts and Major Sub-subcontracts***. Contractor shall furnish Owner with a copy of all Major Subcontracts and Major Sub-subcontracts within ten (10) Days after execution thereof and, within ten (10) Days of Owner's request, furnish Owner with a copy of any other Subcontracts or Sub-subcontracts. Notwithstanding the above, Owner's receipt and review of any Subcontracts or Sub-subcontracts shall not relieve the Contractor of any obligations under this Agreement nor shall such action constitute a waiver of any right or duty afforded Owner under this Agreement, or approval of or acquiescence in a breach hereunder.

2.4.5. ***Terms of Major Subcontracts and Major Sub-subcontracts***. In addition to the requirements in Section 2.3 and without in any way relieving Contractor of its full responsibility to Owner for the acts and omissions of Subcontractors and Sub-subcontractors, each Major Subcontract and each Major Sub-subcontract shall contain the following provisions:

2.4.5.1. the Major Subcontract and the Major Sub-subcontract may be assigned to Owner without the consent of the respective Major Subcontractor or Major Sub-subcontractor; and

2.4.5.2. the Major Subcontractor and the Major Sub-subcontractor shall comply with and perform for the benefit of Owner all requirements and obligations of Contractor to Owner under this Agreement, as such requirements and obligations are applicable to the performance of the work under the respective Major Subcontract or Major Sub-subcontract, including the competitive bidding

process for Major Subcontractors in substance the same as that included in Section 2.4.1.1, an indemnity in substance the same as that included in Article 17, and the insurance requirements specified in Article 10.

2.5 Contractor Acknowledgements.

2.5.1. ***The Agreement***. Prior to the execution of this Agreement, Contractor or its Affiliates performed FEED verification engineering, cost estimating and related services and developed and provided the information that forms the Scope of Work listed in Attachment A, which was performed pursuant to the FEED Verification Agreement. Except with respect to Rely Upon Information identified in Attachment S, Contractor represents that such information is accurate, adequate and complete to engineer, support FEED, detail design, procure, construct, pre-commission, commission, start-up and test the Project in accordance with all requirements of this Agreement.

2.5.2. ***Conditions of the Site***.

2.5.2.1. Contractor further agrees that it understands the climate and terrain related to the Site (including site conditions for Work performed in offsite locations) that it may encounter in performing the Work in accordance with the Milestone Dates. Contractor warrants that it has the experience, resources, qualifications and capabilities at its disposal to perform the Work in accordance with the Milestone Dates. Subject to Section 2.5.2.2, Contractor assumes all risks related to, and waives any right to claim an adjustment in the Guaranteed Maximum Price or the Milestone Dates in respect of, any failure to timely perform the Work in accordance with the Milestone Dates as a result of any conditions at the Site or at any other location where the Work is performed, which shall include: (i) river levels (excluding Force Majeure events), topography and subsurface soil conditions (subject to the terms of Section 2.5.2.2); (ii) climatic conditions and seasons; (iii) availability of laborers, Subcontractors, Sub-subcontractors and Construction Equipment; (iv) adequate availability and transportation of Equipment; and (v) breakdown or other failure of Construction Equipment or Contractor's or its Subcontractor's computer equipment (excluding breakdown or other failures caused by Force Majeure events).

2.5.2.2. Notwithstanding Section 2.5.2.1, if Contractor encounters Unforeseen Subsurface Conditions in the performance of the Work that materially and adversely affect Contractor's actual cost to perform the Work or that delay (as such term is defined in Section 6.9) Contractor's performance of the Work, Contractor shall be entitled to request a Change Order for an adjustment to the Guaranteed Maximum Price to the extent of the material and adverse effect (which costs shall be adequately documented and supported) or a time extension to the Guaranteed Substantial Completion Date, as applicable, pursuant to Section 6.2.1.6, provided that Contractor complies with the notice and Change Order request requirements set forth in Sections 6.2 and 6.5, uses all reasonable efforts not to disturb such Unforeseen Subsurface Conditions prior to Owner's

investigation and, with respect to claims for costs for delay or schedule relief for delay, satisfies the requirements of Section 6.8.

2.5.3. ***Applicable Law and Applicable Codes and Standards***. Contractor has investigated to its satisfaction Applicable Law and Applicable Codes and Standards, (excluding environmental codes, regulations, and air permit as related to Equipment), and warrants that it can perform the Work in accordance with Applicable Law and Applicable Codes and Standards. Contractor shall perform the Work in accordance with Applicable Law and Applicable Codes and Standards, whether or not such Applicable Law or Applicable Codes and Standards came into effect before the Effective Date or during the performance of the Work; *provided, however*, Contractor shall be entitled to a Change Order for Changes in Law to the extent allowed under Section 6.2.1.1, provided that Contractor complies with the notice and Change Order request requirements set forth in Sections 6.2 and 6.5, and, with respect to claims for costs for delay or schedule relief for delay, satisfies the requirements of Section 6.8.

Article 3

CONTRACTOR'S RESPONSIBILITIES

3.1 Scope of Work.

3.1.1. ***Generally***. Subject to Section 3.1.3, the Work shall include all engineering, procurement, construction, pre-commissioning, commissioning, start-up and testing of Contractor-Supplied Equipment; assembly, erection, installation, delivery, transportation, storage and construction of all Equipment; evaluation, modification, repair, and testing of Existing Plant Equipment as required in Attachment A; all Construction Equipment as required for the Work, labor, workmanship, inspection, manufacture, fabrication, installation, design, delivery, transportation, storage and all other items or tasks that are set forth in Attachment A as required to achieve Mechanical Completion, Substantial Completion and Final Completion of the Project in accordance with the requirements of this Agreement, including achieving the Minimum Acceptance Criteria. Contractor shall perform the Work in accordance with GECP, Applicable Law, Applicable Codes and Standards, and all other terms and provisions of this Agreement. It is understood and agreed that the Work shall include any incidental work that can reasonably be inferred as required in accordance with this Agreement, excluding only those items which Owner has specifically agreed to provide under the terms of this Agreement. Without limiting the generality of the foregoing, the Work is more specifically described in Attachment A.

3.1.2. ***Existing Plant Equipment***. Contractor shall evaluate, modify, repair, and test the Existing Plant Equipment in accordance with Attachment A. Contractor shall not be responsible for Existing Plant Equipment that is not subject to modification or repair by Contractor.

3.1.3. ***Exception to Scope of Work***. Contractor shall not be responsible for providing (i) those Permits listed in Attachment P as being the responsibility of Owner; (ii) those requirements set forth under Section 4.3; (iii) the survey control point pursuant

to Section 4.5; (iv) the Owner-Supplied Items; and (v) any work required to make Existing Plant Equipment comply with Applicable Law and Applicable Codes and Standards, except to the extent set forth in Section 3.1.2.

3.2 Specific Obligations. Without limiting the generality of Section 3.1 or the requirements of any other provision of this Agreement, Contractor shall:

3.2.1. procure, supply and transport all Contractor-Supplied Equipment;

3.2.2. unload, handle, properly store, assemble, erect and install all Equipment;

3.2.3. provide construction, construction management (including the furnishing of all Construction Equipment and all Site supervision and craft labor), civil/structural, electrical, instrumentation, field design, inspection and quality control services required to ensure that the Work is performed in accordance herewith;

3.2.4. negotiate all guarantees, warranties, delivery schedules and performance requirements with all Subcontractors so that all Subcontracts are consistent with this Agreement, as set forth in Sections 2.3 and 2.4, to the extent that they are commercially available;

3.2.5. pay Subcontractors in a timely fashion in accordance with the respective Subcontracts;

3.2.6. ensure that the Work is performed in accordance with the Milestone Dates;

3.2.7. replace any Subcontractor(s) who fails to perform its Subcontract obligations;

3.2.8. conduct and manage all pre-commissioning, start-up operations, commissioning, Performance Tests and other testing of the Project, while supervising operations and maintenance personnel provided by Owner and coordinating with Process Licensor personnel;

3.2.9. provide training for Owner's operating and maintenance personnel per Section 3.5;

3.2.10. Reserved;

3.2.11. engineer, procure, construct, pre-commission, commission, start up and test all utilities on the Site up to the applicable interconnection points, as further set forth in this Agreement and Attachment A; and

3.2.12. perform design and engineering Work in accordance with this Agreement, including that specified in Section 3.3.

3.3 Design and Engineering Work.

3.3.1. ***General***. Contractor shall, as part of the Work, perform the design and engineering Work necessary to achieve the requirements of this Agreement, including Minimum Acceptance Criteria.

3.3.2. ***Drawings and Specifications***. Upon receipt of LNTP or NTP, Contractor shall commence the preparation of the Drawings and Specifications for all Work relating to such LNTP or NTP. The Drawings and Specifications shall be based on the requirements of this Agreement, including the Scope of Work, Design Basis, GECP, Applicable Codes and Standards, Applicable Law, and all applicable provisions of this Agreement.

3.3.3. ***Review Process***.

3.3.3.1. *Not used.*

3.3.3.2. *Submission by Contractor*. Contractor shall submit copies of the Drawings and Specifications to Owner for formal review, comment, disapproval and approval in accordance with Attachment A. Owner shall have up to seven (7) Business Days from its receipt of Drawings and Specifications submitted in accordance with this Section 3.3.3.2 to issue written comments, proposed changes or written approvals or disapprovals of the submission of such Drawings and Specifications to Owner.

3.3.3.3. *No Owner Response.* If Owner does not issue any comments, proposed changes or written approvals or disapprovals within the time period set forth in Section 3.3.3.2, Contractor may proceed with the development of such Drawings and Specifications and any construction relating thereto.

3.3.3.4. *Disapproval by Owner.* If Owner disapproves the Drawings or Specifications, Owner shall provide Contractor with a written statement of the reasons for such rejection within the time period required for Owner's response for disapproval of Drawings and Specifications. Contractor shall provide Owner with revised and corrected Drawings and Specifications as soon as possible thereafter and Owner's rights with respect to the issuing of comments, proposed changes or approvals or disapprovals of such revised and corrected Drawings or Specifications are governed by the procedures specified above in Section 3.3.3.2; *provided that* Contractor shall not be entitled to any extensions of time to the Milestone Dates, an adjustment to the Guaranteed Maximum Price or an adjustment to any other Changed Criteria, unless such disapproval is due to one or more material changes required by Owner to any such Drawings or Specifications and not the result of such Drawings or Specifications non-compliance with the requirements of the Agreement and such disapproval adversely impacts Contractor's costs or ability to perform the Work in accordance with the Key Dates and Contractor complies with and meets the requirements under Article 6.

3.3.3.5. *Approval by Owner.* If Owner provides written approval of the Drawings and Specifications, such Drawings and Specifications shall be the Drawings and Specifications that Contractor shall use to construct the Work;

provided that Owner's review or approval of any Drawings and Specifications shall not in any way be deemed to limit or in any way alter Contractor's responsibility to perform and complete the Work in strict accordance with the requirements of this Agreement.

3.3.4. ***Design Licenses***. Contractor shall perform all design and engineering Work in accordance with Applicable Law and Applicable Codes and Standards, and all Drawings, Specifications and design and engineering Work shall be signed and stamped by design professionals licensed in accordance with Applicable Law.

3.3.5. ***Format of Deliverables***. Unless otherwise expressly provided under this Agreement, all Drawings and Record As-Built Drawings prepared by Contractor or its Subcontractors or Sub-subcontractors under this Agreement shall be prepared using computer aided design ("***CAD***"). All CAD drawing files shall be in fully operable and editable native format in the latest commercially available version of Contractor's preferred software. In addition, all Record As-Built Drawings and Specifications shall be provided to Owner in fully operable and editable native format in the latest commercially available version of AutoCAD®. Contractor shall provide all other deliverables in fully operable and editable native format in such software as specified by Owner, unless, with respect to such other deliverables, the only output available is in PDF.

3.3.6. ***As-Built Drawings and Specifications***. During construction, Contractor shall keep an up-to-date, redlined, marked set of Progress As-Built Drawings and Specifications on the Site as required under Attachment A. As a condition precedent to Final Completion, Contractor shall deliver to Owner the Record As-Built Drawings and Specifications in accordance with Attachment A, which shall include delivery of final as-built drawing files for Record As-Built Drawings in fully operable and editable native format in the latest commercially available version of AutoCAD®.

3.3.7. ***Other Information***. Contractor shall deliver copies of all other documents required to be delivered pursuant to Attachment A within and in accordance with the requirements set forth in Attachment A, including in fully operable and editable native format in such software as specified by Owner, and in accordance with the timing set forth in Attachment A, provided that, with respect to other documents, if the fully operable and editable native format is not available, Contractor may provide such documents in PDF.

3.4 Spare Parts.

3.4.1. ***Commissioning Spare Parts***. Contractor shall provide all pre-commissioning, commissioning, testing and start-up spare parts necessary for Contractor-Supplied Equipment to achieve Substantial Completion and shall, prior to and as a condition precedent to achieving Mechanical Completion, deliver such spare parts to the Site. The cost associated with all Work related to such pre-commissioning, commissioning, testing and start-up spare parts is included in the Guaranteed Maximum Price, including all Work related to procuring such spare parts and the purchase price for such spare parts.

3.4.2. ***Operating Spare Parts***. With respect to operating spare parts for use after Substantial Completion, Contractor shall deliver to Owner for Owner's written approval a detailed priced list of the manufacturer and Contractor-recommended operating spare parts for each applicable item of Contractor-Supplied Equipment necessary for operating such equipment (including components and systems of such equipment) for two (2) years after Substantial Completion. Such list shall be provided to Owner for each item of Contractor-Supplied Equipment for which there is manufacturer or Contractor-recommended operating spare parts prior to execution of the applicable Subcontract for such equipment. Owner shall have thirty (30) Days to respond to Contractor identifying which operating spare parts, if any, that Owner wishes Contractor to procure as part of its execution of the Subcontract. In the event Owner requests in writing that Contractor procure any operating spare parts on Owner's behalf, Contractor shall be entitled to request a Change Order in accordance with Section 6.2.1.7 to increase the Guaranteed Maximum Price for the actual purchase price of such requested operating spare parts.

3.5 Operator Training Program. As part of the Work, a reasonable number of personnel designated by Owner in its sole discretion shall be given training designed and administered by Contractor, which shall be based on the program requirements contained in Attachment A and shall cover at a minimum the following topics: (i) the testing of each item of Equipment; (ii) the start-up, operation and shut-down of each item of Equipment; (iii) the performance of routine, preventative and emergency maintenance for each item of Equipment; (iv) spare parts to be maintained for each item of Equipment, and their installation and removal; and (v) any other subject matter required in Attachment A. Such training shall include instruction for Owner's operations and maintenance personnel in the operation and routine maintenance of each item of Equipment prior to completion of commissioning of each item of Equipment. As part of the training, Contractor shall provide Owner's operating and maintenance personnel with full access to the Project during commissioning, testing and start up. Training shall be provided by personnel selected by Contractor who, in Contractor's and the Equipment Subcontractor's judgment, are qualified to provide such training, and shall take place at such locations and at such times as agreed upon by the Parties. Contractor shall provide trainees with materials described in Attachment A. Contractor shall also provide to Owner all training materials and aids developed to conduct such training in order to facilitate future training by Owner of personnel hired in the future.

3.6 Environmental Regulations and Environmental Compliance. Without limitation of Section 3.1, Contractor is fully responsible for ensuring that the Work is performed in an environmentally sound manner and in compliance with all provisions of this Agreement regarding the environment, Applicable Law (including Permits) and in compliance with the policies and procedures set forth in Attachment J. Contractor shall dispose of all non-hazardous wastes and Hazardous Materials brought to the Site by Contractor or its Subcontractors during performance of the Work at approved disposal facilities off-Site permitted to receive such wastes and Hazardous Materials.

3.7 Contractor's Tools and Construction Equipment. Contractor shall furnish all Construction Equipment necessary and appropriate for the timely and safe completion of the Work in strict compliance with this Agreement. Notwithstanding anything to the contrary contained in this Agreement, Contractor shall be responsible for damage to or destruction or loss of, from any

cause whatsoever, all Construction Equipment owned, rented or leased by Contractor or its Subcontractors or Sub-subcontractors for use in accomplishing the Work. Contractor shall require all insurance policies (including policies of Contractor and all Subcontractors and Sub-subcontractors) in any way relating to such Construction Equipment to include clauses stating that each underwriter will waive all rights of recovery, under subrogation or otherwise, against the Owner Indemnified Parties.

3.8 Employment of Personnel.

3.8.1. Contractor shall not employ, or permit any Subcontractor or Sub-subcontractor to employ, in connection with its performance under this Agreement anyone not skilled or qualified or otherwise unfit to perform the work assigned to such Person. Contractor agrees to promptly remove (or to require any Subcontractor or Sub-subcontractor to remove) from its services in connection with the Work any Person who does not meet the foregoing requirements. **NOTWITHSTANDING THE FOREGOING, OWNER SHALL HAVE NO LIABILITY AND CONTRACTOR AGREES TO RELEASE, INDEMNIFY, DEFEND AND HOLD HARMLESS THE OWNER INDEMNIFIED PARTIES FROM AND AGAINST ANY AND ALL CLAIMS WHICH MAY DIRECTLY OR INDIRECTLY ARISE OR RESULT FROM CONTRACTOR OR ANY SUBCONTRACTOR OR SUB-SUBCONTRACTOR TERMINATING THE EMPLOYMENT OF OR REMOVING FROM THE WORK ANY SUCH EMPLOYEE WHO FAILS TO MEET THE FOREGOING REQUIREMENTS FOLLOWING A REQUEST BY OWNER TO HAVE SUCH EMPLOYEE REMOVED FROM THE WORK.** Contractor shall replace any such employee at its sole cost and expense.

3.8.2. Contractor and its Subcontractors and Sub-subcontractors and the personnel of any of them shall not bring onto the Site: (i) any firearm of whatsoever nature or any other object which in the sole judgment of Owner is determined to be a potential weapon, unless Applicable Law requires Owner to allow such items on the Site; (ii) alcoholic beverages or intoxicants of any nature; (iii) any substance that creates a hazard and not related to the Work; (iv) illegal or non-prescription drugs of any nature; or (v) any prescription drugs without a valid prescription. In addition, all employees and agents of Contractor and its Subcontractors and Sub-subcontractors shall successfully complete a drug screening test prior to performing Work at the Site and periodically thereafter, and upon Owner's request, Contractor shall provide Owner with copies of such drug screening tests. Contractor and its Subcontractors and Sub-subcontractors shall abide by and enforce the requirements of this Section 3.8.2, and shall immediately remove from the Work and the Site any employee or agent of Contractor, Subcontractor or Sub-subcontractor who, in Owner's sole judgment, has violated the requirements of this Section 3.8.2. **THE PROVISIONS OF SECTION 3.8.1 WITH REGARD TO LIABILITY OF ANY OF THE OWNER INDEMNIFIED PARTIES AND CONTRACTOR'S RELEASE, INDEMNIFICATION, DEFENSE AND HOLD HARMLESS OBLIGATIONS SHALL APPLY TO THE REMOVAL OF ANY SUCH PERSON UNDER THIS SECTION 3.8.2.**

3.9 Clean-up. Contractor shall, to Owner's satisfaction, at all times keep the Site free from all waste materials or rubbish caused by the activities of Contractor or any of its Subcontractors or Sub-subcontractors. Contractor shall clean up all such waste materials or rubbish at Owner's request with reasonable notice as described further in Attachment A. As soon as practicable after the completion of all Punchlist items, Contractor shall with respect to such Work remove, all Construction Equipment and other items not constituting part of the Project and remove trash, debris, and scrap produced by Contractor which shall be properly disposed of in Owner supplied receptacles and all waste material and demolished equipment will be removed to the suitable lay down yard at the Site in accordance with all Permits and this Agreement. In the event of Contractor's failure to comply with any of the foregoing, upon forty-eight (48) hours written notice to Contractor, Owner may accomplish the same; *provided, however*, that Contractor shall be liable for and pay to Owner (directly, by offset, or by collection on the Letter of Credit, at Owner's sole discretion) all costs associated with such removal or restoration.

3.10 Safety and Security. Contractor recognizes and agrees that safety and physical security are of paramount importance in the performance of the Work and that Contractor is responsible for performing the Work in a safe and physically secure manner. Contractor agrees to implement a safety program that is to be received by Owner for its written approval twenty-one (21) Days prior to the commencement of the Work at the Site. Contractor further agrees to perform the Work in accordance with the safety and health rules and standards of Applicable Law and such safety program, as approved by Owner, and Contractor shall assume all costs associated with compliance therewith. Contractor's safety program shall include the standards set forth in Attachment J. Owner's review and approval of Contractor's safety program shall not in any way relieve Contractor of its responsibility regarding safety, and Owner, in reviewing and approving such safety program, assumes no liability for such safety program. Contractor shall appoint one or more (as appropriate) safety representative(s) acceptable to Owner who shall be resident at the Site, have responsibility to immediately correct unsafe conditions or unsafe acts associated with the Work and the Project, act on behalf of Contractor on safety and health matters, and participate in periodic safety meetings with Owner at least once per week or at such greater frequency as Owner may request. Contractor further agrees to provide or cause to be provided necessary training and safety Construction Equipment to its employees, Subcontractors and Sub-subcontractors and enforce the use of such training and safety Construction Equipment. Contractor shall maintain all accident, injury and any other records required by Applicable Law and this Agreement, including Attachment J. Contractor shall fully cooperate with Owner and Owner's on-Site environmental, health and safety ("***EH&S***") coordinator in demonstrating safe practices, including full cooperation during any investigations. Contractor shall be responsible for the specific lighting for the Work and supervision of the Project until all of the requirements of Substantial Completion of the Project have been satisfied. Owner shall provide security, fencing, guarding and general lighting for the Site.

3.11 Emergencies. In the event of any emergency endangering life or property in any way relating to the Work, the Project or the Site, whether on the Site or otherwise, Contractor shall take such action as may be reasonable and necessary to prevent, avoid or mitigate injury, damage, or loss and shall, as soon as possible, report any such incidents, including Contractor's response thereto, to Owner. If Contractor has not taken reasonable precautions for the safety of personnel on the Site, the public or the protection of the Work, and such failure creates an emergency requiring immediate action, then Owner, with or without notice to Contractor may, but shall be

under no obligation to, take reasonable action as required to address such emergency and all such costs incurred by Owner shall be for Contractor's account. The taking of any such action by Owner, or Owner's failure to take any action, shall not limit Contractor's liability.

3.12 Permits. Other than the Permits listed in Attachment P, Contractor shall obtain all Permits required to be taken under Contractor's name, to perform the Work and shall promptly provide information, assistance and documentation to Owner as reasonably requested in connection with the Permits to be obtained or modified by Owner in Attachment P.

3.13 Books, Records and Audits.

3.13.1. Contractor shall keep full and detailed books, construction logs, records, daily reports, accounts, schedules, payroll records, receipts, statements, electronic files, correspondence and other pertinent documents as may be necessary for proper management under this Agreement, as required under Applicable Law or this Agreement, and in any way relating to this Agreement ("***Books and Records***"). Contractor shall maintain all such Books and Records in accordance with GAAP, and shall retain all such Books and Records for a minimum period of three (3) years after Final Completion of the Project, or such greater period of time as may be required under Applicable Law.

3.13.2. Upon reasonable notice, Owner, Lender, and any of their representatives, including Lender's independent engineer, shall have the right to audit or to have audited Contractor's Books and Records; *provided, however*, such parties shall not have the right to audit or have audited Contractor's Books and Records in connection with […***…]. When requested by Owner, Contractor shall provide the auditors with reasonable access to all such Books and Records, and Contractor's personnel shall cooperate with the auditors to effectuate the audit or audits hereunder. The auditors shall have the right to copy all such Books and Records. Owner shall bear all costs incurred by Contractor in assisting Owner with audits performed pursuant to this Section 3.13. Contractor shall include audit provisions identical to this Section 3.13 in all Subcontracts. The restrictions in this Section 3.13.2 to the audit rights by Owner, Lender or Lender's independent engineer shall not control over any rights such parties have under Applicable Law in discovery in any arbitration or litigation arising out of Section 18.1 of this Agreement or in any litigation or arbitration against Guarantor.

3.14 Tax Accounting. Within a reasonable period of time following a request therefor, Contractor shall provide Owner with any information regarding quantities, descriptions and costs of any Contractor-Supplied Equipment installed on or ordered for the Project and any other information, including Books and Records, as Owner may deem reasonably necessary in connection with the preparation of its tax returns or other tax documentation.

3.15 Temporary Utilities, Roads, Facilities and Storage. To the extent there are existing utilities that can be used by Contractor, Owner shall pay for such utilities, but otherwise Contractor shall obtain all other utilities that may be required. Contractor shall construct and maintain temporary access and haul roads as may be necessary for the proper performance of this Agreement. Roads constructed on the Site shall be subject to Owner's written approval. All Equipment and other items comprising part of the Work stored at a location other than on the Site

shall be segregated from other goods, and shall be clearly marked as “Property of GCE Holdings Acquisitions, LLC.”

3.16 Subordination of Liens. In consideration of ten U.S. Dollars (U.S.$10) incorporated into the Compensation and as part of the consideration of receiving this Agreement and other valuable consideration received and acknowledged by Contractor, Contractor hereby subordinates any mechanics’ and materialmen’s liens or other claims or encumbrances that may be brought by Contractor against any or all of the Work, the Site or the Project to any liens granted in favor of Lender, whether such lien in favor of Lender is created, attached or perfected prior to or after any such liens, claims or encumbrances, and shall require its Subcontractors and Sub-subcontractors to similarly subordinate their lien, claim and encumbrance rights. Contractor agrees to comply with reasonable requests of Owner for supporting documentation required by Lender, including any necessary lien subordination agreements, affidavits or other documents that may be required to demonstrate that Owner’s property and premises are free from liens, claims and encumbrances arising out of the furnishing of Work under this Agreement.

3.17 Hazardous Materials. In the performance of the Work, Contractor shall, and shall cause its Subcontractors and Sub-subcontractors to, comply with all Applicable Laws, Applicable Codes and Standards, and the requirements specified in Attachment J relating to Hazardous Materials. Contractor shall conduct its activities under this Agreement, and shall cause each of its Subcontractors and Sub-subcontractors to conduct its activities, in a manner designed to prevent pollution of the environment or any other release of any Hazardous Material brought on to the Site by Contractor or its Subcontractors and Sub-subcontractors. Neither Contractor nor its Subcontractors or Sub-subcontractors shall bring Hazardous Material to the Site, except as necessary to perform the Work, and Contractor shall remain responsible and strictly liable for all such Hazardous Materials and for any Hazardous Materials that are brought to the Site by Contractor or any of its Subcontractors or Sub-subcontractors. Contractor shall be responsible for the management of, and proper disposal of, all Hazardous Material brought onto the Site by it or its Subcontractors or Sub-subcontractors. If any spillage, discharge, emission, or release should occur as a result of any Hazardous Materials brought on to the Site by Contractor or its Subcontractors or Sub-subcontractors or discovered by them, Contractor shall immediately notify Owner and take all reasonable steps necessary to: (i) stop and contain the spillage, discharge, emission, or release; (ii) make any report(s) of the spillage, discharge, emission, or release as required under Applicable Laws; and (iii) clean-up and remediate the spillage, discharge, emission, or release of Hazardous Materials brought onto the Site by Contractor or any of its Subcontractors or Sub-subcontractors as required by Applicable Law. Contractor shall cause all such Hazardous Material brought onto the Site by it or its Subcontractors or Sub-subcontractors: (y) to be transported only by carriers maintaining valid Hazardous Material transportation Permits (as required) and operating in compliance with such Permits and Applicable Laws regarding the transportation of Hazardous Material and only pursuant to manifest and shipping documents identifying only Contractor as the generator of waste or Person who arranged for waste disposal through Contractor or any Subcontractor or Sub-subcontractor; and (z) to be treated and disposed of only at treatment, storage, and disposal facilities maintaining valid Permits (as required) regarding Hazardous Material and in accordance with Applicable Law. Contractor shall submit to Owner a list of all Hazardous Material to be brought onto the Site as permitted by this Agreement prior to bringing such Hazardous Material onto or at the Site. Contractor shall keep Owner informed as to the status of all Hazardous Material brought onto the Site by Contractor or its

Subcontractors and Sub-subcontractors and disposal of such Hazardous Material from the Site by Contractor or its Subcontractors or Sub-subcontractors. Notwithstanding anything to the contrary in the foregoing, Contractor will have no liability or responsibility for any release, clean-up, remediation, transportation, or disposal of any Hazardous Materials existing at the Site that pre-date Contractor's or its Subcontractors' or Sub-subcontractors' commencement of any Work at the Site (the "***Pre-Existing Hazardous Materials***"), and as between Owner and Contractor, Owner will retain all responsibility for Pre-Existing Hazardous Materials, except to the extent of Contractor's or any Subcontractor's or Sub-subcontractor's negligent or otherwise wrongful handling, disturbance, transport, storage, disposal, aggravation or exacerbation of such Pre-Existing Hazardous Materials.

3.18 Environmental Releases. If Contractor or any of its Subcontractors or Sub-subcontractors releases any Hazardous Material on, at, or from the Site, or becomes aware of any Person who has stored, released, or disposed of Hazardous Material on, at, or from the Site during the Work, Contractor shall immediately notify Owner in writing. If Contractor's Work is involved in the area where such release occurred, Contractor shall immediately stop any Work affecting the area. Contractor will not thereafter resume performance of the Work in the affected area except with the prior written permission of Owner. Contractor shall, at its sole cost and expense, diligently proceed to take all necessary or desirable remedial action to clean up and remediate fully and dispose of, in accordance with Applicable Laws, any contamination caused by: (i) Contractor's or any of its Subcontractor's or Sub-subcontractor's negligent or otherwise wrongful handling, disturbance, transport, storage, disposal, aggravation or exacerbation of any Pre-Existing Hazardous Materials; and (ii) Contractor's or any of its Subcontractor's or Sub-subcontractor's negligence or otherwise wrongful handling of any Hazardous Material that was brought onto the Site by Contractor or any of its Subcontractors or Sub-subcontractors, whether on or off the Site. If and when Contractor is instructed to resume performance of the Work with respect to a stoppage as a result of the release of any Hazardous Material that is not Contractor's responsibility pursuant to the previous sentence (after disposal or other decision by Owner regarding treatment of such Hazardous Material), to the extent that any such suspension materially and adversely affects Contractor's actual cost or time for performance of the Work, Contractor shall be entitled to a Change Order to the extent of the material and adverse effect. Contractor shall not, and shall cause its Subcontractors and Sub-subcontractors to not, take any action that may exacerbate any such contamination. In addition to Contractor's obligations as set forth above, if Owner desires Contractor to perform all or part of any clean up or remediation that may become necessary as a result of the discovery of any Pre-Existing Hazardous Material that are not Contractor's responsibility, Contractor shall be entitled to a Change Order for the actual cost of such additional Work. Contractor shall cooperate with and assist Owner in making the Site available for taking necessary remedial steps to clean-up/remediate any such contamination at Owner's expense.

3.19 Quality Assurance. No later than fifteen (15) Days after the date Owner issues the NTP, Contractor shall submit to Owner for its review and approval, a Project-specific quality control and quality assurance plan and inspection plan, including inspection procedures. Contractor shall promptly modify such Project-specific quality control and quality assurance plan and inspection plan to incorporate all comments provided by Owner, if any. Owner's approval of Contractor's quality control and assurance plan, inspection plan and inspection procedure shall in no way relieve Contractor of its responsibility for performing the Work in compliance with this

Agreement. As part of the quality control and assurance plan, inspection plan and inspection procedure, Contractor shall keep a daily log of inspections performed, and Contractor shall make available at the Site for Owner's review a copy of all such inspections.

3.20 Reports and Meetings.

3.20.1. ***Reports***. Contractor shall provide Owner with electronic copies of progress reports and such other information as reasonably requested by Owner, including the following:

3.20.1.1. Safety or environmental incident reports within one (1) Business Day of the occurrence of any such incident, including "near miss" incidents wherein no individual was injured or property was damaged, except for any safety or environmental incident involving a significant non-scheduled event such as natural gas releases, fires, explosions, mechanical failures, unusual over-pressurizations or major injuries which shall be provided to Owner within eight (8) hours of the occurrence of such incident; provided, however, notification shall be provided to Owner immediately if any safety or environmental incident threatens public or employee safety, causes significant property damage, or interrupts the Work; and

3.20.1.2. Monthly progress reports ("***Monthly Progress Reports***"), in a form acceptable to Owner and Contractor but containing the information specified in Attachment R. Contractor shall provide the Monthly Progress Report no later than the tenth (10th) Day of the succeeding Month (or, if a holiday, the last Business Day immediately preceding the tenth (10th) Day of the succeeding Month), which shall be submitted with the Invoice for such Month, and the Monthly Progress Report shall cover activities up through the end of the previous Month. Contractor shall provide Owner with the number of copies of such reports and shall arrange for the distribution thereof as Owner may reasonably request.

3.20.2. ***Meetings***. A weekly (or as otherwise agreed between the Parties) progress meeting shall be held at the Site, or at an alternate site mutually agreeable to Owner and Contractor, to discuss the matters described in Attachment R for the prior week. A Monthly progress meeting shall be held by Contractor at the Site, or at an alternate site mutually agreeable to Owner and Contractor, to discuss the matters described in Attachment R for the prior Month and to review the Monthly Progress Report for that Month with Owner. The meetings shall be attended by a representative of Owner, the Contractor Representative and those Contractor employees and Subcontractors requested by Owner.

3.21 Payment. Contractor shall timely make all payments required to be paid to Owner pursuant to the terms of this Agreement.

3.22 Title to Materials Found. As between Owner and Contractor, the title to water, soil, rock, gravel, sand, minerals, timber, and any other materials developed or obtained in the excavation or other operations of Contractor, any Subcontractor or Sub-subcontractor at the Site and the right to use said materials or dispose of same is hereby expressly reserved by Owner.

Contractor may, at the sole discretion of Owner, be permitted, without charge, to use in the Work any such materials that comply with the requirements of this Agreement.

3.23 Survey Control Points and Layout. Contractor shall establish all survey control points and layout the entire Work in accordance with the requirements of this Agreement, which shall be based on the survey control point established by Owner pursuant to this Agreement. Contractor acknowledges that it has confirmed the proper placement of such Owner-provided survey control point. If Contractor or any of its Subcontractors, Sub-subcontractors or any of the representatives or employees of any of them move or destroy or render inaccurate the survey control point provided by Owner, such control point shall be replaced by Contractor at Contractor's own expense.

3.24 Owner-Supplied Items. Owner-Supplied Items shall be made available to Contractor by Owner at a location at the Site, and, upon delivery, Contractor shall promptly visually inspect the Owner-Supplied Items. Contractor shall promptly notify Owner of any visible defect or discrepancy in the Owner-Supplied Items or any error in the quantity of such Owner-Supplied Items. If Contractor fails to notify Owner of any such visible defect, discrepancy, or error in quantity before performing Contractor's dependent Work, and such defect, discrepancy, noncompliance or error in quantity would have been discovered in the course of a reasonably thorough visual inspection and measurement, Contractor shall correct such defect or discrepancy on the same basis as if it were Defective Work in accordance with Article 13. Contractor shall assume care, custody and control and risk of loss for all such Owner-Supplied Items after delivery to the Site and prior to offloading such Owner-Supplied Items, including the storage, maintenance and care for Owner-Supplied Items in accordance with the manufacturer's and Owner's recommendations and procedures.

3.25 Cooperation with Others. Contractor acknowledges that Owner, other contractors and other subcontractors or other Persons may be working at the Site during the performance of this Agreement and the Work or use of certain facilities may be interfered with as a result of such concurrent activities. To minimize interference with work of any of the other parties involved, Contractor shall perform the Work only in the designated areas (including laydown areas) set forth on Attachment T. Contractor shall at all times coordinate the performance of the Work on the Site with Owner and all of Owner's other contractors and other subcontractors or other Persons performing work on the Site. Contractor agrees to cooperate with Owner and such other contractors and other subcontractors or other Persons so as to not to materially interfere with the activities of such Persons working on the Site. Subject to Section 4.3, Contractor shall be fully responsible for coordinating the Work and the activities of Contractor and its Subcontractors and Sub-subcontractors occurring off of the Site with any work or activities of Owner, Owner's other contractors and its other subcontractors or other Persons. During pre-commissioning, start-up operations, commissioning, Performance Tests and other testing of the Project, Contractor shall at all times coordinate with, supervise, and manage Process Licensor personnel.

3.26 Responsibility for Property. Contractor shall plan and conduct its operations so that neither Contractor nor any of its Subcontractors or Sub-subcontractors shall (i) enter upon lands (other than the Site) or waterbodies in their natural state unless authorized by Owner in writing; (ii) close or obstruct any utility installation, highway, waterway, harbor, road or other property unless and until Permits and Owner's written permission therefore have been obtained;

(iii) disrupt or otherwise interfere with the operation of any portion of any pipeline, telephone, conduit or electric transmission line, ditch, navigational aid, dock or structure unless and until otherwise specifically authorized by Owner in writing; (iv) damage any property in (ii) or (iii); or (v) damage or destroy maintained, cultivated or planted areas or vegetation (such as trees, plants, shrubs, shore protection, paving, or grass) on the Site or adjacent thereto which, as determined by Owner, do not interfere with the performance of this Agreement. The foregoing includes damage arising from performance of the Work through operation of Construction Equipment or stockpiling of materials. Contractor and its Subcontractors and Sub-subcontractors shall coordinate and conduct the performance of the Work so as to not interfere with or disrupt the use and peaceful enjoyment of any adjacent property to the Site.

3.27 Compliance with Real Property Interests. Contractor shall, in the performance of the Work, comply, and cause all Subcontractors and Sub-subcontractors to comply, with any easement, lease, right-of-way or other property interests that affect or govern the Site or any other real property used for the purposes of completing the Work, including any insurance or indemnification restrictions or obligations therein, to the extent such easement, lease, right-of-way or other property interests relate to the performance of the Work.

3.28 Explosives. Explosives shall be transported to the Site only when required to perform the Work under this Agreement and with abundant, prior notice to and written approval of Owner. Contractor shall be responsible for properly purchasing, transporting, storing, safeguarding, handling and using explosives required to perform the Work under this Agreement. Contractor shall employ competent and qualified personnel for the use of explosives and shall assume full responsibility for all costs, losses, damages and expenses caused by the use of explosives in the performance of the Work. Residual surplus explosives shall be promptly removed from the Site and properly disposed of by Contractor. Contractor shall strictly comply with Applicable Law and Applicable Codes and Standards in the handling of explosives pursuant to this Agreement (including the U.S. Patriot Act of 2001 and any and all rules and regulations promulgated by the U.S. Department of Homeland Security and the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives), shall perform all obligations and obtain all Permits with respect to explosives, and shall develop and file and provide copies to Owner of all documentation regarding same.

3.29 Used or Salvaged Materials. If, after Substantial Completion and prior to Final Completion, (i) Contractor has any Contractor-Supplied Equipment that it purchased for the Project but did not incorporate into the Project, or (ii) if such Contractor-Supplied Equipment was purchased pursuant to a unilateral Change Order in accordance with Section 6.1.3 or 6.2.4, Owner has the option of either taking such Equipment at no cost to Owner or requiring that Contractor haul off such Equipment at Owner's cost and expense.

3.30 Supervision of Owner's Operation Personnel. Until Substantial Completion of the Project, Owner's operating and maintenance personnel and Process Licensor personnel providing support to the Project shall be under the control of and supervised by Contractor; *provided, however*, notwithstanding the foregoing, such operating and maintenance personnel shall remain employees or agents of Owner and shall not be considered employees of Contractor for any reason. Contractor shall not be responsible for the acts and omissions of such personnel during such time. Contractor shall, no later than one hundred-eighty (180) Days after NTP, prepare

for Owner's review and approval a proposed plan regarding the utilization of Owner's operation and maintenance personnel, Process Licensor personnel, and Contractor's personnel during pre-commissioning, commissioning, start-up, operations and testing.

3.31 Nondiscrimination. Contractor agrees that it shall conduct its activities without discrimination on account of race, creed, color, sex, religion, national origin, age or disability and shall comply with Applicable Law relating thereto, including Executive Order 11246, as amended. Upon the request of Owner, Contractor shall provide Owner with copies of all plans or programs that Contractor uses to satisfy the requirements of this Section 3.31.

Article 4

OWNER'S RESPONSIBILITIES

4.1 Payment. Owner shall timely pay the Contractor's Compensation in accordance with the provisions of Article 7 hereof.

4.2 Permits. Owner shall be responsible for obtaining the Permits listed in Attachment P. To the extent Owner has not obtained any such Permits prior to the Effective Date, Owner shall obtain such Permits in accordance with the schedule contained in Attachment P, or if not stated therein, in a manner that will permit Contractor to perform the Work without substantial interruption or interference. Owner shall provide information, assistance and documentation to Contractor as reasonably requested in connection with the Permits to be obtained by Contractor under this Agreement.

4.3 Access to the Site. Owner shall provide Contractor with access to the Site on which the Project is to be physically situated. Subject to Section 3.25, such access on the Site shall be sufficient to permit Contractor to progress with the Work on a continuous basis in accordance with the Milestone Dates without material interruption or interference.

4.4 California Sales and Use Tax. Owner shall reimburse Contractor for California sales and use Taxes as set forth in Article 8, unless Owner provides Contractor with evidence of abatement of such California sales and use Taxes, in which case Contractor shall not invoice Owner for any such Taxes. In addition, Owner shall administer and pay (a) property Taxes assessed on the Site, and on Equipment after delivery at the Site, and (b) all Taxes incurred due to Owner's sale of renewable diesel from the Project.

4.5 Legal Description and Survey. Prior to the earlier of any LNTP issued for detailed design Work or NTP, Owner shall provide to Contractor for Contractor's information a survey control point, the proper placement of which, Contractor has confirmed as set forth in Section 3.23.

4.6 Operation Personnel. Owner shall retain operating and maintenance personnel to assist Contractor with the pre-commissioning, commissioning, start-up and testing of the Project.

4.7 Owner-Supplied Items. Owner shall be responsible for the procurement and delivery of the items described in Attachment V ("***Owner-Supplied Items***"), within the times and at the locations set forth therein, subject to the conditions specified therein. For the avoidance of doubt, the Owner-Supplied Items does not include connections and related services supplied by

Contractor regarding the Owner-Supplied Items or any other requirements with respect to the Owner-Supplied Items set forth in Attachment A.

4.8 Existing Plant Equipment. Owner shall be solely responsible for Existing Plant Equipment meeting Applicable Codes and Standards, except to the extent set forth in Section 3.1.2.

Article 5

COMMENCEMENT OF WORK, MILESTONE DATES, AND SCHEDULING OBLIGATIONS

5.1 Commencement of Work. Upon Contractor's receipt from Owner of an LNTP or NTP, Contractor shall immediately commence the performance of the Work specified in such LNTP or NTP.

5.2 Notices to Proceed.

5.2.1. ***Limited Notices to Proceed***. At any time prior to the date of issuance of the notice to proceed ("***Notice to Proceed***" or "***NTP***"), but no later than the earlier of (1) fourteen (14) Days after Owner provides Contractor with written notice of financial close or (2) June 1, 2020, Owner shall issue the first limited notice to proceed ("***Limited Notice to Proceed No. 1***" or "***LNTP No. 1***") in the form of Schedule H-1, which shall authorize and require Contractor to perform a specified portion of the Work set forth therein. Owner may issue additional limited notices to proceed ("***LNTP***") in the form of Schedule H-2 prior to the issuance of NTP which, if issued, shall authorize and require Contractor to perform a specified portion of the Work. Each LNTP shall specify the maximum total cost of such specified Work, and Contractor shall be paid for such specified Work pursuant to the terms and conditions of this Agreement, with all such payments credited against the Guaranteed Maximum Price and the first payment to become due hereunder.

5.2.2. ***Notice to Proceed***. Unless otherwise specifically set forth in an LNTP, Contractor shall not commence performance of the Work until Owner issues the NTP authorizing the same pursuant to the terms and conditions of this Agreement. Owner shall issue NTP pursuant to this Section 5.2.2 no later than the earlier of (1) forty-five (45) Days after Owner provides Contractor with written notice of financial close or (2) July 1, 2020. Upon Contractor's receipt from Owner of the NTP and the Mobilization Payment, Contractor shall immediately commence with the performance of the Work. The NTP shall be issued in the form attached hereto as Schedule H-3.

5.3 Milestone Dates. Contractor shall perform the Work in accordance with the Milestone Dates set forth in this Section 5.3 and in Attachment E.

5.3.1. ***Guaranteed Substantial Completion Date***. Contractor shall achieve Substantial Completion of the Work no later than six hundred (600) Days after issuance of NTP ("***Guaranteed Substantial Completion Date***"). The Guaranteed Substantial Completion Date shall only be adjusted by Change Order as provided under this Agreement.

5.3.2. ***Guaranteed Final Completion Date***. Contractor shall achieve Final Completion of the Work no later than one hundred eighty (180) Days after achieving Substantial Completion ("***Guaranteed Final Completion Date***"). The Guaranteed Final Completion Date shall only be adjusted by Change Order as provided under this Agreement.

5.4 CPM Schedule.

5.4.1. ***CPM Schedule Submission***. On or prior to the date set forth in Attachment E, Contractor shall prepare and submit to Owner for its review and written approval a critical path method schedule for the Project using Primavera Project Planner version 8.2 or later ("***CPM Schedule***"). Owner may issue written comments, proposed changes or written approval or disapproval of such CPM Schedule. The CPM Schedule shall, at a minimum, (i) include separate activities for each portion of the Project (including engineering, procurement and construction, along with non-physical activities related to the Work, such as submittal and approval of Drawings and Specifications, procurement of Equipment and inspection and testing of the Work, and obtaining Permits), (ii) be fully integrated and shall be consistent with the Milestone Dates, (iii) be detailed at a level 3 (with each activity containing Work for one discipline or craft having a maximum twenty (20) Day duration) for all activities for the Project, (iv) fully incorporate all Major Subcontractor schedules for the performance of their work (including off-site Subcontractors, suppliers and fabricators) and (v) show an uninterrupted critical path from the NTP through each Milestone Date, including Mechanical Completion, Substantial Completion and Final Completion of the Project. With respect to each activity in the CPM Schedule, the CPM Schedule shall show the activity number, activity description, early start and early finish dates, late start and late finish dates, duration, total float value, and responsible Contractor, Subcontractor or other parties (including Owner and Owner's other contractors). The CPM Schedule shall represent Contractor's best judgment as to how it shall complete the Work in compliance with the Milestone Dates, including the Guaranteed Substantial Completion Date and the Guaranteed Final Completion Date. The CPM Schedule shall be submitted in in its native electronic format by Primavera Project Planner version 8.2 or later. Contractor shall submit with the CPM Schedule a progress "S" curve, showing the baseline early and late curve, and actual and forecast progress by Month for total progress of the Work. Once the CPM Schedule and the required submittals have been reviewed and approved by Owner, this version of the CPM Schedule shall be the baseline CPM Schedule for the Work.

5.4.2. ***Progress Updates to CPM Schedule.*** After approval by Owner of the baseline CPM Schedule described in Section 5.4.1, Contractor shall manage and update (no less frequently than once every four (4) weeks) the CPM Schedule with Primavera, P6 using the critical path method to show actual progress and the current forecast to complete the Work. Each updated CPM Schedule shall meet the requirements of Section 5.4.1, and in addition shall (i) at a minimum, be prepared with the same level of detail as the baseline CPM Schedule, (ii) show the baseline CPM Schedule, (iii) for each activity completed, show the actual start and finish dates for each such completed activity, (iv) for each activity started but not yet completed, show the actual start date for each such activity, the progress of Work for each such activity and forecasted completion date for each such activity, (v)

for each activity not yet started, show the forecasted start and completion date for each such activity, (vi) show the forecasted date of achievement of Mechanical Completion, Substantial Completion and Final Completion of the Project, and (vii) update the CPM Schedule with all other information shown in the baseline CPM Schedule, reflecting the Work as actually performed or as forecasted, including manhours for each activity. Contractor shall submit to Owner current updates to the CPM Schedule every four (4) weeks. Contractor shall promptly correct any errors or inconsistencies in the updates to the CPM Schedule identified to Contractor by Owner and resubmit a corrected update for Owner's review.

5.4.3. ***Approval of Baseline CPM Schedule and Updates to CPM Schedule.*** Owner's review and approval, or lack of review or approval, of the baseline CPM Schedule and any updated CPM Schedule shall not relieve Contractor of any obligations for the performance of the Work, change the Guaranteed Substantial Completion Date or the Guaranteed Final Completion Date, nor shall it be construed to establish the reasonableness of the CPM Schedule. Notwithstanding any approval by Owner of the baseline CPM Schedule or any updated CPM Schedule, Owner shall be entitled to reasonably rely upon the baseline CPM Schedule and any updates to the CPM Schedule, including reliance that Contractor has developed a comprehensive, reasonable and accurate schedule to complete the Work within the times set forth in the Milestone Dates.

5.4.4. ***Two Week Look-ahead Schedule***. During the period commencing upon issuance of the NTP and ending upon Substantial Completion, Contractor shall submit to Owner on a weekly basis a two (2) week look-ahead schedule ("***Two Week Look-ahead Schedule***"), which shall be based on the CPM Schedule showing in detail the activities to be performed during the next fourteen (14) Days, and shall meet all other requirements of an updated CPM Schedule as described in Section 5.4.2. The Two Week Look-ahead Schedule shall be submitted to Owner in its native electronic format.

5.4.5. ***Default***. If Contractor fails to comply with its scheduling obligations under this Agreement, including those set forth in this Section 5.4, 5.5 and 5.6, Owner may withhold any and all further payments otherwise owing Contractor until such failure is corrected.

5.5 Recovery and Recovery Schedule. If, at any time (i) the CPM Schedule shows that any activity on a critical path of the CPM Schedule is delayed such that Substantial Completion is forecasted to occur ten (10) or more Days after the applicable Guaranteed Substantial Completion Date or a Milestone is forecasted to occur ten (10) or more Days after the applicable Milestone Date, (ii) Contractor fails to provide a current updated CPM Schedule in compliance with the requirements of this Agreement and Owner reasonably determines that any activity on a critical path is delayed such that Substantial Completion is forecasted to occur ten (10) or more Days after the applicable Guaranteed Substantial Completion Date or a Milestone is forecasted to occur ten (10) or more Days after the applicable Milestone Date or (iii) Contractor fails to achieve a Milestone within ten (10) Days after the applicable Milestone Date, and, in each such circumstance, Contractor or any of its Subcontractors or Sub-subcontractors are responsible for such delay, then Owner may order that Contractor provide a recovery schedule ("***Recovery Schedule***") for Owner's written approval as soon as reasonably possible, but no later than ten (10)

Business Days after such order. If Owner disapproves the Recovery Schedule then Contractor shall, as soon as reasonably possible, but no later than ten (10) Business Days after such disapproval, provide a new Recovery Schedule for Owner's written approval. The Recovery Schedule shall (a) represent Contractor's best judgment as to how it shall regain compliance with the Milestone Dates, within a time period acceptable to Owner and (b) include detailed information (in at least the same level of detail as the Milestone Dates) in a form reasonably satisfactory to Owner to demonstrate the ability of Contractor to regain compliance with the Milestone Dates within a time period acceptable to Owner.

5.6 Acceleration. Owner may, at any time, direct Contractor pursuant to a Change Order under Section 6.1 to accelerate the Work, by among other things, establishing additional shifts, paying or authorizing overtime or providing additional equipment. In the event of any such directive, Owner's sole liability shall be to pay Contractor any documented costs clearly and solely attributable to such acceleration. Such costs shall include to Contractor any shift differential, premium, or overtime payments to workers or field supervisors and other employees of Contractor dedicated to the Work on a full-time basis actually incurred over and above Contractor's normal rates, inefficiency related costs caused by such acceleration, and overtime charges for Construction Equipment. Any adjustment to the Guaranteed Maximum Price or any other Changed Criteria that the Parties agree will be changed by such acceleration for Owner's acceleration of the Work shall be implemented by Change Order.

Article 6

CHANGES; FORCE MAJEURE; AND OWNER-CAUSED DELAY

6.1 Change Orders Requested by Owner. Owner shall be entitled to a Change Order upon request in accordance with this Section 6.1.

6.1.1. If Owner submits to Contractor in writing a duly signed proposed Change Order, Contractor must respond to Owner within ten (10) Business Days with a written statement setting forth the effect, if any, which such proposed Change Order would have on the Guaranteed Maximum Price, the Design Basis, the Guaranteed Substantial Completion Date or Guaranteed Final Completion Date or any other obligation or potential liability of Contractor hereunder (collectively or individually, the "***Changed Criteria***"). The written statement shall be in the form of Schedule D-3, and shall include all information required by Section 6.5.2.

6.1.2. If the Parties agree on such Changed Criteria of the proposed Change Order (or modify such Change Order so that the Parties agree on such Changed Criteria), the Parties shall execute such Change Order, which shall be in the form of Schedule D-1 and such Change Order shall become binding on the Parties, as part of this Agreement. An adjustment to the Guaranteed Maximum Price, if any, resulting from Owner's proposed Change Order, unless otherwise agreed between the Parties, shall be an increase by an amount equal to Contractor's reasonable and documented additional costs, net of any cost savings or, to the extent that the cost savings are greater than the additional costs associated with effecting Owner's proposed Change Order, a decrease by an amount equal to Contractor's net cost savings associated with effecting Owner's proposed Change Order.

6.1.3. If the Parties cannot agree on such Changed Criteria of the proposed Change Order within ten (10) Business Days of Contractor's receipt of Owner's proposed Change Order, or if Owner desires that the proposed changed Work set forth in the proposed Change Order commence immediately without the requirement of a written statement by Contractor as required under Section 6.1.1, Owner may, by issuance of a unilateral Change Order in the form attached hereto as Schedule D-2, require Contractor to commence and perform the changed Work specified in the unilateral Change Order, on a time and materials basis using the rates set forth in Attachment C, with the effect of such unilateral Change Order on the Changed Criteria (or if the Parties agree on the effect of such unilateral Change Order for some but not all of the Changed Criteria, the impact of each of the components of the Changed Criteria on which the Parties disagree) to be determined as soon as possible, or (ii) in accordance with the outcome of the dispute resolution procedures set forth in Article 18; provided, however, that Contractor shall perform the Work as specified in such unilateral Change Order and Owner shall continue to pay Contractor in accordance with the terms of this Agreement and any previously agreed Change Orders pending resolution of the dispute. When Owner and Contractor agree on the effect of such unilateral Change Order on all of the Changed Criteria, such agreement shall be recorded by execution by the Parties of a Change Order in the form attached hereto as Schedule D-1, which shall supersede the unilateral Change Order previously issued and relating to such changed Work. Contractor shall be considered to be in Default under Section 16.1 should it (i) fail to commence the performance of the changed Work or other obligations required in such unilateral Change Order within three (3) Business Days of receipt of such unilateral Change Order (or within such other time specified in such unilateral Change Order) or (ii) fail to diligently perform the changed Work or other obligations required in such unilateral Change Order.

6.1.4. If Owner omits Work by a Change Order, Owner may subsequently perform such Work itself or have it carried out by other contractors, provided however to the extent such omission of Work materially and adversely impacts Contractor's material obligations under this Agreement (including by way of example and not limitation, achievement of the Minimum Acceptance Criteria), such adverse impact shall be addressed in the Change Order capturing such omission which may include an extension of time and costs arising from omission of Work as applicable. In determining the amount to be deducted from the Guaranteed Maximum Price for any change that results in a reduction in the scope of Work, thereby resulting in a new, reduced Guaranteed Maximum Price, such deduction will include a reduction in (and the Guaranteed Maximum Price shall be reduced by) the value of the scope of Work being omitted and the Overhead Fee and the Contractor's Fee on such value of scope of Work.

6.2 Change Orders Requested by Contractor.

6.2.1. Contractor shall only have the right to a Change Order in the event of any of the following occurrences:

6.2.1.1. Changes in Law that materially and adversely affect Contractor's actual cost (which costs including Overhead Fee and Contractor's Fee shall be adequately documented and supported) of performance of the Work or

ability to perform any material requirement under this Agreement, and with respect to any delays (as that term is defined in Section 6.9) caused by such Changes in Law, a time extension to the Milestone Dates to the extent allowed under Section 6.8;

6.2.1.2. Acts or omissions of Owner including Owner caused delays that constitute a material breach of this Agreement by Owner and materially and adversely affect Contractor's actual cost (which costs shall be adequately documented and supported) of performance of the Work or ability to perform any material requirement under this Agreement and, with respect to delays caused by Owner that constitute a material breach of this Agreement by Owner, compensation and a time extension to the Mechanical Completion, Guaranteed Substantial Completion Date and Final Completion Date to the extent allowed under Section 6.8;

6.2.1.3. Force Majeure to the extent allowed under Section 6.7.1;

6.2.1.4. Acceleration of the Work ordered by Owner pursuant to Section 5.6, *provided that* a Change Order has been issued by Owner pursuant to Section 6.1;

6.2.1.5. To the extent expressly permitted under Section 13.2.1 or 3.18;

6.2.1.6. Unforeseen Subsurface Conditions at the Site to the extent allowed under Section 2.5.2.2;

6.2.1.7. Purchase of operating spare parts in accordance with Section 3.4;

6.2.1.8. Suspension in Work ordered by Owner pursuant to Section 16.3 to the extent allowed thereunder;

6.2.1.9. Owner's request for an increase in coverage under the Letter of Credit to cover any increase in the Contract Price as a result of Change Orders, provided that a Change Order for such increased coverage has been executed;

6.2.1.10. Changes in the applicable […***…] that become effective after the Effective Date of the Agreement; and

6.2.1.11. Owner requiring Contractor to perform work specifically excluded in Contractor's Exclusions listed in Section H of Attachment A or Owner's failure to meet the conditions specified in Contractor's Clarifications listed in Section I of Attachment A.

6.2.2. Should Contractor desire to request a Change Order under this Section 6.2, Contractor shall, pursuant to Section 6.5, notify Owner in writing and issue to Owner a request for a proposed Change Order in the form attached hereto as Schedule D-3, a

detailed explanation of the proposed change and Contractor's reasons for proposing the change, all documentation necessary to verify the effects of the change on the Changed Criteria, and all other information required by Section 6.5.

6.2.3. If Owner agrees that a Change Order is necessary and agrees with Contractor's statement regarding the effect of the proposed Change Order on the Changed Criteria, then Owner shall issue such Change Order, which shall be in the form of Schedule D-1, and such Change Order shall become binding on the Parties as part of this Agreement upon execution thereof by the Parties.

6.2.4. If the Parties agree that Contractor is entitled to a Change Order but cannot agree on the effect of the proposed Change Order on the Changed Criteria within ten (10) Business Days of Owner's receipt of Contractor's written notice and proposed Change Order and all other required information, or if Owner desires that the proposed changed Work set forth in the proposed Change Order commence immediately, the rights, obligations and procedures set forth in Section 6.1.3 are applicable.

6.2.5. If the Parties cannot agree upon whether Contractor is entitled to a Change Order within ten (10) Business Days of Owner's receipt of Contractor's written notice and proposed Change Order, then the dispute shall be resolved as provided in Article 18. Pending resolution of the dispute, Contractor shall continue to perform the Work required under this Agreement, and Owner shall continue to pay Contractor in accordance with the terms of this Agreement, any Change Orders and any previously agreed or unilateral Change Orders.

6.3 Compensation Adjustment; Contractor Documentation. If a Change Order is executed on a time and materials basis pursuant to Section 6.1.3 or 6.2.4, then the Guaranteed Maximum Price shall be adjusted using rates set forth in Attachment C, or, if not therein, at rates not to exceed then current market rates. Contractor shall use reasonable efforts to minimize such costs (consistent with the requirements of this Agreement) and shall provide Owner with options for reducing such costs whenever possible. The foregoing costs shall be supported by reasonable documentation, including daily work logs, time sheets and receipts.

6.4 Change Orders Act as Accord and Satisfaction. Change Orders agreed pursuant to Section 6.1.2 or 6.2.3 by the Parties, and unilateral Change Orders entered into pursuant to Section 6.1.3 or 6.2.4 on a time and materials basis for which the Parties have subsequently agreed upon the effect of such unilateral Change Order and executed a superseding and mutually agreed upon Change Order as provided in Section 6.1.2 or 6.2.3, shall constitute a full and final settlement and accord and satisfaction of all effects of the change as described in the Change Order upon the Changed Criteria and shall be deemed to compensate Contractor fully for such change. Accordingly, Contractor expressly waives and releases any and all right to make a claim or demand or to take any action or proceeding against Owner for any other consequences arising out of, relating to, or resulting from such change reflected in such Change Order, whether the consequences result directly or indirectly from such change reflected in such Change Order, including any claim or demand for damages due to delay, disruption, hindrance, impact, interference, inefficiencies or extra work arising out of, resulting from, or related to, the change

reflected in that Change Order (including any claims or demands that any Change Order or number of Change Orders, individually or in the aggregate, have impacted the unchanged Work).

6.5 Timing Requirements for Notifications and Change Order Requests by Contractor. Should Contractor desire to seek an adjustment to the Guaranteed Maximum Price, the Milestone Dates, the Guaranteed Substantial Completion Date or the Guaranteed Final Completion Date, the Payment Schedule, any of the Minimum Acceptance Criteria, or any other modification to any other obligation of Contractor under this Agreement for any circumstance that Contractor has reason to believe may give rise to a right to request the issuance of a Change Order, Contractor shall, with respect to each such circumstance:

6.5.1. Notify Owner in writing of the existence of such circumstance within fifteen (15) Days of the date that Contractor knew or reasonably should have known of the first occurrence or beginning of such circumstance, *provided that* such notice shall be given prior to the expiration of such fifteen (15) Day period should any action or inaction by Owner or Contractor be required or necessary in relation to such circumstance to prevent or mitigate any damages or losses to either Party. If any such action or inaction is required, Contractor shall give notice within five (5) Days, unless such circumstance is an emergency in which case notice shall be given immediately. In such notice, Contractor shall state in detail all known and presumed facts upon which its claim is based, including the character, duration and extent of such circumstance, the date Contractor first knew of such circumstance, any activities impacted by such circumstance, the cost and time consequences of such circumstance (including showing the impact of such circumstance, if any, on the critical path of the CPM Schedule) and any other details or information that are expressly required under this Agreement. Contractor shall only be required to comply with the notice requirements of this Section 6.5.1 once for continuing circumstances, provided the notice expressly states that the circumstance is continuing and includes Contractor's best estimate of the impact on any Changed Criteria by such circumstance; and

6.5.2. Submit to Owner a request for a proposed Change Order as soon as reasonably practicable after giving Owner the written notice described above but in no event later than ten (10) Days after such notice, together with a written statement (i) detailing why Contractor believes that a Change Order should be issued, plus all documentation reasonably requested by or necessary for Owner to determine the factors necessitating the possibility of a Change Order and all other information and details expressly required under this Agreement (including the information required by Attachment C, detailed estimates and cost records, daily time sheets, a graphic demonstration using the CPM Schedule and a time impact analysis showing Contractor's entitlement to a time extension to the Milestone Dates pursuant to the terms of this Agreement, which shall be provided in hard copy and in its native electronic format); and (ii) setting forth the effect, if any, which such proposed Change Order would have for the Work on any of the Changed Criteria.

The Parties acknowledge that Owner will be prejudiced if Contractor fails to provide the notices and proposed Change Orders as required under this Section 6.5, and agree that such requirements are an express condition precedent necessary to any right for an adjustment

in the Guaranteed Maximum Price, the Guaranteed Substantial Completion Date or Guaranteed Final Completion Date, Payment Schedule, any Work, any of the Minimum Acceptance Criteria, or any other modification to any other obligation of Contractor under this Agreement.

6.6 Adjustment Only Through Change Order. No change in the requirements of this Agreement, whether an addition to, deletion from, suspension of or modification to this Agreement, including any Work, shall be the basis for an adjustment for any change in the Guaranteed Maximum Price, the Milestone Dates (including the Guaranteed Substantial Completion Date or Guaranteed Final Completion Date), any Work, the Payment Schedule, any of the Minimum Acceptance Criteria, or any other obligations of Contractor or right of Owner under this Agreement unless and until such addition, deletion, suspension or modification has been authorized by a Change Order executed and issued in accordance with and in strict compliance with the requirements of this Article 6.

6.7 Force Majeure.

6.7.1. ***Contractor Relief***. If the commencement, prosecution or completion of any Work is delayed by Force Majeure, then Contractor shall be entitled to (i) an extension to the Guaranteed Substantial Completion Date if such delay affects the performance of any Work that is on the critical path of the CPM Schedule and causes Contractor to complete the Work beyond the Guaranteed Substantial Completion Date, but only if Contractor is unable to proceed with other portions of the Work so as not to cause a delay in the Guaranteed Substantial Completion Date, or (ii) […***…], and, in each case, Contractor complies with the notice and Change Order request requirements in Section 6.5 and the mitigation requirements in Section 6.10. Any adjustment to the […***…] and Milestone Dates shall be recorded in a Change Order.

6.7.2. ***Payment and Indemnification Obligations***. No obligation of a Party to pay moneys under or pursuant to this Agreement or to provide indemnification under this Agreement shall be excused by reason of Force Majeure.

6.8 Delay Caused by Certain Conditions. Should (a) (i) Owner or any Person acting on behalf of or under the control of Owner (other than any Contractor Indemnified Party) delay the commencement, prosecution or completion of the Work, (ii) Owner fail to meet any of its material responsibilities when required including by way of example and not limitation late delivery of Owner Supplied Equipment, plans, or specifications, (iii) provide inaccurate plans or specifications related to Owner Supplied Equipment, (iv) Owner or Owner parties fail to obtain necessary rights of access to the worksite, (v) there be a failure of other providers of the Owner to complete work which is a prerequisite to the performance of the work by Contractor as specified in this Agreement, (vi) there be defects in Owner-Supplied Items, or (vii) there be delays caused by Owner's occupancy or use of the Work pursuant to Section 12.7, and, for each of the circumstances described in subsections (i) through (vii), if such delay is not in any way attributable to Contractor or its Subcontractors or Sub-subcontractors but is caused by Owner's breach of an express obligation of Owner under this Agreement, or, should (b) Owner order a change in the Scope of the Work (provided that a Change Order has been issued in accordance with Section 6.1); (c) Owner suspend the Work for which Contractor is entitled to relief under Section 6.2.1.8; (d) a

Change in Law occur for which Contractor is entitled to relief under Section 6.2.1.1; (e) Unforeseen Subsurface Conditions occur for which Contractor is entitled to relief under Section 2.5.2.2; (f) there be a failure to achieve the Minimum Acceptance Criteria for which Contractor is entitled to relief under Section 12.4.1.2; or (g) an event occurs that entitles Contractor to a Change Order pursuant to Section 6.2.1.11, in each case, delay commencement, prosecution or completion of the Work, then Contractor shall be entitled to an adjustment to the Guaranteed Maximum Price and an extension to the Guaranteed Substantial Completion Date if (i) such delay affects the performance of any Work that is on the critical path of the CPM Schedule, and (ii) such delay causes Contractor to complete the Work beyond the Guaranteed Substantial Completion Date, and, in each case, Contractor complies with the notice and Change Order request requirements in Section 6.5 and the mitigation requirements of Section 6.10. Any adjustment to the Guaranteed Maximum Price shall be for reasonable, additional direct costs incurred by Contractor for such delay meeting the requirements of this Section 6.8, and any adjustments to the Guaranteed Maximum Price or the Milestone Dates shall be recorded in a Change Order. The Parties agree that if they execute a Change Order with respect to any change in the Scope of Work described in this Section 6.8, any delay arising out of such change in the Scope of Work and meeting the requirements of this Section 6.8 shall be included in the Change Order incorporating such change in the Scope of Work.

6.9 Delay. For the purposes of Sections 6.2.1.1, 6.2.1.2, 6.7 and 6.8, the term "delay" shall include hindrances, disruptions or obstructions, or any other similar term in the industry and the resulting impact from such hindrances, disruptions or obstructions, including inefficiency, impact, ripple or lost production.

6.10 Contractor Obligation to Mitigate Delay. With respect to Sections 6.7 and 6.8, in no event shall Contractor be entitled to any adjustment to the Milestone Dates or any adjustment to the Guaranteed Maximum Price for that portion of delay to the extent Contractor could have taken, but failed to take, reasonable actions to mitigate such delay.

Article 7

COMPENSATION AND PAYMENTS TO CONTRACTOR

7.1 Compensation. As compensation in full to Contractor for the full and complete performance of the Work and all of Contractor's other obligations under this Agreement with respect to the Work, Owner shall pay and Contractor shall accept […***…]. The Compensation and Guaranteed Maximum Price are subject to adjustment only by Change Order as provided in provided in Article 6 and include all Taxes, costs, charges, and expenses of whatever nature applicable to the Work. For the avoidance of doubt, the Guaranteed Maximum Price does not include […***…].

7.2 Guaranteed Maximum Price. The sum of the Direct Costs of the Work, the Overhead Fee, and the Contractor's Fee (excluding California sales and use tax per Section 7.1 above) is guaranteed by Contractor not to exceed […***…] (the "***Guaranteed Maximum Price***" or "***GMP***"), subject to additions and deductions by Change Order as provided in the Agreement. Notwithstanding anything to the contrary in this Agreement, (i) Contractor shall not charge and Owner shall not be required to pay any amounts which would otherwise be considered a part of

the Compensation if such Work arises out of or relates to Contractor's gross negligence or fault, or any amounts defined as a Disallowed Cost, and (ii) Contractor shall not charge and Owner shall not be required to pay any amounts in excess of the Guaranteed Maximum Price (which is subject to adjustment by Change Order as permitted in Article 6 of this Agreement).

7.3 Direct Costs to be Reimbursed. Owner shall reimburse Contractor for the Direct Costs of the Work in accordance with this Agreement. "***Direct Costs of the Work***" means the actual costs necessarily incurred by the Contractor in the proper performance of the Work. Such actual costs for labor shall be at rates not higher than those set forth in the Payment Schedule except with prior consent of the Owner, provided that the Hourly Rates shall only be subject to adjustment as the relevant union agreement(s) expires or as a matter of Change in Law. The Direct Costs of the Work shall include only the items set forth in this Section 7.3 and shall exclude (i) those items within the definition of Overhead Costs in Section 7.4 and (ii) those items within the definition of Contractor's Fee in Section 7.5, but shall include those items within the definition of Affiliate Costs in Section 7.7. Where any cost is subject to the Owner's prior approval, Contractor shall obtain this approval prior to incurring the cost.

7.3.1. ***Labor Costs***.

7.3.1.1. Owner shall pay the hourly rates for labor pursuant to Section 7.3.1.2 below (the "***Hourly Rates***") at rates not higher than those set forth in the Payment Schedule for Contractor's personnel and Affiliate Subcontractors' personnel engaged in the Work. Owner shall also pay […***…].

7.3.1.2. Hourly Rates for union personnel shall be […***…].

Hourly Rates for non-union personnel shall be […***…].

Hourly Rates for […***…] shall be […***…].

The breakdown of the regular, taxable wages paid […***…], are attached to this Agreement as part of the Payment Schedule.

7.3.1.3. In addition to those items identified in Section 7.3.1.2 above, the Hourly Rates shall be […***…].

7.3.1.4. […***…]

7.3.1.5. Notwithstanding anything to the contrary, Hourly Rates shall only be subject to adjustment as […***…].

7.3.1.6. Owner will reimburse Contractor for any overtime approved in writing, being time expended in the performance of the Work exceeding the overtime thresholds established by the relevant union agreement(s) or, if no union agreements apply, the Applicable Law will govern.

7.3.1.7. Approval is required for any hours worked over forty (40) hours a week, and any hours worked on weekends.

7.3.1.8. Owner will reimburse Contractor for […***…].

7.3.2. ***Subcontract Costs***. Excluding Affiliate Subcontracts with Affiliate Subcontractors, payments made by Contractor to Subcontractors in accordance with the requirements of the Subcontracts.

7.3.3. ***Costs of Materials, Consumables, and Equipment Incorporated in the Completed Construction***. Costs, including transportation and storage, of materials and Equipment incorporated or to be incorporated in the completed construction and costs of such materials in excess of those actually installed to allow for reasonable waste and spoilage. Unused excess materials, if any, shall become the Owner's property at the completion of the Work.

7.3.4. ***Costs of Other Equipment, Temporary Utilities, Facilities and Related Items***. Rental charges for temporary facilities, utilities, structures, furniture, machinery, equipment, form work, welding gases and electrodes, and hand tools not customarily owned by construction workers that are provided by Contractor at the Site and costs of transportation, installation, minor repairs, dismantling and removal thereof. Rates of Contractor-owned Construction Equipment are set forth in the Payment Schedule and the quantities and scheduling of such Construction Equipment shall be agreed upon with Owner in advance of any use at the Site. Owner shall not be responsible for reimbursing Contractor for any period of time in which Construction Equipment is not fully capable of performing Work (*i.e.*, periods of repair or maintenance) or for storage of Construction Equipment that is not needed for the construction activities contemplated, unless agreed to by Owner. Construction Equipment is not fully capable of performing Work during mobilization, demobilization, erection and disassembly, and decontamination and washing of such Construction Equipment. Upon Owner's request, Contractor shall support any invoiced amounts by providing documentation demonstrating that Construction Equipment was required to perform or support the Work scope, on-Site and fully capable of performing the Work.

7.3.5. ***Costs of*** […***…].

7.3.6. ***Debris Removal and Disposal***. Costs of removal of debris from the Site and its proper and legal disposal.

7.3.7. ***Stored Materials***. Costs of materials and Equipment suitably stored off the Site at a mutually acceptable location, subject to the Owner's prior approval.

7.3.8. ***Taxes***. Sales, use, gross receipts, value added or similar taxes imposed by a Governmental Instrumentality that are related to the Work and for which Contractor is liable, except for any California sales tax and value added tax paid directly by Owner.

7.3.9. […***…].

7.3.10. ***Third Party Services***. Fees of third-party service providers including laboratories for tests required by this Agreement, except those related to nonconforming or Defective Work.

7.3.11. […***…].

7.3.12. […***…].

7.3.13. […***…].

7.3.14. ***Emergencies***. Costs incurred in taking action to prevent threatened damage, injury or loss in case of an emergency affecting the safety of persons and property.

7.3.15. […***…].

7.3.16. ***Other***. Other costs incurred in the performance of the Work if, and to the extent, approved in advance in writing by the Owner.

7.3.17. […***…].

7.4 Overhead.

7.4.1. […***…].

7.4.2. ***Overhead Costs***. The following costs shall be considered to be "***Overhead Costs***": (i) estimating services and services relating to purchase of tools and consumables performed in the Contractor's offices; (ii) wages and salaries (including all taxes, insurance and other items set forth in Section 7.3.1.2) for Contractor's program management, supervisory, accounting and administrative personnel performed in Contractor's offices off-Site; (iii) all other costs and expenses associated Contractor's offices off-Site, including all office equipment and furniture, office supplies, computers, fax/copier/postage, telephone and set-up, printing, allowances, and travel expenses/auto/parking; (iv) all taxes, fees or levies paid or payable by Contractor, imposed by a Governmental Instrumentality, which are related to any of the Overhead Costs; and (v) all costs and expenses for the provision of insurance that Contractor is required to provide under this Agreement, including the premiums and other costs and expenses for Commercial General Liability Insurance, Workers' Compensation Insurance, Employer's Liability Insurance, Automobile Liability Insurance, and Umbrella Liability Insurance.

7.5 Contractor's Fee. Contractor's Fee shall be equal to […***…] ("***Contractor's Fee***").

7.6 Disallowed Costs. Notwithstanding anything to the contrary herein and subject to Contractor's right to dispute such decision pursuant to Article 18, Contractor shall not be entitled to payment or compensation for any Disallowed Cost. "***Disallowed Cost***" means any cost, other than Direct Costs of the Work, which Owner, in good faith, decides:

7.6.1. is not reasonable or is not necessarily incurred or paid by Contractor in accomplishing Work or was not properly and reasonably incurred by Contractor solely and exclusively in accordance with this Agreement;

7.6.2. is not supported by Contractor's accounts and records;

7.6.3. incorrectly includes profit and/or an element of the Contractor's Fee;

7.6.4. incorrectly includes compensation elements provided for elsewhere in this Article 7 (to the extent such compensation elements are already covered by other portions of the Compensation hereunder);

7.6.5. should not have been paid to Contractor or a Subcontractor or Sub-subcontractor in accordance with the express terms of the relevant purchase order, Subcontract, or Sub-subcontract;

7.6.6. does not relate to the performance of the Work;

7.6.7. was a cost for or in connection with:

7.6.7.1. any loss or damage for which Contractor is liable pursuant to this Agreement;

7.6.7.2. a consequence resulting from […***…] negligent acts, willful misconduct or breach by Contractor;

7.6.7.3. any expediting costs necessitated by […***…] negligence, willful misconduct or direct fault of Contractor to the extent such expediting costs are not offset by savings in reimbursable costs;

7.6.7.4. any third party liability of Contractor for which Owner is not liable to indemnify Contractor under this Agreement; or

7.6.7.5. any other loss or liability incurred by Contractor, other than deductibles, for which insurance has been obtained pursuant to this Agreement;

7.6.8. is a cost that Contractor will recover from third parties or Project-specific insurance, or, using reasonable efforts, would have recovered under such insurance;

7.6.9. is a cost of correcting […***…] Defects;

7.6.10. is for resources that are in excess of that required for Work or that are not approved in writing;

7.6.11. is a cost incurred in related to the settlement of any Disputes if Contractor is not the prevailing party;

7.6.12. is payment under a purchase order which are payable by Owner separately under each such purchase order;

7.6.13. is a cost incurred by Contractor in relation to the payment of any Delay Liquidated Damages or the discharge (whether by payment, set-off or otherwise) of any liability owed by Contractor to Owner or is otherwise a cost which this Agreement provides is to be payable by Contractor to Owner;

7.6.14. is a cost consisting of the reimbursement by way of counter-indemnity or otherwise by Contractor of any sums paid by the any issuer of any bond or any other security provider;

7.6.15. is a fine, penalty remediation cost or similar cost imposed on Contractor or a Subcontractor or Sub-subcontractor pursuant to or in consequence of any non-observance of any Applicable Law or Permit;

7.6.16. are expenses relating to Contractor's operating capital, including interest on Contractor's capital employed in support of the Work; or

7.6.17. is incurred because of any other risk or circumstance which was the cost, expense or to the account of Contractor, including Taxes and all other items to be borne by Contractor.

7.7 **[…***…].**

7.8 Interim Payments.

7.8.1. ***Payments***. Progress payments shall be made by Owner to Contractor for the Direct Costs of the Work incurred during the applicable payment period, plus Contractor's Fee owed (calculated as a percentage of the Direct Costs of the Work for the payment period), plus Overhead Fee owed (calculated as a percentage of the Direct Costs of the Work for the payment period), and in any event, based on the progress of the Work. Owner shall also reimburse applicable California sales and use Taxes in accordance with Article 8. Each payment shall be subject to Owner's right to withhold payments under this Agreement. Payments shall be made in U.S. Dollars to an account(s) designated by Contractor.

7.8.2. ***Mobilization Payment***: No later than […***…] following […***…], Owner shall make a […***…] payment […***…] to Contractor ("***Mobilization Payment***"). The Mobilization Payment shall be […***…].

7.8.3. ***Invoices***. No later than five (5) Days after the end of each […***…] period, Contractor shall submit to Owner an Invoice for all Compensation earned during the previous […***…] period that includes (i) a detailed description of all Direct Costs of the Work incurred during such period, (ii) time sheets signed by Owner, on-site data reports, Subcontractor invoice information, and any other information reasonably requested by Owner for Owner to evaluate the Direct Costs of the Work (including all original documentation if requested by Owner), and (iii) and California sales and use Taxes incurred in the procurement of the Equipment in accordance with Article 8. All Invoices, other than the Invoice for final payment under this Agreement, shall be in the form of Schedule I-1, and shall include all documentation supporting the request for payment as required under this Agreement.

7.8.4. ***Lien Waivers***. Each Invoice received by Owner prior to Final Completion of the Project shall be accompanied by (i) fully executed Lien Waivers upon Progress Payment from Contractor in the forms of Schedule K-1 for all Work performed through

the date for which payment is requested, (ii) fully executed Lien Waivers upon Progress Payment from each Major Subcontractor in the forms of Schedule K-1 for all Work performed through the date for which payment is requested and (iii) if requested by Owner, fully executed Lien Waivers upon Progress Payment from all Major Sub-subcontractors requested in substantially the forms of Schedule K-1 for all Work performed through the date for which payment is requested. Lien Waivers upon Progress Payment, however, shall not be required from Major Subcontractors or Major Sub-subcontractors until they have performed Work, and Major Subcontractors and Major Sub-subcontractors shall be required to submit additional Lien Waivers upon Progress Payment only if they have performed Work not covered by a previous Lien Waiver upon Progress Payment. Submission of all Lien Waivers upon Progress Payment is a condition precedent to payment of any Invoice.

7.8.5. ***Review and Approval***. Each Invoice shall be reviewed by Owner and, upon Owner's reasonable request, Contractor shall furnish such supporting documentation and certificates and provide such further information as may be reasonably requested by Owner. Unless disputed by Owner, each Invoice (less any withholdings allowed under this Agreement) shall be due and […***…]. If an Invoice is disputed by Owner, then payment shall be made […***…] and the dispute shall be resolved pursuant to Article 18. Payment on disputed amounts […***…].

7.9 Final Completion and Final Payment. Upon Final Completion of the Project, Contractor shall, in addition to any other requirements in this Agreement for achieving Final Completion, including those requirements set forth in Section 1.1 for the definition of Final Completion, submit a fully executed final Invoice in the form attached hereto as Schedule I-2, along with (i) a statement summarizing and reconciling all previous Invoices, payments and Change Orders, (ii) an affidavit that all payrolls, Taxes, liens, charges, claims, demands, judgments, security interests, bills for Contractor-Supplied Equipment, and any other indebtedness connected with the Work have been paid, (iii) fully executed Lien and Claim Waivers upon Final Payment from Contractor in the forms of Schedules K-2 and K-4, (iv) fully executed Lien and Claim Waivers upon Final Payment from each Major Subcontractor in the forms of Schedules K-2 and K-5, (v) if requested by Owner, fully executed Final Lien and Claim Waivers upon Final Payment from each Major Sub-subcontractor in substantially the forms of Schedules K-2 and K-5, and (vi) a final accounting as set forth in Section 7.17. No later than thirty (30) Days after receipt by Owner of such final Invoice and all requested documentation and achieving Final Completion, Owner shall, subject to its rights to withhold payment under this Agreement, pay Contractor the remaining Compensation due under this Agreement and properly invoiced. Upon such payment, Contractor shall submit to Owner an unconditional fully executed Lien and Claim Waiver upon Final Payment in the form of Schedule K-3.

7.10 Payments Not Acceptance of Work. No payment made hereunder by Owner shall be considered as approval or acceptance of any Work by Owner or a waiver of any claim or right Owner may have hereunder. All payments shall be subject to correction or adjustment in subsequent payments.

7.11 Payments Withheld. In addition to disputed amounts set forth in an Invoice, any other rights under this Agreement, and any other rights at law or in equity, Owner may withhold

payment on an Invoice or a portion thereof in an amount and to such extent as may be reasonably necessary to protect Owner from loss due to (i) Defective Work not remedied in accordance with this Agreement; (ii) any material breach by Contractor of any term or provision of this Agreement; (iii) Contractor's failure to submit any schedule required under this Agreement in accordance with the Agreement (including Recovery Schedules, Corrective Work plans and CPM Schedules); (iv) the assessment of any fines or penalties against Owner as a result of Contractor's failure to comply with Applicable Law or Applicable Codes and Standards; (v) amounts paid by Owner to Contractor in a preceding Month incorrectly or for which there was insufficient or inaccurate supporting information; (vi) Delay Liquidated Damages which Contractor owes; (vii) failure of Contractor to make payments to Subcontractors as required under their respective Subcontracts; (viii) any other costs or liabilities which Owner has incurred or will incur for which Contractor is responsible; (ix) liens or other encumbrances on all or a portion of the Site or the Work, which are filed by any Subcontractor, any Sub-subcontractor or any other Person acting through or under any of them, unless discharged by Contractor in accordance with this Agreement, excluding liens resulting from Owner's failure to make undisputed payments to Contractor that are due and payable and for which Owner does not have a right to withhold in accordance with the payment terms of this Agreement; or (x) any other reason for which Owner is entitled to withhold payment as expressly set forth in this Agreement.

7.12 Interest on Late Payments. Any amounts not paid when due and payable hereunder shall […***…].

7.13 Payments During Default. Owner shall not be obligated to make any payments hereunder or release payments withheld, at any time in which (i) a Contractor Default shall have occurred and is continuing, or (ii) an event has occurred which, with the giving of notice or the passage of time, will constitute a Contractor Default.

7.14 Offset. Owner may, upon prior written notice to Contractor, offset any amount due and payable from Contractor to Owner against any amount due and payable to Contractor hereunder.

7.15 Payment of Amounts Withheld or Collected on the Letter of Credit. Owner shall pay Contractor the amount withheld or collected on the Letter of Credit if Contractor (i) pays, satisfies or discharges the applicable claim of Owner against Contractor under or by virtue of this Agreement and provides Owner with reasonable evidence of such payment, satisfaction or discharge, (ii) cures all such breaches and Defaults in the performance of this Agreement, or (iii) provides Owner with a bank guarantee, bond, or separate letter of credit reasonably satisfactory to Owner in the amount of the withheld payment. In the event Owner draws down or collects any amount on the Letter of Credit pursuant to this Section, and Contractor acts in accordance with either (i), (ii) or (iii) above so as to require payment from Owner, Contractor shall, within seven (7) Days of Owner's payment to Contractor, restore the Letter of Credit to the amount the Letter of Credit had immediately prior to Owner's collection on the Letter of Credit under this Section. Owner's failure to withhold or draw down or collect against the Letter of Credit in the event of any of the circumstances described in this Section 7.15 shall not be deemed to be a waiver of any of Owner's rights under this Agreement, including Owner's right to withhold or draw down on the Letter of Credit at any time one of the circumstances in Section 7.11(i) through 7.11(ix) exists.

7.16 Conditions Precedent to Payment. It shall be a condition precedent to Contractor's entitlement to receive any payment from Owner under this Agreement that Contractor has provided to Owner (i) the Parent Guarantee in accordance with Section 21.13, (ii) the insurance certificates for policies referenced in Section 10.1, and (iii) is maintaining the insurance policies in accordance with Section 10.1. Additionally, it shall be a condition precedent to Contractor's entitlement to receive any payment from Owner under this Agreement after NTP that Contractor has provided to Owner the Letter of Credit in accordance with Section 10.2 and, if applicable, restored the Letter of Credit as required by Section 7.15.

7.17 […*…]**.

Article 8

TAXES

8.1 California Taxes. Contractor shall be responsible for timely paying all such Taxes as well as California sales and use taxes and California value-added taxes; *provided, however*, that California sales and use taxes and California value-added taxes are excluded from the GMP. Owner shall, in accordance with Article 7, reimburse Contractor for California sales and use taxes and California value-added taxes imposed on Contractor directly resulting from the procurement of any Equipment as well as any interest or penalties which may be imposed by a Governmental Instrumentality at any time on Contractor due to Owner's failure to timely reimburse Contractor for such California sales and use taxes and California value-added taxes. Owner's obligation shall survive termination or completion of the Agreement and shall end only upon the completion of any time period allowed for audit or investigation by applicable Governmental Instrumentalities. To the extent Owner timely reimburses Contractor for all such California sales and use taxes and California value-added taxes for Equipment, (1) Contractor shall release Owner of any further obligations for payment of such California sales and use taxes and California value-added taxes and (2) Contractor shall be responsible for the payment of any interest or penalties related to Contractor's failure to timely pay such California sales and use taxes and California value-added taxes. Owner and Contractor will provide documents, information and data, make submission to Governmental Instrumentalities, and otherwise cooperate as reasonably necessary to minimize the amount of California sales and use taxes and California value-added taxes payable for the Equipment. In the event that Contractor is audited for California sales and use taxes or California value-added taxes for the Equipment, Contractor shall timely inform Owner of such audit, allow Owner to assist with audit strategy and, at Owner's expense, allow Owner to take responsibility for defending the audit, protest or appeal based on mutually satisfactory arrangements. Contractor shall reasonably cooperate with Owner to assist in attempting to allocate local and district California sales and use taxes to the Site (which may include Contractor applying for a jobsite sub-permit), including reasonable assistance in causing local California sales and use taxes to be assigned to the Site rather than to Contractor's (or any Subcontractor's or Sub-subcontractor's) regular place of business in California. Contractor will reasonably cooperate with any joint refund claim that Owner, or its agents, wishes to file for potentially overpaid California sales and use taxes or California value-added taxes up to a period of three (3) years after Substantial Completion or until the running of the applicable statute of limitations, whichever is longer. Notwithstanding the foregoing, if Owner presents Contractor with evidence that it has an abatement of such

California sales and use tax, then Contractor shall not invoice Owner for such tax, and Owner shall have no obligation to pay such tax.

Article 9

TITLE AND RISK OF LOSS

9.1 Title. Title to all or any portion of the Work (other than Work Product) shall pass to Owner upon the earlier of (i) payment by Owner therefor, (ii) delivery of the Work to the Site, or (iii) incorporation of such Work into the Project. Transfer of title to Work shall be without prejudice to Owner's right to reject Defective Work, or any other right in the Agreement. Contractor warrants and guarantees that legal title to and ownership of the Work and the Project shall be free and clear of any and all liens, claims, security interests or other encumbrances when title thereto passes to Owner.

9.2 Risk of Loss. Notwithstanding passage of title as provided in Section 9.1 of this Agreement, Contractor shall have care, custody and control and bear the risk of loss to the Work and each component thereof (including all Owner-Supplied Items after delivery to the Site, and including unloading of all Equipment) until Substantial Completion of the Work occurs, *provided that* Owner shall bear risk of physical loss and damage to the Work to the extent the costs associated with such physical loss or damage exceeds the aggregate limits of the builder's risk insurance to be obtained by Owner pursuant to Attachment O. Nothing in this Section 9.2 shall be interpreted to relieve Contractor of any of its other obligations or liabilities under this Agreement, including its obligations with respect to Warranties, Defective Work or Corrective Work.

Article 10

INSURANCE

10.1 Insurance.

10.1.1. ***Provision of Insurance***. The Parties shall provide the insurance as specified in Attachment O on terms and conditions stated therein.

10.1.2. ***No Cancellation***. All policies providing coverage hereunder shall contain a provision that at least thirty (30) Days' prior written notice shall be given to the non-procuring Parties and additional insureds prior to cancellation, non-renewal or material change in the coverage with ten (10) Days' notice prior to cancellation for non-payment of premium.

10.1.3. ***Obligations Not Relieved***. Anything in this Agreement to the contrary notwithstanding, the occurrence of any of the following shall in no way relieve Contractor from any of its obligations under this Agreement: (i) failure by Contractor to secure or maintain the insurance coverage required hereunder; (ii) failure by Contractor to comply fully with any of the insurance provisions of this Agreement; (iii) failure by Contractor to secure such endorsements on the policies as may be necessary to carry out the terms and provisions of this Agreement; (iv) the insolvency, bankruptcy or failure of any insurance company providing insurance to Contractor; (v) failure of any insurance company to pay

any claim accruing under its policy; or (vi) losses by Contractor or any of its Subcontractors or Sub-subcontractors not covered by insurance policies.

10.1.4. ***Failure to Provide Required Insurance***. In the event that liability for any loss or damage is denied by the underwriter or underwriters in whole or in part due to the breach of said insurance by a procuring Party, or for any other reason attributable to such Party, or if either Party fails to maintain any of the insurance herein required, then the defaulting Party shall defend, indemnify and hold the other Party harmless against all losses which would otherwise have been covered by said insurance.

10.2 Irrevocable Standby Letter of Credit. Within forty-eight hours after Contractor receives evidence that an Automatic Clearing House directive has been issued to Contractor's account for an amount equal to the Mobilization Payment, and as a condition precedent to Contractor's right to receive any further payments, Contractor shall deliver to Owner an irrevocable standby letter of credit, naming Owner as beneficiary, in the amount of […***…] of the Guaranteed Maximum Price and in the form of Attachment AA, and issued and confirmed by a commercial bank in the United States of America with a long-term rating of at least Investment Grade ("***Letter of Credit***"). As used herein, "***Investment Grade***" means a rating of at least AA by Standard & Poor's and at least Aa2 by Moody's Investors Service. If at any time the rating of the commercial bank that issued the Letter of Credit falls below either of such ratings, Contractor shall replace the Letter of Credit within ten (10) Days with an equivalent instrument issued by a commercial bank in the United States of America meeting such rating requirements. Owner shall have the right to draw down on or collect against such Letter of Credit upon Owner's demand in the event of a Default by Contractor or the owing by Contractor to Owner under this Agreement for Delay Liquidated Damages or any other liabilities, damages, losses, costs or expenses arising out of or relating to a breach of any obligation under this Agreement by Contractor or such Default. The amount drawn on the Letter of Credit shall not be greater than the amount that Owner, at the time of the drawing, reasonably and in good faith estimates is owed it under the Agreement for Delay Liquidated Damages, liabilities, damages, losses, costs or expenses or is necessary to remedy the Default or breach of the Agreement. In addition to the foregoing draw rights, (i) Owner shall also have the right to draw down on or collect against the Letter of Credit for all remaining funds in the Letter of Credit upon Owner's demand if Contractor has not, prior to sixty (60) Days before the then current expiration date, delivered to Owner a replacement letter of credit substantially identical to the Letter of Credit and from a U.S. commercial bank meeting the requirements in this Section 10.2 and extending the expiration date for the shorter of (a) a period of one (1) year or (b) the expiration of the Defect Correction Period (i.e., the twelve (12) month period following Substantial Completion and any extension pursuant to Section 13.3.2), and (ii) Owner shall also have the right to draw down on or collect against the Letter of Credit for all remaining funds available under such Letter of Credit upon Owner's demand if the issuing bank is no longer Investment Grade and Contractor has not, within the applicable time period set forth in this Section 10.2, delivered to Owner a replacement letter of credit substantially identical to the Letter of Credit from a U.S. commercial bank meeting the requirements set forth in this Section 10.2.

The amount of the Letter of Credit […***…].

The amount of the Letter of Credit […***…].

The Letter of Credit shall remain in full force and effect from the issuance of the Letter of Credit through the expiration of the Defect Correction Period for all Work, at which time the Letter of Credit will be returned to Contractor. No later than ten (10) Days following the expiration of the Defect Correction Period for all Work (i.e. the twelve (12) month period following Substantial Completion), Owner shall provide the commercial bank that issued the Letter of Credit with written notice of the expiration of the Defect Correction Period for all Work, unless, at the conclusion of this period, any of Contractor's Work remains subject to an extended warranty pursuant to Section 13.3.2, in which case to the Letter of Credit shall reduce to an amount equal to one hundred twenty percent (120%) of the value of the Work remaining under the extended Defect Correction Period, and no later than ten (10) Days after expiration of such extended time, Owner shall provide the commercial bank that issued the Letter of Credit with written notice of the expiration of the Defect Correction Period for all Work. Partial drawings are permitted under the Letter of Credit.

10.3 Financial Statements and Material Adverse Change.

10.3.1. ***Financial Statements***. As and when Owner may reasonably request for a fiscal quarter or year-end financial statement, Contractor shall deliver to Owner available audited and unaudited consolidating and consolidated balance sheets of each of Contractor and Guarantor as of the end of such quarter or year-end, and the related consolidated statements of operations, income, cash flows, retained earnings and stockholders' equity for such quarter or year, all of which shall be certified by the chief financial officer or equivalent officer of each of Contractor and Guarantor, subject to normal year-end audit adjustments. All financial statements delivered pursuant to this Section 10.3.1 shall be complete and correct in all material respects and shall be prepared in accordance with GAAP applied consistently throughout the periods reflected therein.

10.3.2. ***Material Adverse Change***. If at any time during the term of this Agreement, a Material Adverse Change shall occur, […***…]. "***Material Adverse Change***" for the purposes of this Section 10.3.2 […***…].

Article 11

OWNERSHIP OF DOCUMENTATION

11.1 Ownership of Work Product. Subject to Section 11.2, Owner and Contractor acknowledge that during the course of, and as a result of, the performance of the Work and prior work related to the Project done by Contractor for Owner, Contractor or its Subcontractors or Sub-subcontractors will create or have created for this Project certain written materials, plans, calculations, Drawings (including as-built Drawings), Specifications, Books and Records, computer files, or other tangible manifestations of Contractor's efforts related to the Project (hereinafter individually or collectively referred to as "***Work Product***"). Work Product prepared by Contractor or its Subcontractors or Sub-subcontractors shall be "works made for hire," and all rights, title and interest to the Work Product, including any and all copyrights in the Work Product, shall be owned by Owner irrespective of any copyright notices or confidentiality legends to the

contrary which may have been placed in or on such Work Product by Contractor, its Subcontractors, Sub-subcontractors or any other Person. Contractor and its Subcontractors and Sub-subcontractors waive in whole all moral rights which may be associated with such Work Product. If, for any reason, any part of or all of the Work Product is not considered a work made for hire for Owner or if ownership of all right, title and interest in the Work Product shall not otherwise vest in Owner, then Contractor agrees, subject to Section 11.2, that such ownership and copyrights in the Work Product, whether or not such Work Product is fully or partially complete, shall be automatically assigned from Contractor to Owner without further consideration, and Owner shall thereafter own all right, title and interest in the Work Product, including all copyright interests.

11.2 License to Contractor's Intellectual Property and Third Party Intellectual Property. As between Owner and Contractor, Contractor shall retain ownership of all proprietary intellectual property rights owned by Contractor and developed by it outside this Agreement or the FEED Verification Agreement (hereinafter referred to as "***Contractor's Intellectual Property***"), regardless of whether such Contractor's Intellectual Property is included in the Work Product, and nothing in Section 11.1 shall result in a transfer of ownership of any Contractor's Intellectual Property or the proprietary intellectual property owned and developed by the Subcontractors, Sub-subcontractors or third parties for any project other than this Project ("***Third Party Intellectual Property***"). With respect to such Contractor's Intellectual Property and Third Party Intellectual Property relating to the Work or the Project, Contractor hereby grants Owner an irrevocable, perpetual and royalty-free license (including with right to assign or sublicense its rights without consent to any of the Owner Indemnified Parties or to any purchaser of an interest in all or part of the Project or any contractors, suppliers or consultants of the Owner Indemnified Parties) to use, copy, modify, distribute, sell, make, offer for sale, transfer, publish, import, make derivative works and adapt such Contractor's Intellectual Property and Third Party Intellectual Property for any purpose relating to the Project or the Work. All Subcontracts and Sub-subcontractors shall contain provisions consistent with this Section 11.2.

11.3 Return/Delivery of Certain Property. All Work Product, and all copies thereof, shall be returned or delivered to Owner upon the earlier of Substantial Completion of the Project or termination of this Agreement, except that Contractor may, subject to its confidentiality obligations set forth in Article 19, retain one record set of the Work Product. Contractor shall provide two (2) reproducible Drawings, where applicable; and two (2) sets (native and PDF files) of documents for those Drawings and Specifications generated using CAD.

11.4 Limitations on Use of Work Product. The Work Product, including all copies thereof, shall not be used by Contractor or its Subcontractors, Sub-subcontractors or any other Persons on any other project for a Person other than Owner without the prior written consent of Owner, *provided that* this Section 11.4 shall not limit or modify Contractor's ownership rights in the Contractor's Intellectual Property, or the ownership rights in the Third Party Intellectual Property, as set forth in Section 11.2.

11.5 Owner Provided Documents. All written materials, plans, drafts, specifications, computer files or other documents (if any) prepared or furnished by Owner, its Affiliates or any of Owner's other consultants or contractors shall at all times remain the property of Owner, and Contractor shall not make use of any such documents or other media for any other project or for

any other purpose than as set forth herein. All such documents and other media, including all copies thereof, shall be returned to Owner upon the earlier of Substantial Completion of the Project and termination of this Agreement, except that Contractor may, subject to its confidentiality obligations as set forth in Article 19, retain one record set of such documents or other media.

Article 12

COMPLETION

12.1 Notice and Requirements for Mechanical Completion. Mechanical Completion shall be achieved for the Project when the requirements of Mechanical Completion under this Agreement (including those set forth in the definition of Mechanical Completion under Section 1.1 and the Mechanical Completion checklists agreed by Owner and Contractor as described below) have been satisfied. No later than one hundred-eighty (180) Days after the NTP, Contractor shall provide to Owner for its review and approval detailed Mechanical Completion requirements, in the form of checklists, for the Work. Once approved by Owner, such Mechanical Completion checklists shall form a part of the requirements for achieving Mechanical Completion. Upon Mechanical Completion, Contractor shall certify to Owner in the form of Attachment L ("***Mechanical Completion Certificate***") that all of the requirements under this Agreement for Mechanical Completion have occurred, including the completion of the requirements in the approved Mechanical Completion checklists.

12.2 Notice and Requirements for Substantial Completion. Contractor shall comply with all requirements for Substantial Completion herein, including as set forth in the definition of the term Substantial Completion under Section 1.1. Upon achieving all requirements under this Agreement for Substantial Completion, Contractor shall certify to Owner in the form of Attachment M ("***Substantial Completion Certificate***") that all of the requirements under this Agreement for Substantial Completion have occurred. The Substantial Completion Certificate shall be accompanied by all other supporting documentation as may be required to establish that the requirements for Substantial Completion have been met.

12.3 Owner Acceptance of Mechanical Completion and Substantial Completion. Owner shall notify Contractor whether it accepts or rejects each Mechanical Completion Certificate or Substantial Completion Certificate, as the case may be, within fifteen (15) Days following Owner's receipt thereof. All Work shall continue during pendency of Owner's review. Acceptance of such Mechanical Completion Certificate or Substantial Completion Certificate shall be evidenced by Owner's signature on such Mechanical Completion Certificate or Substantial Completion Certificate, which shall be forwarded to Contractor with such notice. If Owner agrees that Mechanical or Substantial Completion has been achieved as the case may be, the date of acceptance of Mechanical or Substantial Completion shall be the date the Mechanical or Substantial Completion certificate was submitted to Owner. If Owner does not agree that Mechanical Completion or Substantial Completion, as the case may be, has occurred, then Owner shall state the basis for its rejection in reasonable detail in a written notice provided to Contractor. The Parties shall thereupon promptly and in good faith confer and make all reasonable efforts to resolve such issue. In the event such issue is not resolved within ten (10) Business Days of the delivery by Owner of its notice, Owner and Contractor shall resolve the dispute in accordance with the dispute resolution procedures provided for under Article 18 herein. Owner's acceptance shall

not relieve Contractor of any of its obligations to perform the Work in accordance with the requirements of this Agreement.

12.4 Minimum Acceptance Criteria as a Condition of Substantial Completion. The Project shall achieve all Minimum Acceptance Criteria for the Project, as evidenced by the Performance Tests and as described in greater detail in this Section 12.4. The Performance Tests for determining whether the Project achieves the Minimum Acceptance Criteria are described in Attachment Q. Performance Tests and any repeat Performance Tests shall be performed as specified in Attachment Q. The Minimum Acceptance Criteria shall not include any performance guarantees of the Owner-Supplied Items, although Contractor will be responsible for proper erection and installation of the Owner-Supplied Items and supply of services and Contractor-Supplied Equipment to the Owner-Supplied Items in accordance with the manuals and instructions provided with the Owner-Supplied Items. Contractor shall evaluate, test, and as necessary, repair and modify the Existing Plant Equipment pursuant to Attachment A in accordance with the requirements of Section 3.1.2.

12.4.1. ***Minimum Acceptance Criteria Not Achieved***.

12.4.1.1. Subject to the terms of Section 12.4.1.2, in the event that the Project does not achieve all of the Minimum Acceptance Criteria, as evidenced by the Performance Tests, by the Guaranteed Substantial Completion Date, then (i) Substantial Completion shall not occur and (ii) the provisions of Section 14.2 shall apply. In addition to the foregoing, Contractor shall attempt for a period of ninety (90) Days (commencing on the date on which the Work or component thereof was shown, through the Performance Tests, to have failed to achieve one or more of the Minimum Acceptance Criteria) ("***Minimum Acceptance Criteria Correction Period***") to correct the Work to enable the Work to achieve all of the Minimum Acceptance Criteria and otherwise achieve Substantial Completion. If the Work has not achieved the Minimum Acceptance Criteria and Substantial Completion upon the termination of the Minimum Acceptance Criteria Correction Period, then Owner may, in its sole discretion, either (i) grant Contractor an additional sixty (60) Days to correct the Work to enable the Work to achieve all of the Minimum Acceptance Criteria; or (ii) claim Contractor Default pursuant to Article 16. In the event that Owner claims such a Default, Owner shall be entitled to any and all damages, costs, losses and expenses to which Owner is entitled under Section 16.1.2. If, on the other hand, the Work has achieved all of the Minimum Acceptance Criteria and Substantial Completion during the Minimum Acceptance Criteria Correction Period (or during the additional sixty (60) Day period, should Owner elect that option), then Contractor shall be liable to Owner for all other damages, costs, losses and expenses to which Owner is entitled under Section 16.1.2.

12.4.1.2. If the failure of the Project to achieve the Minimum Acceptance Criteria is due to the Process Licensors or due to the failure of Owner-Supplied Items or Existing Plant Equipment that was not modified or repaired by Contractor, then (i) Contractor shall be entitled to a Change Order to the extent such failure is not due to the fault of Contractor or any of its Subcontractors or Sub-

subcontractors (including a failure related to Contractor's installation of the Owner-Supplied Items or Contractor's modification or repair of the Existing Plant Equipment), which shall include an extension to the applicable Milestone Dates to the extent allowed under Section 6.8, and (ii) Contractor and Owner shall agree on a work plan with respect to the number of Contractor personnel that will remain at the Site until the Minimum Acceptance Criteria are achieved.

12.5 **Punchlist.**

12.5.1. ***Punchlist for Mechanical Completion.*** Prior to Mechanical Completion, Owner and Contractor shall inspect such Work. Contractor shall prepare a proposed Punchlist of items identified as needing to be completed or corrected as a result of such inspection. Contractor shall promptly provide the proposed Punchlist to Owner for its review and written approval, together with an estimate of the time necessary to complete or correct each Punchlist item. Contractor shall add to the proposed Punchlist any Punchlist items that are identified by Owner during its review, and Contractor shall immediately initiate measures to complete or correct, as appropriate, any item on Contractor's proposed Punchlist that Owner in the exercise of its reasonable judgment, believes must be completed or corrected so that such Work will achieve Mechanical Completion. Upon Contractor's completion or correction of any items necessary to achieve Mechanical Completion and Owner's written approval of Contractor's proposed Punchlist, as modified by any Owner additions, such Punchlist shall govern Contractor's performance of the Punchlist items for the Work up to Substantial Completion.

12.5.2. ***Punchlist for Substantial Completion.*** After Mechanical Completion and prior to Substantial Completion, Owner and Contractor shall inspect the Work, and Contractor shall prepare an updated and revised proposed Punchlist of items identified as needing to be completed or corrected as a result of such inspection. Contractor shall promptly provide the proposed, updated and revised Punchlist to Owner for its review and written approval, together with an estimate of the time necessary to complete or correct each Punchlist item. Contractor shall add to the proposed, updated and revised Punchlist any Punchlist items identified by Owner during its review, and Contractor shall immediately initiate measures to complete or correct, as appropriate, any item on Contractor's proposed, updated and revised Punchlist or otherwise that Owner in the exercise of its reasonable judgment, believes must be completed or corrected to achieve Substantial Completion. Upon Contractor's completion or correction of any items necessary to achieve Substantial Completion and Owner's written approval of Contractor's proposed Punchlist, as modified by any Owner additions, such Punchlist shall govern Contractor's performance of the Punchlist items; *provided*, *however*, Contractor shall add to the Punchlist any items of a Punchlist nature that are discovered by Owner or Contractor prior to Final Completion of the Project, and further *provided that* the failure to include any items on the Punchlist shall not alter the responsibility of Contractor to complete all Work in accordance with the terms and provisions of this Agreement. All Work on the Punchlist shall be completed by the Guaranteed Final Completion Date, or Owner may, in addition to any other rights that it may have under this Agreement, at law or in equity, complete such Punchlist Work, which shall be charged against the GMP until the GMP is reached, and thereafter such costs shall be at the expense of Contractor. If Owner incurs

any costs for the completion of such Punchlist Work in excess of the GMP, Contractor shall immediately pay Owner (directly, by offset, or by collection on the Letter of Credit, at Owner's sole discretion), all reasonable costs and expenses incurred by Owner in excess of the GMP in performing such Punchlist Work. Upon Contractor's request, Owner shall provide documentation identifying the costs and expenses to complete such Punchlist Work.

12.6 Notice and Requirements for Final Completion. Final Completion of the Project shall be achieved when all requirements for Final Completion under this Agreement, including those set forth in the definition of Final Completion under Section 1.1, have been satisfied. Upon Final Completion, Contractor shall certify to Owner in the form of Attachment N ("***Final Completion Certificate***") that all of the requirements under this Agreement for Final Completion have occurred. Owner shall notify Contractor whether it accepts or rejects the Final Completion Certificate within fifteen (15) Days following Owner's receipt thereof. Acceptance of such certificate shall be evidenced by Owner's signature on such certificate, which shall be forwarded to Contractor with such notice and the date of acceptance of Final Completion shall be the date the Final Completion certificate was submitted to Owner (provided that Owner accepted the certificate). If Owner does not agree that Final Completion has occurred, then Owner shall state the basis for its rejection in reasonable detail in a written notice provided to Contractor. The Parties shall thereupon promptly and in good faith confer and make all reasonable efforts to resolve such issue. In the event such issue is not resolved within ten (10) Business Days of the delivery by Owner of its notice, Owner and Contractor shall resolve the dispute in accordance with the dispute resolution procedures provided for under Article 18; *provided, however*, if such deficiencies relate to the failure to complete Punchlist items, Owner may, in addition to any other rights that it may have under this Agreement, at law or in equity, complete such Punchlist Work in accordance with Section 12.5.

12.7 Partial Occupancy and Use. Prior to Contractor achieving Substantial Completion, Owner may occupy or use all or any portion of the Work then capable of functioning safely, *provided that* such occupancy or use is authorized by the applicable Governmental Instrumentalities. Immediately prior to such partial occupancy or use, Owner and Contractor shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work and all personnel and environmental safety aspects of the Work. Such occupancy or use shall not in any way release Contractor or any surety of Contractor from any obligations or liabilities pursuant to this Agreement, including the obligation to engineer, procure and construct a fully operational Project within the required times set forth in the Milestone Dates and otherwise in accordance with all requirements of this Agreement, nor shall such occupancy or use be deemed to be an acceptance by Owner of such portion of the Work. However, to the extent such occupancy or use causes delays to the Work of the Contractor, Contractor shall be entitled to an extension of time and an increase in the Contract Price due to such delay to the extent permitted in Section 6.8. Without limitation of the foregoing, but subject to Contractor's right to seek an extension of time as described in this Section 12.7, Contractor shall be liable for any and all Delay Liquidated Damages for failing to achieve Substantial Completion as set forth in this Agreement, regardless of whether Owner is using or occupying a portion of the Work.

12.8 Long-Term Obligations. No acceptance by Owner of any or all of the Work or any other obligations of Contractor under this Agreement, including acceptance of Mechanical

Completion, Substantial Completion or Final Completion of the Project, nor any payment made hereunder, whether an interim or final payment, shall in any way release Contractor or any surety of Contractor from any obligations or liability pursuant to this Agreement. Nothing in this Article 12 shall in any way modify or alter Contractor's obligations under Article 13 and Article 14.

Article 13

WARRANTY AND CORRECTION OF WORK

13.1 Warranty.

13.1.1. ***General***. The warranties set forth in this Article 13 (referred to individually as "***Warranty***" or collectively as "***Warranties***") are in addition to any of the Minimum Acceptance Criteria set forth in this Agreement. Any Work, or component thereof, that is not in conformity with any Warranty is defective ("***Defective***") and contains a defect ("***Defect***").

13.1.2. ***Contractor's Warranty.*** Contractor hereby warrants that the Work, including Contractor-Supplied Equipment, and each component thereof shall be: (i) new or rebuilt, as applicable (and for all rebuilt Work, such Work is approved by Owner in advance), complete and of suitable grade for specified function and use; (ii) free from encumbrances to title, as set forth in greater detail in Section 9.1; (iii) free from defects in design, material and workmanship; (iv) in accordance with all requirements of this Agreement (including GECP, Applicable Law and Applicable Codes and Standards); (v) fit for the purposes specified in this Agreement; and (iv) composed and made of proven technology; *provided however*, Contractor does not warrant the Existing Plant Equipment (except for the improvements, alterations, or modifications made by Contractor to such Equipment) or Owner-Supplied Items (except that Contractor warrants its Work related to such Equipment such as unloading, storage, assembly, erection, and installation of the Owner-Supplied Items), *provided further, however,* this shall not be interpreted to relieve Contractor of its obligations to achieve the MAC.

13.1.3. ***Assignment and Enforcement of Subcontractor Warranties***. Contractor shall, without additional cost to Owner, obtain warranties from Subcontractors and Sub-subcontractors that meet or exceed the requirements of this Agreement; *provided*, *however*, Contractor shall not in any way be relieved of its responsibilities and liability to Owner under this Agreement, regardless of whether such Subcontractor or Sub-subcontractor warranties meet the requirements of this Agreement, as Contractor shall be fully responsible and liable to Owner for its Warranty pursuant to Section 13.1.2 and Corrective Work obligations, *provided however*, Corrective Work is included in the GMP (and paid as a Direct Costs of the Work) to the extent specified in this Agreement. All such warranties shall be deemed to run to the benefit of Owner and Contractor. On or prior to the expiration of the Defect Correction Period, Contractor shall assign to Owner any Subcontractor warranties that have warranty durations exceeding such Defect Correction Period. Such warranties, with duly executed instruments assigning the warranties to Owner, shall be enforceable by Owner upon the expiration of the Defect Correction Period. All warranties provided by any Subcontractor or Sub-subcontractor shall be in such form

as to permit direct enforcement by Contractor or Owner against any Subcontractor or Sub-subcontractor whose warranty is called for, and Contractor agrees that: (i) Contractor's Warranty, as provided under this Article 13 shall apply to all Work regardless of the provisions of any Subcontractor or Sub-subcontractor warranty, and such Subcontractor or Sub-subcontractor warranties shall be in addition to, and not a limitation of, such Contractor Warranty; (ii) Contractor is jointly and severally liable with such Subcontractor or Sub-subcontractor with respect to such Subcontractor or Sub-subcontractor warranty; and (iii) service of notice on Contractor that there has been a breach of a Subcontractor or Sub-subcontractor warranty shall be sufficient to invoke the terms of the instrument. This Section 13.1.3 shall not in any way be construed to limit Contractor's liability under this Agreement for the entire Work or its obligation to enforce Subcontractor or Sub-subcontractor warranties.

13.1.4. ***Exceptions to Warranty***. The Warranty excludes remedy, and Contractor shall have no liability to Owner, for damage or defect occurring after Substantial Completion to the extent caused by: (i) normal wear and tear of the Work, (ii) Owner's failure to maintain the Work in accordance with the written maintenance procedures delivered by Contractor to Owner; or (iii) Owner's misuse of the Work.

13.2 Correction of Work Prior to Substantial Completion.

13.2.1. ***General Rights***. In addition to other obligations under this Agreement, if, prior to Substantial Completion, any Work is found to be Defective, Contractor shall promptly correct such Defective Work and any other portions of the Project damaged or affected by such Defective Work, whether by repair, replacement or otherwise as determined by Contractor after consultation with Owner. All Work shall be subject to inspection by Owner, Lender and either of their representatives at all times to determine whether the Work conforms to the requirements of this Agreement. Contractor shall furnish Owner, Lender and either of their representatives with access to all locations where Work is in progress, including locations not on the Site. If, in the judgment of Owner, any Work is Defective, Owner shall provide written notice to Contractor identifying and describing with reasonable specificity that portion of Work that Owner believes is Defective. Upon receipt of such written notice, Contractor shall promptly correct such Defective Work, whether by repair, replacement or otherwise as determined by Contractor after consultation with Owner. Subject to Contractor's right to pursue a Dispute under Article 18, the decision of Owner shall be conclusive as to whether the Work is conforming or Defective, and Contractor shall comply with the instructions of Owner in all such matters while pursuing any such Dispute. If it is later determined that the Work was not Defective, then a Change Order shall be issued for Direct Costs of the Work and shall address any impact the repair or replacement may have had on the GMP and Milestone Dates. If Contractor fails, after a reasonable period of time not to exceed seven (7) Days, to repair or replace any Defective Work, or to commence to repair or replace any Defective Work and thereafter continue to proceed diligently to complete the same, then Owner, after providing three (3) Days' notice to Contractor, may repair or replace such Defective Work; *provided, however*, if the Defective Work materially affects the operation or use of the Project, or presents an imminent threat to the safety or health of any Person, then Contractor shall commence to repair or replace the Defective Work within twenty four (24) hours after

receipt of a written notice of such Defective Work, and thereafter continue to proceed diligently to complete the same.

13.2.2. ***Hold Points and Witness Points*.**

13.2.2.1. Within one hundred twenty (120) Days after the first LNTP, Contractor shall submit to Owner for approval a list of hold points for each item of Contractor-Supplied Equipment and Contractor shall provide Owner with at least ten (10) Days' prior written notice of the actual scheduled date of each of the tests for each such item of Contractor-Supplied Equipment listed therein. Contractor may not proceed with any such test without Owner either witnessing such test or notifying Contractor in writing that Contractor may proceed with such test without any Owner personnel present for such test.

13.2.2.2. With respect to shop testing of Contractor-Supplied Equipment by Subcontractors or Sub-subcontractors, Contractor shall provide Owner a proposed list of witness points for each such item of Contractor-Supplied Equipment for Owner's review and prior written approval no later than fifteen (15) Days after placement of the applicable Subcontract or Sub-subcontract for such item of Contractor-Supplied Equipment, and Owner shall notify Contractor which of the witness points it wishes its personnel to witness. Contractor shall provide Owner with at least ten (10) Days' prior written notice of the actual scheduled date of each of the tests Owner has indicated it wishes to witness. Contractor shall cooperate with Owner if Owner elects to witness any additional tests, and Contractor acknowledges that Owner shall have the right to witness all tests being performed in connection with the Work. Notwithstanding the foregoing, if Owner fails to witness any tests for which Contractor has provided the required notice under this Section 13.2.2.2, Contractor may proceed with conducting such tests.

13.2.2.3. Owner's right of inspection set forth in this Section 13.2.2 applies only to witnessing of hold points and witness points for Work and shall not be construed to imply a limitation on Owner's right to inspect any portion of the Work (including Contractor-Supplied Equipment) at any time in its sole discretion and in accordance with this Agreement.

13.2.3. ***No Obligation to Inspect***. Owner's or Lender's right to conduct inspections under Sections 13.2.1 and 13.2.2 shall not obligate Owner or Lender to do so. Neither the exercise of Owner or Lender of any such right, nor any failure on the part of Owner or Lender to discover or reject Defective Work shall be construed to imply an acceptance of such Defective Work or a waiver of such Defect.

13.2.4. ***Cost of Disassembling***. Subject to Section 13.2.1, the cost of disassembling, dismantling or making safe finished Work for the purpose of inspection, and reassembling such portions (and any delay associated therewith) shall be a Direct Cost of the Work.

13.3 Correction of Work After Substantial Completion. In addition to other obligations under this Agreement, if, during the Defect Correction Period, any Work performed by Contractor is found to be Defective, Contractor shall, on a reimbursable basis up to the GMP immediately and on an expedited basis (i) correct such Defective Work, whether by repair, replacement or otherwise, including determining the root cause of the Defective Work and undertaking the necessary work to properly remedy and eliminate such root cause and (ii) repair, clean up and remediate any portions of the Site or the Project damaged or affected by such Defective Work, whether by repair, remediation, replacement or otherwise (the "***Corrective Work***"). Corrective Work shall include "in and out" corrective work, which includes gaining access for correction, repair or replacement of any Work that has already been installed and requires the removal, disassembly, disconnection, installation, reassembly, reconnection or other physical handling of facilities, equipment, structures or other improvements owned, furnished or installed by Persons or entities other than Contractor. If Owner reasonably believes that any Work is Defective during the Defect Correction Period, Owner shall provide written notice within a reasonable period of time after Owner's determination to Contractor of such Defect, stating the general nature of such Defect or the issue giving rise to Owner's belief; *provided that*, such notice shall not be construed as a condition precedent to Contractor's obligation to perform Corrective Work. Owner shall provide Contractor with access to the Project sufficient for Contractor to perform its Corrective Work, so long as such activities do not unreasonably interfere with the operation of the Project and subject to any reasonable security or safety requirements of Owner.

13.3.1. ***Owner Right to Correct or Complete Defective Work***. If Contractor fails to commence the Corrective Work (which commencement may include the detailed planning associated with the on-Site implementation of the Corrective Work) within a reasonable period of time not to exceed five (5) Days, or does not complete such Corrective Work on an expedited basis, then Owner, by written notice to Contractor, may (in addition to any other remedies that it has under this Agreement, at law or in equity) perform the Corrective Work, and Contractor shall be liable to Owner for all reasonable costs and expenses in excess of the GMP incurred by Owner in connection with such Corrective Work and arising out of or relating to such Defective Work and, if such costs exceed the GMP shall pay Owner (directly, by offset, or by collection on the Letter of Credit, at Owner's sole discretion), an amount equal to such costs and expenses; *provided, however*, if such Defective Work materially affects the operation or use of any of the Project or presents an imminent threat to the safety or health of any Person and Owner knows of such Defective Work, Owner may (in addition to any other remedies that it has under this Agreement, at law or in equity) perform such Corrective Work without giving prior written notice to Contractor (provided that Owner shall advise Contractor of such action as soon as reasonably possible), and, in that event, such work shall be charged against the GMP until the GMP is reached, and thereafter such costs shall be at the expense of Contractor. If Owner incurs any costs for such work in excess of the GMP, Contractor shall immediately pay Owner (directly, by offset, or by collection on the Letter of Credit, at Owner's sole discretion), all reasonable costs and expenses incurred by Owner in excess of the GMP in performing such Work. Upon Contractor's request, Owner shall provide documentation identifying the costs and expenses to complete such Work.

13.3.2. ***Extended Defect Correction Period for Corrective Work***. With respect to any Corrective Work performed, the Defect Correction Period for such Corrective Work

shall be extended for an additional one (1) year from the date of the completion of such Corrective Work; *provided*, *however*, in no event shall the Defect Correction Period for such Corrective Work be less than the original Defect Correction Period; and *provided further*, that the Defect Correction Period shall not extend more than six (6) months beyond the expiration of the original Defect Correction Period.

13.4 Owner-Supplied Items and Existing Plant Equipment. The foregoing notwithstanding, Contractor is not responsible to correct any Defect in the Owner-Supplied Items or in Existing Plant Equipment that does not arise out of or result from any act or omission of Contractor or any of its Subcontractors or Sub-subcontractors or relate to the Work performed by Contractor, except (i) as set forth in Section 3.24 or (ii) if such Defect relates to improvements, alterations, or modifications of the Existing Plant Equipment by Contractor.

13.5 Waiver of Implied Warranties. Except for any express warranties under this Agreement, the Parties hereby disclaim any and all other warranties, including the implied warranty of merchantability and implied warranty of fitness for a particular purpose.

13.6 Assignability of Warranties. The Warranties made in this Agreement shall be for the benefit of Owner and its successors and assigns and the respective successors and assigns of any of them, and are fully transferable and assignable.

Article 14

GUARANTEE OF TIMELY COMPLETION AND DELAY LIQUIDATED DAMAGES

14.1 Guarantee of Timely Completion. Contractor specifically acknowledges that time is of the essence in the performance of all of Contractor's obligations under this Agreement.

14.2 Delay Liquidated Damages. If Substantial Completion occurs after the Guaranteed Substantial Completion Date (as may be adjusted by Change Order pursuant to the terms of this Agreement), Contractor shall pay to Owner the amounts listed in Attachment U per Day for each Day, or portion thereof, of delay until Substantial Completion occurs (the "***Delay Liquidated Damages***").

14.3 […*…]**.

14.3.1. […***…].

14.3.2. […***…].

14.3.3. […***…].

14.3.4. […***…].

Article 15

REPRESENTATIONS

15.1 Contractor Representations. Contractor represents and warrants that:

15.1.1. **Corporate Standing**. It is a corporation duly organized, validly existing and in good standing under the laws of California, is authorized and qualified to do business in all jurisdictions in which the nature of the business conducted by it makes such qualification necessary and where failure to so qualify would have a material adverse effect on its financial condition, operations, prospects, taxes or business.

15.1.2. **No Violation of Law**. It is not in violation of any Applicable Law or judgment entered by any Governmental Instrumentality, which violations, individually or in the aggregate, would affect its performance of any obligations under this Agreement. There are no legal or arbitration proceedings or any proceeding by or before any Governmental Instrumentality, now pending or (to the best knowledge of Contractor) threatened against Contractor that, if adversely determined, could reasonably be expected to have a material adverse effect on the financial condition, operations, prospects or business, as a whole, of Contractor, or its ability to perform under this Agreement.

15.1.3. **Licenses**. It is the holder of all Permits required to permit it to operate or conduct its business now and as contemplated by this Agreement.

15.1.4. **No Breach**. Neither the execution and delivery of this Agreement, nor the consummation of the transactions herein contemplated or compliance with the terms and provisions hereof will conflict with or result in a breach of, or require any consent under, the organizational documents of Contractor, or any Applicable Law or regulation, or any order, writ, injunction or decree of any court, or any agreement or instrument to which Contractor is a party or by which it is bound or to which it or any of its property or assets is subject, or constitute a default under any such agreement or instrument.

15.1.5. **Corporate Action**. It has all necessary power and authority to execute, deliver and perform its obligations under this Agreement; the execution, delivery and performance by Contractor of this Agreement has been duly authorized by all necessary action on its part; and this Agreement has been duly and validly executed and delivered by Contractor and constitutes a legal, valid and binding obligation of Contractor enforceable in accordance with its terms, except as the enforceability thereof may be limited by bankruptcy, insolvency, reorganization or moratorium or other similar laws relating to the enforcement of creditors' rights generally.

15.1.6. **Financial Solvency**. It is financially solvent, able to pay all debts as they mature and possesses sufficient working capital to complete the Work and perform its obligations hereunder. Guarantor, guaranteeing the obligations of Contractor pursuant to Section 21.13 of this Agreement, is financially solvent, able to pay all debts as they mature, and possesses sufficient working capital to perform the guarantee required by Section 21.13.

15.2 Owner Representations. Owner represents and warrants that:

15.2.1. **Corporate Standing**. It is a limited liability company duly organized, validly existing and in good standing under the laws of Delaware, is qualified to do business in all jurisdictions in which the nature of the business conducted by it makes such qualification necessary and where failure so to qualify would have a material adverse effect on its financial condition, operations, prospects or business.

15.2.2. **No Violation of Law**. It is not in violation of any Applicable Law, or judgment entered by any Governmental Instrumentality, which violations, individually or in the aggregate, would affect its performance of any obligations under this Agreement. There are no legal or arbitration proceedings or any proceeding by or before any Governmental Instrumentality, now pending or (to the best knowledge of Owner) threatened against Owner that, if adversely determined, could reasonably be expected to have a material adverse effect on the financial condition, operations, prospects or business, as a whole, of Owner, or its ability to perform under this Agreement.

15.2.3. **No Breach**. Neither the execution and delivery of this Agreement, nor the consummation of the transactions herein contemplated or compliance with the terms and provisions hereof and thereof will conflict with or result in a breach of, or require any consent under, the organizational documents of Owner, any Applicable Law, any order, writ, injunction or decree of any court, or any agreement or instrument to which Owner is a party or by which it is bound or to which it or any of its property or assets is subject, or constitute a default under any such agreement or instrument.

15.2.4. **Corporate Action**. It has all necessary power and authority to execute, deliver and perform its obligations under this Agreement; the execution, delivery and performance by Owner of this Agreement has been duly authorized by all necessary action on its part; and this Agreement has been duly and validly executed and delivered by Owner and constitutes a legal, valid and binding obligation of Owner enforceable in accordance with its terms, except as the enforceability thereof may be limited by bankruptcy, insolvency, reorganization or moratorium or other similar laws relating to the enforcement of creditors' rights generally.

Article 16

DEFAULT, TERMINATION AND SUSPENSION

16.1 Default by Contractor.

16.1.1. ***Owner Rights Upon Contractor Default***. If Contractor shall at any time (i) fail to prosecute the Work in a diligent or safe manner; (ii) fail to commence the Work in accordance with the provisions of this Agreement; (iii) abandon the Project (provided that Contractor's suspension of the Work in accordance with Section 16.4 shall not be deemed an abandonment of the Work); (iv) expressly repudiate any of its obligations under this Agreement; (v) fail to use an adequate amount or quality of personnel or Construction Equipment to perform and complete the Project without delay; (vi) be in Default pursuant to Sections 5.4.5, 6.1.3 or 21.6; (vii) fail to maintain insurance required under this

Agreement; (viii) fail to provide or maintain the Parent Guarantee in accordance with this Agreement; (ix) make changes to Key Personnel in violation of the provisions in Section 2.2; (x) fail to discharge liens filed by any Subcontractor or Sub-subcontractor as required under this Agreement; (xi) cause, by any action or omission, any material stoppage or delay of or interference with the work or operations of Owner or its other contractors or subcontractors; (xii) commit gross negligence or willful misconduct; (xiii) fail to make payment to Subcontractors in accordance with the respective Subcontracts; (xiv) disregard Applicable Law or Applicable Codes and Standards; (xv) materially fail to comply with any provision of this Agreement; (xvi) be in violation of Section 21.10; (xvii) fail to provide satisfactory security in the event of a Material Adverse Change in Contractor's or Guarantor's creditworthiness; (xviii) fail to achieve the Minimum Acceptance Criteria pursuant to this Agreement; (xix) have paid the maximum amount of Delay Liquidated Damages payable under Section 20.2.1; (xx) itself or Guarantor becomes insolvent, has a receiver appointed, makes a general assignment or filing for the benefit of its creditors or files for bankruptcy protection; or (xxi) as otherwise specified in this Agreement (each of the foregoing being a "***Default***"), then following Owner's written notice to Contractor specifying the general nature of the Default (unless in the event of any of the items (i) through (xvii) or (xxi) above, Contractor cures such condition within seven (7) Days, or if the Default cannot be cured with the exercise of reasonable diligence within such seven (7) Days but Contractor has commenced corrective action and cures such condition within an additional fourteen (14) Days), Owner, at its sole option and, without prejudice to any other rights that it has under this Agreement, at law or in equity and, without further notice to Contractor, may (a) take such steps as are necessary to overcome the Default condition, in which case Contractor shall be liable to Owner for any and all costs, damages, losses and expenses (including all attorneys' fees, consultant fees and litigation or arbitration expenses) incurred by Owner in connection therewith, (b) terminate for Default Contractor's performance of all or any part of the Work, or (c) seek specific performance or interlocutory mandatory injunctive relief requiring performance of Contractor's obligations, it being agreed by Contractor that such relief may be necessary to avoid irreparable harm to Owner. Guarantor's failure to materially comply with any provisions of the Parent Guarantee shall be a Default under this Agreement.

16.1.2. ***Additional Rights of Owner Upon Default Termination***. In the event that Owner terminates this Agreement for Default in accordance with Section 16.1.1, then Owner may, at its sole option, (i) enter onto the Site and any other locations where the Work is being performed and, for the purpose of completing the Work, take possession of all Equipment and Work Product intended to be made a permanent part of the Work, documents, information, Books and Records and other items thereon, (ii) take assignment of any or all of the Subcontracts or Sub-subcontracts, or (iii) either itself or through others complete the Work. In addition, if any Equipment which is intended to be made part of the permanent Work is located off the Site, Contractor shall deliver such Equipment to Owner or, at Owner's option, make arrangements for Owner to take possession of such Equipment at its present off-Site location. Contractor's liability under this Section 16.1.2 is in addition to any other liability provided for under this Agreement and Owner shall have the right and authority to set off against and deduct from any such excess due Contractor by Owner any other liability of Contractor to Owner under this Agreement. Owner agrees to act reasonably to mitigate any costs it might incur in connection with any termination

for Default. In the event of a termination for Default, the Parties agree that Owner shall be entitled to any and all damages, losses, costs and expenses incurred by Owner arising out of or resulting from such Default, including any and all Delay Liquidated Damages. If Contractor is terminated for Default pursuant to Section 16.1, the Parties agree that, for the purposes of this Section 16.1.2, if Substantial Completion was not achieved by Contractor prior to such termination, Delay Liquidated Damages owed by Contractor to Owner shall be based on the date that the substitute contractor achieved Substantial Completion (or using GECP should have achieved Substantial Completion) subject to Contractor's aggregate limit of liability for Delay Liquidated Damages in Section 20.2.1.

16.1.3. ***Erroneous Termination for Default***. If any termination for Default by Owner is found to be not in accordance with the provisions of this Agreement or is otherwise deemed to be unenforceable, then such termination for Default shall be deemed to be a termination for convenience as provided in Section 16.2.

16.1.4. ***Obligations Upon Default Termination***. Upon termination for Default, Contractor shall (i) immediately discontinue Work on the date and to the extent specified in the notice; (ii) place no further orders for Subcontracts, Equipment, or any other items or services except as may be necessary for completion of such portion of the Work as is not discontinued; (iii) inventory, maintain and turn over to Owner all Contractor-Supplied Equipment furnished by Contractor or any other equipment or other items provided by Owner for performance of the terminated Work (including the Owner-Supplied Items); (iv) promptly make every reasonable effort to procure assignment or cancellation upon terms satisfactory to Owner of all Subcontracts, Sub-subcontracts and rental agreements to the extent they relate to the performance of the Work that is discontinued; (v) cooperate with Owner in the transfer of Work Product, including Drawings and Specifications, Permits, licenses and any other items or information and disposition of Work in progress so as to mitigate damages; (vi) comply with other reasonable requests from Owner regarding the terminated Work; (vii) thereafter execute only that portion of the Work not terminated (if any) and that portion of the Work as may be necessary to preserve and protect Work already in progress and to protect Equipment at the Site or in transit thereto, and to comply with any Applicable Law and any Applicable Codes and Standards; and (viii) perform all other obligations set forth under Section 16.2.1.

16.2 Termination for Convenience by Owner.

16.2.1. ***Owner Rights to Terminate for Convenience.*** Owner shall have the right to terminate for convenience Contractor's performance of all or any part of the Work by providing Contractor with a written notice of termination, to be effective upon receipt by Contractor. Upon termination for convenience, Contractor shall (i) immediately discontinue the Work on the date and to the extent specified in such notice, (ii) place no further orders for Subcontracts, Equipment, or any other items or services except as may be necessary for completion of such portion of the Work as is not discontinued, (iii) promptly make every reasonable effort to procure cancellation upon terms satisfactory to Owner of all Subcontracts, Sub-subcontracts and rental agreements to the extent they relate to the performance of the Work that is discontinued unless Owner elects to take assignment of any such Subcontracts or Sub-subcontracts, (iv) assist Owner in the maintenance,

protection, and disposition of Work in progress, including turning over to Owner all Contractor-Supplied Equipment and Owner-Supplied Items relating to the terminated Work, (v) cooperate with Owner for the efficient transition of the Work, (vi) cooperate with Owner in the transfer of Work Product, including Drawings and Specifications, Permits, licenses and any other items or information and disposition of Work in progress, and (vii) thereafter execute only that portion of the Work not terminated (if any) and that portion of the Work as may be necessary to preserve and protect Work already in progress and to protect Equipment at the Site or in transit thereto, and to comply with any Applicable Law and Applicable Codes and Standards. Owner may, at its sole option, take assignment of any or all of the Subcontracts or Sub-subcontracts.

16.2.2. ***Obligations of Owner upon Convenience Termination.*** Upon a convenience termination by Owner in accordance with Section 16.2.1, Contractor shall be paid (i) the reasonable value of the Work performed (the basis of payment being based on the terms of this Agreement, less any down payments, if any, made under this Agreement) prior to termination, less that portion of the Compensation previously paid to Contractor, plus (ii) reasonable direct close-out costs incurred directly associated with the termination (including Contractor's markup for overhead and profit consistent with the Overhead Fee and the Contractor's Fee), and submitted in accordance with this Section, but in no event shall Contractor be entitled to receive any amount for unabsorbed overhead, contingency, risk or anticipatory profit. Contractor shall submit all reasonable direct close-out costs to Owner for verification and audit within sixty (60) Days following the effective date of termination. If no Work has been performed by Contractor at the time of termination, Contractor shall be paid the sum of one hundred U.S. Dollars (U.S.$100) for its undertaking to perform. If NTP is not issued, Owner shall not be liable for any cancellation charges except as may be expressly set forth in an authorized LNTP. With respect to the Mobilization Payment, the Parties recognize and agree that the amount and timing of such payment has been determined in part to provide a mutually agreeable cash flow to Contractor and does not necessarily represent the value of the Work performed under this Agreement. As such, in the event of a termination for convenience, Contractor shall not be entitled to the full compensation for the Mobilization Payment but instead shall be entitled to the value of the Work actually performed.

16.3 Suspension of Work. Owner may, for any reason, at any time and from time to time, by written unilateral or mutual Change Order, suspend the carrying out the Work or any part thereof, whereupon Contractor shall suspend the carrying out of such suspended Work for such time or times and in such manner as Owner may require and shall take reasonable steps to minimize any costs associated with such suspension. During any such suspension, Contractor shall properly protect and secure such suspended Work in such manner as Owner may reasonably require. Unless otherwise instructed by Owner, Contractor shall during any such suspension maintain its staff and labor on or near the Site and otherwise be ready to proceed expeditiously with the Work upon receipt of Owner's further instructions. Except where such suspension ordered by Owner is the result of or due to the fault or negligence of Contractor or any Subcontractor or Sub-subcontractor, Contractor shall be entitled to the reasonable costs (including actual, but not unabsorbed, overhead, contingency, risk and reasonable profit consistent with the Overhead Fee and Contractor's Fee) of such suspension, including demobilization and remobilization costs, if necessary, along with appropriate supporting documentation to evidence such costs, and a time extension to the

Guaranteed Substantial Completion Date if and to the extent permitted under Section 6.8. Upon receipt of notice to resume suspended Work, Contractor shall immediately resume performance of the Work to the extent required in the notice. In no event shall Contractor be entitled to any additional profits or damages due to such suspension.

16.4 Suspension by Contractor. Notwithstanding anything to the contrary in this Agreement, Contractor shall have the responsibility at all times to prosecute the Work diligently and shall not suspend, stop or cease performance hereunder or permit the prosecution of the Work to be delayed; *provided*, *however*, […***…].

16.5 Termination by Contractor. Contractor may only terminate this Agreement if […***…].

Article 17

INDEMNITIES

17.1 General Indemnification. In addition to its indemnification, defense and hold harmless obligations contained elsewhere in this Agreement, Contractor shall fully indemnify, hold harmless and defend Owner Indemnified Parties from any and all Claims arising out of the following:

17.1.1. failure of Contractor or its Subcontractors or Sub-subcontractors to comply with Applicable Law, Applicable Codes and Standards, GECP, or safety requirements under this Agreement;

17.1.2. actual or alleged violation or infringement of any domestic or foreign patents, copyrights or trademarks or other intellectual property, or any misappropriation or improper use of confidential information or other proprietary rights that may be attributable to Contractor or any Subcontractor or Sub-subcontractor in connection with the Work;

17.1.3. actual or alleged contamination, spill, release, discharge, pollution or otherwise of the air, land or water arising out of acts or omissions of Contractor's or any Subcontractor's or Sub-subcontractor's use, handling or disposal of Hazardous Materials during the performance of the Work and any environmental damage of any other nature to the extent resulting from failure by Contractor or any of its Subcontractors or Sub-subcontractors to stop Work after encountering Pre-Existing Hazardous Materials at the Site as required under Section 3.17 or the acts or omissions of Contractor or its Subcontractors or Sub-subcontractors during the performance of the Work subject to the terms of Section 3.18;

17.1.4. claims by any Governmental Instrumentality as a result of a failure by Contractor or any Subcontractor or Sub-subcontractor to pay Taxes, and claims by a Governmental Instrumentality for California state or local sales and use tax on Equipment for which Owner provided Contractor with a valid applicable California state and local sales and use tax exemption certificate or direct pay exemption certificate;

17.1.5. failure of Contractor to make payments to any Subcontractor in accordance with the respective Subcontract;

17.1.6. injury to, illness or death of any Person, or loss of or damage to any property of any Person, to the extent arising out of, related to or resulting from the negligence, gross negligence or willful misconduct of any Contractor Indemnified Party, any Subcontractor or Sub-subcontractor or any employee, officer, director or agent of any Subcontractor or Sub-subcontractor;

17.1.7. any failure of Contractor to maintain insurance coverages in accordance with this Agreement; or

17.1.8. any breach by Contractor of its confidentiality obligations under Article 19.

17.2 Owner's Indemnity for Personal Injury and Property Damage. Subject to Section 3.17, Owner shall fully indemnify, hold harmless and defend Contractor Indemnified Parties from and against any and all Claims arising out of personal injury or death of any Person or damage to or destruction of property of any Person (excluding the Work, the Project and the Construction Equipment) to the extent arising out of, related to or resulting from the negligence, gross negligence or willful misconduct of any Owner Indemnified Party.

17.3 Patent and Copyright Indemnification. In the event that any suit, claim, temporary restraining order or preliminary injunction is granted in connection with Section 17.1.2, Contractor shall, in addition to its obligation under Section 17.1.2, make every reasonable effort, by giving a satisfactory bond or otherwise, to secure the suspension of the injunction or restraining order. If, in any such suit or claim, the Work, the Project, or any part, combination or process thereof, is held to constitute an infringement and its use is preliminarily or permanently enjoined, Contractor shall promptly make every reasonable effort to secure for Owner a license, at no cost to Owner, authorizing continued use of the infringing Work on the same terms and conditions as the license granted to Owner under Section 11.2. If Contractor is unable to secure such a license within a reasonable time, Contractor shall, at its own expense and without impairing performance requirements, either replace the affected Work, in whole or part, with non-infringing components or parts or modify the same so that they become non-infringing. The foregoing notwithstanding, Contractor or its Subcontractors shall not be responsible to indemnify Owner to the extent an infringement claim is caused: (i) by Work, materials, goods or services for which Owner provided and controlled the detailed design and wherein compliance therewith has caused Contractor to deviate from its normal course or performance; or (ii) from Owner's use of the Work in combination with equipment which is not part of the Work where such infringement would not have occurred from the use of the Work not in combination with such equipment, and, in each case, Contractor is not a contributory infringer.

17.4 Excluded Claims. Contractor shall have no obligation to defend or indemnify Owner for Excluded Claims. "Excluded Claims" are Section 17.1.2 claims resulting from: (i) Owner's or Owner's Affiliates' designs or specifications that were not performed by Contractor as part of the Work, such as the design and procurement of Owner-Supplied Items and Existing Plant Equipment (except to the extent set forth in Section 3.1.2); (ii) Owner's alteration or modification of the Work Product without Contractor's approval or involvement, and the alleged

infringement would not have occurred but for such alteration or modification; (iii) Owner's combination of the Work Product with another product(s) not furnished by Contractor, except to the extent Contractor is a contributory infringer; or (iv) Owner or any Owner Affiliate settles an Intellectual Property Claim in violation of Section 17.6. Owner shall indemnify, defend and hold Contractor harmless from and against any damages, costs or expenses incurred in Contractor having to defend any Excluded Claim (other than one arising under clause (iv) hereof) to the same extent and in the same manner as provided in this section for Intellectual Property Claims for which Contractor is obligated to indemnify Owner. Contractor's obligation to indemnify Owner under this Article 17 shall be effective only if Owner gives Contractor prompt written notice in accordance with Section 17.6 after Owner knew of such Intellectual Property Claim or liability and provides information and assistance for the defense of any Intellectual Property Claim or liabilities for which Owner seeks indemnification hereunder in accordance with Section 17.6.

17.5 Lien Indemnification. Should any Subcontractor or Sub-subcontractor or any other Person acting through or under Contractor or any Subcontractor or Sub-subcontractor file a lien or other encumbrance against all or any portion of the Work, the Site or the Project, excluding liens resulting from Owner's failure to make undisputed payments to Contractor that are due and payable and for which Owner does not have a right to withhold in accordance with Section 7.11, Contractor shall, at its sole cost and expense, remove and discharge, by payment, bond or otherwise, such lien or encumbrance within ten (10) Days of the filing of such lien or encumbrance. If Contractor fails to remove and discharge any such lien or encumbrance within such ten (10) Day period, then Owner may, in its sole discretion and in addition to any other rights that it has under this Agreement, at law or equity, take any one or more of the following actions:

17.5.1. Remove and discharge such lien and encumbrance using whatever means that Owner, in its sole discretion, deems appropriate, including the payment of settlement amounts that it determines in its sole discretion as being necessary to discharge such lien or encumbrance. In such circumstance, Contractor shall be liable to Owner for all damages, costs, losses and expenses (including all attorneys' fees, consultant fees and litigation or arbitration expenses, and settlement payments) incurred by Owner arising out of or relating to such removal and discharge. All such damages, costs, losses and expenses shall be paid by Contractor no later than thirty (30) Days after receipt of each invoice from Owner;

17.5.2. Seek and obtain an order granting specific performance from a court of competent jurisdiction, requiring that Contractor immediately discharge and remove, by bond, payment or otherwise, such lien or encumbrance. The Parties expressly agree that Owner shall be entitled to such specific performance and that Contractor shall be liable to Owner for all damages, costs, losses and expenses (including all attorneys' fees, consultant fees and litigation or arbitration expenses) incurred by Owner arising out of or relating to such specific performance action. Contractor agrees that the failure to discharge and remove any such lien or encumbrance will give rise to irreparable injury to Owner and Owner's Affiliates, and further, that Owner and such Owner Affiliates will not be adequately compensated by damages; or

17.5.3. Conduct the defense of any action in respect of (and any counterclaims related to) such liens or encumbrances as set forth in Section 17.6, without regard to Contractor's rights under such Section, and all damages, costs and expenses (including all

attorneys' fees, consultant fees and litigation or arbitration expenses, settlement payments and judgments) so incurred by Owner in that event shall be reimbursed by Contractor, together with interest on same from the date any such cost and expense was paid by Owner until reimbursed by Contractor at the interest rate set forth in Section 7.12.

17.6 Legal Defense. Not later than fifteen (15) Days after receipt of written notice from the Indemnified Party to the Indemnifying Party of any claims, demands, actions or causes of action asserted against such Indemnified Party for which the Indemnifying Party has indemnification, defense and hold harmless obligations under this Agreement, whether such claim, demand, action or cause of action is asserted in a legal, judicial, arbitral or administrative proceeding or action or by notice without institution of such legal, judicial, arbitral or administrative proceeding or action, the Indemnifying Party shall affirm in writing by notice to such Indemnified Party that the Indemnifying Party will indemnify, defend and hold harmless such Indemnified Party and shall, at the Indemnifying Party's own cost and expense, assume on behalf of the Indemnified Party and conduct with due diligence and in good faith the defense thereof with counsel selected by the Indemnifying Party and reasonably satisfactory to such Indemnified Party; *provided, however*, that such Indemnified Party shall have the right to be represented therein by advisory counsel of its own selection, and at its own expense; and *provided further* that if the defendants in any such action or proceeding include the Indemnifying Party and an Indemnified Party and the Indemnified Party shall have reasonably concluded that there may be legal defenses available to it which are different from or additional to, or inconsistent with, those available to the Indemnifying Party, such Indemnified Party shall have the right to select up to one separate counsel to participate in the defense of such action or proceeding on its own behalf at the expense of the Indemnifying Party. In the event of the failure of the Indemnifying Party to perform fully in accordance with the defense obligations under this Section 17.6, such Indemnified Party may, at its option, and without relieving the Indemnifying Party of its obligations hereunder, so perform, but all damages, costs and expenses (including all attorneys' fees, consultant fees and litigation or arbitration expenses, settlement payments and judgments) so incurred by such Indemnified Party in that event shall be reimbursed by the Indemnifying Party to such Indemnified Party, together with interest on same from the date any such cost and expense was paid by such Indemnified Party until reimbursed by the Indemnifying Party at the interest rate set forth in Section 7.12.

17.7 Enforceability.

17.7.1. The indemnity, defense and hold harmless obligations for personal injury, illness or death or property damage under this Agreement shall apply regardless of whether the Indemnified Party was concurrently negligent (whether actively or passively), it being agreed by the Parties that in this event, the Parties' respective liability or responsibility for such damages, losses, costs and expenses under this Agreement shall be determined in accordance with the principles of comparative negligence.

17.7.2. In the event that any indemnity provisions in this Agreement are contrary to the law governing this Agreement, then the indemnity obligations applicable hereunder shall be applied to the maximum extent allowed by Applicable Law. Each Party acknowledges specific payment of ten and no/100 U.S. Dollars (U.S.$10.00) as legal consideration for the indemnity obligations as may be provided in this Agreement.

Article 18

DISPUTE RESOLUTION

18.1 Arbitration. If any dispute arises out of, results from, or relates to this Agreement which the Parties are unable to settle amicably within fifteen (15) Days after the dispute arises (or such longer period as may be agreed upon by the Parties in writing), then the Parties agree that such dispute shall be decided by binding arbitration in Los Angeles County, California. Unless otherwise agreed by the Parties, the arbitration shall be administered in Los Angeles before one (1) arbitrator who shall be a retired judge admitted to practice law in the State of California. The arbitration shall be administered by Judicial Arbitration & Mediation Services, Inc ("***JAMS***"), or any like organization successor thereto, pursuant to its Streamlined Arbitration Rules and Procedures (the "***Rules***"). The arbitrator shall determine the rights and obligations of the Parties according to the substantive law of the state of California, excluding its conflict of law principles, as would a court for the state of California; provided, however, the law applicable to the validity of the arbitration clause, the conduct of the arbitration, including resort to a court for provisional remedies, the enforcement of any award and any other question of arbitration law or procedure shall be the Federal Arbitration Act, 9 U.S.C.A. § 2. The arbitration award shall be final and binding, in writing, signed by the arbitrator or all of the arbitrators (as applicable), and shall state the reasons upon which the award thereof is based. The Parties agree that judgment on the arbitration award may be entered by any court having jurisdiction thereof. The prevailing Party in any action or proceeding shall be entitled to recover from the other Party all of its reasonable costs and expenses incurred in connection with such action or proceeding including reasonable legal fees and costs at arbitration.

18.2 Continuation of Work During Dispute. Notwithstanding any Dispute, it shall be the responsibility of Contractor to continue to prosecute all of the Work diligently and in a good and workmanlike manner in conformity with this Agreement. Except to the extent provided in Sections 16.4 and 16.5, Contractor shall have no right to cease performance hereunder or to permit the prosecution of the Work to be delayed. Owner shall, subject to its right to withhold or offset amounts pursuant to this Agreement, continue to pay Contractor undisputed amounts in accordance with this Agreement; *provided, however*, in no event shall the occurrence of any negotiation, arbitration or litigation prevent or affect Owner from exercising its rights under this Agreement, at law or in equity, including Owner's right to terminate pursuant to Article 16.

Article 19

CONFIDENTIALITY

19.1 Contractor's Obligations. Contractor hereby covenants and warrants that Contractor and its employees, officers, directors and agents shall not (without in each instance obtaining Owner's prior written consent) disclose, make commercial or other use of, or give or sell to any Person any of the following information: (i) any Work Product other than to Subcontractors or Sub-subcontractors as necessary to perform the Work or (ii) any other proprietary, sensitive or non-public information which relates to the technical processes, operating or maintenance methodologies, business, products, services, research or development, actual or potential clients or customers, financing of the Project, designs, methods, discoveries, trade secrets, research,

development or finances of Owner or any Affiliate of Owner, or relating to similar information of a third party who has entrusted such information to Owner or any Affiliate of Owner (hereinafter individually or collectively, "***Owner's Confidential Information***"). Prior to disclosing any information in subpart (i) of this Section 19.1 to any Subcontractor or Sub-subcontractor necessary to perform the Work, Contractor shall bind such Subcontractor or Sub-subcontractor to the confidentiality obligations contained in this Section 19.1. Contractor agrees to be responsible for any breach of this Section 19.1 by any Subcontractor or Sub-subcontractor. Nothing in this Section 19.1 or this Agreement shall in any way prohibit Contractor or any of its Subcontractors or Sub-subcontractors from making commercial or other use of, selling, or disclosing any of their respective Contractor's Intellectual Property or Third Party Intellectual Property. In addition to the foregoing, neither Contractor nor any of its employees, officers, directors and agents shall disclose the existence or terms of this Agreement in any regulatory filing with the Securities and Exchange Commission unless required by Applicable Law, and provided that, prior to any such disclosure, Contractor shall give Owner reasonable notice of the information required to be disclosed and shall provide Owner with an opportunity to take appropriate steps Owner believes are necessary to protect the confidentiality or proprietary nature of this Agreement, and Contractor agrees to furnish only that portion of the information regarding this Agreement that Contractor is legally required to furnish.

19.2 Owner's Obligations. Owner hereby covenants and warrants that Owner and its employees and agents shall not (without in each instance obtaining Contractor's prior written consent) disclose, make commercial or other use of, or give or sell to any Person any pricing methodologies or pricing information relating to the Work, including the Equipment, which is conspicuously marked and identified in writing as confidential by Contractor (hereinafter individually or collectively, "***Contractor's Confidential Information***"). The Parties agree that Owner may disclose Contractor's Confidential Information to its other contractors involved in the Project, Affiliates, underwriters, a bona fide prospective purchaser of all or a portion of Owner's or any of its Affiliates' assets or ownership interests, a bona fide prospective assignee of all or a portion of Owner's interest in this Agreement, Lender and their representatives or rating agencies, *provided that* Owner agrees to be responsible for any breach of this Section 19.2 by any such Persons.

19.3 Definitions. The term "***Confidential Information***" shall mean one or both of Contractor's Confidential Information and Owner's Confidential Information, as the context requires. The Party having the confidentiality obligations with respect to such Confidential Information shall be referred to as the "***Receiving Party***," and the Party to whom such confidentiality obligations are owed shall be referred to as the "***Disclosing Party***."

19.4 Exceptions. Notwithstanding Sections 19.1 and 19.2, Confidential Information shall not include: (i) information which at the time of disclosure or acquisition is in the public domain, or which after disclosure or acquisition becomes part of the public domain without violation of Article 19; (ii) information which at the time of disclosure or acquisition was already in the possession of the Receiving Party or its employees or agents and was not previously acquired from the Disclosing Party or any of its employees or agents directly or indirectly; (iii) information which the Receiving Party can show was acquired by such entity after the time of disclosure or acquisition hereunder from a third party without any confidentiality commitment if, to the best of Receiving Party's or its employee's or agent's knowledge, such third party did not acquire it,

directly or indirectly, from the Disclosing Party or any of its employees or agents; (iv) information independently developed by the Receiving Party without benefit of the Confidential Information, but specifically excluding the Work Product; and (v) information which is required by Applicable Law or other agencies in connection with the Project, to be disclosed; *provided*, *however*, that prior to such disclosure, the Receiving Party gives reasonable notice to the Disclosing Party of the information required to be disclosed.

19.5 Equitable Relief. The Parties acknowledge that in the event of a breach of any of the terms contained in this Article 19, the Disclosing Party would suffer irreparable harm for which remedies at law, including damages, would be inadequate, and that the Disclosing Party shall be entitled to equitable relief therefor by injunction, in addition to any and all rights and remedies available to it at law and in equity, without the requirement of posting a bond.

19.6 Term. The confidentiality obligations of this Article 19 shall survive the expiration or termination of this Agreement for a period of five (5) years following the expiration or earlier termination of this Agreement, except Lenders' confidentiality obligations pursuant to Section 19.2 will expire after a period of two (2) years following the expiration or earlier termination of this Agreement.

Article 20

LIMITATION OF LIABILITY

20.1 Contractor Aggregate Liability. Contractor shall not be liable to Owner under this Agreement for cumulative aggregate amounts in excess of one hundred percent (100%) of the Guaranteed Maximum Price (as may be adjusted by Change Order); *provided that*, notwithstanding the foregoing, the limitation of liability set forth in this Section 20.1 shall not (i) apply to Contractor's personal injury or third party indemnification obligations under this Agreement; (ii) apply to Contractor's obligation to deliver to Owner full legal title to and ownership of all or any portion of the Work and Project as required under this Agreement; (iii) include builder's all risk insurance proceeds received with respect to the builder's all risk insurance required under this Agreement; or (iv) apply in the event of Contractor's fraud, willful misconduct, abandonment of the Work or gross negligence. In no event shall the limitation of liability set forth in this Section 20.1 be in any way deemed to limit Contractor's obligation to perform all Work required to achieve Substantial Completion or Final Completion and the costs incurred by Contractor in performing the Work (including Corrective Work) shall not be counted against the limitation of liability set forth in this Section 20.1. For avoidance of doubt, amounts paid to Owner by Contractor for Delay Liquidated Damages shall be counted against the limitation of liability set forth in this Section 20.1. For purposes of this Section 20.1, "third party" means any Person other than Owner or its Affiliates.

20.2 Limitation on Contractor's Liability for Delay Liquidated Damages.

20.2.1. ***Delay Liquidated Damages***. Subject to Section 20.2.2, Contractor's maximum liability to Owner for Delay Liquidated Damages for the Project shall not exceed […***…] of the Guaranteed Maximum Price (as may be adjusted by Change Order) in the aggregate.

20.2.2. ***Exceptions to Limitations of Liability Under Section 20.2***. Section 20.2.1 shall not be construed to limit Contractor's other obligations or liabilities under this Agreement (including (i) its obligations to complete the Work for the compensation provided under this Agreement, (ii) its obligations to achieve the Milestone Dates, Mechanical Completion, Substantial Completion and Final Completion of the Project subject to Section 20.2.1, which shall remain effective irrespective of this Section 20.2.2 and (iii) its obligations with respect to Minimum Acceptance Criteria and Warranties), nor shall the limits specified in this Section 20.2 apply in the event of fraud, abandonment of the Work, gross negligence or willful misconduct of Contractor.

20.3 Delay Liquidated Damages In General.

20.3.1. ***Delay Liquidated Damages Not Penalty***. It is expressly agreed that Delay Liquidated Damages payable under this Agreement do not constitute a penalty and that the Parties, having negotiated in good faith for such specific Delay Liquidated Damages and having agreed that the amount of such Delay Liquidated Damages is reasonable in light of the anticipated harm caused by the breach related thereto and the difficulties of proof of loss and inconvenience or nonfeasibility of obtaining any adequate remedy, are estopped from contesting the validity or enforceability of such Delay Liquidated Damages. If Contractor, Guarantor or anyone on their behalf successfully challenges the enforceability of the agreed upon amount of the Delay Liquidated Damages (such as the amounts, though agreed to, are now a penalty), Contractor specifically agrees to pay Owner all actual damages incurred by Owner in connection with such breach, including any and all consequential damages (such as loss of profits and revenues, business interruption, loss of opportunity and use) and all costs incurred by Owner in proving the same, without regard to any limitations whatsoever set forth in this Agreement.

20.3.2. ***Delay Liquidated Damages as Exclusive Damages***. Payment of any Delay Liquidated Damages with respect to any Work shall be in addition to, and not in lieu of, Contractor's other obligations under this Agreement and shall in no way affect Owner's right to terminate this Agreement under Article 16 or receive other Delay Liquidated Damages or remedies contemplated in this Agreement for any other aspect of Contractor's obligations hereunder. Notwithstanding the foregoing and without limitation of Owner's rights under Section 16.1, Delay Liquidated Damages shall be the sole and exclusive damages owed by Contractor for Contractor's delay in achieving Substantial Completion by the Guaranteed Substantial Completion Date.

20.3.3. ***Payment of Delay Liquidated Damages***. With respect to Delay Liquidated Damages that accrue, Owner, at its sole discretion, may either (i) invoice Contractor for such owed Delay Liquidated Damages, and within seven (7) Days of Contractor's receipt of such invoice, Contractor shall pay Owner Delay Liquidated Damages, (ii) withhold from Contractor amounts that are otherwise due and payable to Contractor in the amount of such Delay Liquidated Damages, or (iii) collect on the Letter of Credit in the amount of such Delay Liquidated Damages upon giving Contractor three (3) Days' written notice pursuant to Section 10.2 and Contractor's failure to pay such Delay Liquidated Damages within such three (3) Day period. In addition, Contractor shall pay Owner all Delay Liquidated

Damages, if any, owed under this Agreement for Substantial Completion as a condition precedent to achieving Substantial Completion.

20.4 Consequential Damages. Notwithstanding any other provisions of this Agreement to the contrary, neither Owner nor Contractor shall be liable under this Agreement or under any cause of action related to the subject matter of this Agreement, whether in contract, tort (including negligence), strict liability, products liability, indemnity, contribution, or any other cause of action for special, indirect, incidental or consequential losses or damages, including loss of profits, use, opportunity, revenues, financing, bonding capacity, or business interruptions, or damages or losses for principal office expenses including compensation of personnel stationed there; *provided that* […***…].

Article 21

MISCELLANEOUS PROVISIONS

21.1 Entire Agreement. This Agreement, including the Attachments and Schedules attached to and incorporated into this Agreement, contains the entire understanding of the Parties with respect to the subject matter hereof and incorporates any and all prior agreements and commitments with respect thereto. There are no other oral understandings, terms or conditions, and neither Party has relied upon any representation, express or implied, not contained in this Agreement. General or special conditions included in any of Contractor's price lists, invoices, tickets, receipts or other such documents presented to Owner shall have no applicability to Owner with respect to this Agreement. All Attachments and Schedules shall be incorporated into this Agreement by such reference and shall be deemed to be an integral part of this Agreement. Without limiting the foregoing, this Agreement supersedes in its entirety any agreements between the Parties related to the Project and the FEED Verification Agreement. All work performed under any agreements between the Parties related to the Project and the FEED Verification Agreement shall be governed by the terms and conditions set forth in this Agreement.

21.2 Amendments. Other than unilateral Change Orders issued by Owner to Contractor pursuant to Section 6.1.3 or Section 6.2.4, no change, amendment or modification of this Agreement shall be valid or binding upon the Parties hereto unless such change, amendment or modification is in writing and duly executed by both Parties hereto.

21.3 Interpretation. Preparation of this Agreement has been a joint effort of the Parties and the resulting document shall not be construed more severely against one of the Parties than against the other. The captions contained in this Agreement are for convenience and reference only and in no way define, describe, extend or limit the scope of intent of this Agreement or the intent of any provision contained herein.

21.4 Notice. Any notice, demand, offer, or other written instrument required or permitted to be given pursuant to this Agreement shall be in writing signed by the Party giving such notice and shall be hand delivered or sent by overnight courier, messenger, email or certified mail, return receipt requested, to the other Party at the address set forth below.

[…***…]

Each Party shall have the right to change the place to which notice shall be sent or delivered by sending a similar notice to the other Party in like manner. Notices, demands, offers or other written instruments shall be deemed have been duly given (i) on receipt if given by hand delivery, (ii) on the first Day following delivery to a nationally recognized United States overnight courier service, fee prepaid, return receipt or other confirmation of delivery requested, (iii) on the third Day following delivery to the U.S. Postal Service as certified or registered mail, return receipt requested, postage prepaid, and (iv) on receipt, if it is delivered by email or other means of electronic transmission.

21.5 Severability. If any provision or part thereof in this Agreement is determined to be illegal, invalid or unenforceable, such illegality, invalidity or unenforceability will not impair the operation of or affect those remaining portions of such provision and this Agreement that are legal, valid and enforceable. Such provision or part thereof will be modified so as to be legal, valid and enforceable consistent as closely as possible with the intent of the original language of such provision or part thereof and shall be enforced to the extent possible consistent with Applicable Law. If the illegality, invalidity or unenforceability of such provision or part thereof cannot be modified consistent with the intent of the original language, such provision will be deleted and treated as if it were never a part of this Agreement and shall not affect the validity of the remaining portions of the provision or this Agreement.

21.6 Assignment. Neither Party may assign its rights, title and interest in this Agreement to any other Person without the prior written consent of the non-assigning Party hereto, except Owner may, without Contractor's consent (i) assign, pledge or grant a security interest in this Agreement to any of Lender or Owner's equity partners or (ii) assign or novate its rights and responsibilities under this Agreement to any Affiliate of Owner or any equity owner of Owner. In the event that Owner elects to sell, assign or novate its interest in the Work or the Project to any Person other than Owner's Lender, equity partners, Affiliates or any equity owner of Owner, Owner shall promptly furnish reasonable evidence to Contractor, that the Person to whom Owner intends to assign or novate Owner's interest has the ability to perform the obligations required by the terms of this Agreement and has adequate funds available as demonstrated by a current credit report, current financial statements and current bank statements or other supporting documentation as is reasonably required by Contractor. If Owner fails to provide such financial information in a timely manner, Contractor shall be entitled to reject such assignment. When duly assigned in accordance with the foregoing, this Agreement shall be binding upon and shall inure to the benefit of the assignee; *provided that* any assignment by Contractor pursuant to this Section 21.6 shall not relieve Contractor of any of its obligations or liabilities under this Agreement. Any assignment not in accordance with this Section 21.6 shall be void and without force or effect. This Agreement shall be binding upon and inures to the benefit of the Parties hereto, their permitted successors and permitted assigns.

21.7 No Waiver. Any failure of either Party to enforce any of the provisions of this Agreement or to require compliance with any of its terms at any time during the term of this Agreement shall in no way affect the validity of this Agreement, or any part hereof, and shall not be deemed a waiver of the right of such Party thereafter to enforce any and each such provisions.

21.8 Governing Law. This Agreement and all matters arising out of or relating to this Agreement shall be governed by, and construed in accordance with, the laws of the State of

California (without giving effect to the principles thereof relating to conflicts of law). The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement and shall be disclaimed in and excluded from any Subcontracts and Sub-subcontracts entered into by Contractor in connection with the Work or the Project.

21.9 Further Assurances. Contractor and Owner agree to provide such information, execute and deliver any such instruments and documents and to take such other actions as may be necessary or reasonably requested by the other Party that are not inconsistent with the provisions of this Agreement and that do not involve the assumptions of obligations greater than those provided for in this Agreement, in order to give full effect to this Agreement and to carry out the intent of this Agreement.

21.10 Foreign Corrupt Practices Act. With respect to the performance of the Work, Owner shall, Contractor shall, and Contractor shall cause each of its Subcontractors and Sub-subcontractors, and the agents and employees of such Subcontractors and Sub-subcontractors, to comply with all provisions of the Foreign Corrupt Practices Act of the United States (15 U.S.C. § 78dd-1 and 2) and shall not take any action that could result in Contractor, Owner or any of their Affiliates becoming subject to any action, penalty or loss of benefits under such Act.

21.11 Priority. The documents that form this Agreement are listed below in this Section 21.11 in order of priority, with the document having the highest priority listed first and the one with the lowest priority listed last. Subject to Section 1.1 under the definition of Applicable Codes and Standards regarding conflicts or inconsistencies between any Applicable Codes and Standards, in the event of any conflict or inconsistency between a provision in one document and a provision in another document, the document with the higher priority shall control. In the event of a conflict or inconsistency between provisions contained within the same document, then the provision that requires the highest standard of performance on the part of Contractor shall control. This Agreement is composed of the following documents, which are listed in priority: (i) Change Orders or written amendments to this Agreement; (ii) this Agreement; and (iii) Attachments and Schedules to this Agreement.

21.12 Restrictions on Public Announcements. Neither Contractor nor its Subcontractors or Sub-subcontractors shall (i) use or take any photographs or videos of any part of the Project (except as may be required to complete the Work in accordance with this Agreement) or (ii) publicly refer to the Work or the Project in any manner, including the issuance of a press release, advertisement, publicity material, prospectus, financial document or similar material, the creation of any business development materials, reference materials or similar materials, or the participation in a media interview that mentions or refers to the Work or the Project without the prior written consent of Owner in its reasonable discretion. Under no circumstance shall Contractor permit access to the Site by third parties who are not involved in the performance of the Work without prior written consent of Owner. Any announcement or press release issued by Contractor pertaining to the Work shall only include information previously released and approved by Owner in writing.

21.13 […*…].**

21.14 Counterparts. This Agreement may be signed in any number of counterparts and each counterpart shall represent a fully executed original as if signed by each of the Parties. Electronic signatures shall be deemed as effective as original signatures.

21.15 Owner's Lender. In addition to other assurances provided in this Agreement, Contractor acknowledges that Owner intends to obtain project financing associated with the Project and Contractor agrees to cooperate with Owner and Lender in connection with such project financing, including (i) to supply such information and documentation, (ii) to grant such written consents to the assignment of this Agreement and entering into a direct agreement with the Lender (which shall be substantially in the form of Attachment Z), (iii) to execute such amendments to this Agreement as any Lender may require to the extent that the requested changes do not materially adversely affect the rights and obligations of Contractor hereunder, and (iv) to take such action or execute such documentation as any Lender shall reasonably require, covering matters that are customary in project financings of this type such as Lender assignment or security rights with respect to this Agreement, direct notices to Lender, step-in/step-out rights, access by Lender's representative and other matters applicable to such project financing; *provided however*, that Contractor shall have no obligation to assume different obligations or responsibilities pursuant to the Work than those existing under this Agreement. Contractor acknowledges and agrees that Owner's execution of this Agreement (including issuance of the LNTP or NTP) is contingent upon obtaining such non-recourse project financing and agrees further that in the event Owner does not obtain such project financing, Owner shall not be liable to Contractor by reason of any terms and conditions contained in or connected with this Agreement except to the extent Contractor is or has performed work pursuant to written authorization received from Owner, *provided, however,* that Owner shall only be liable for Work actually performed by Contractor.

21.16 Survival. Article 10, Article 11, Article 13, Article 15, Article 16, Article 17, Article 18, Article 19, Article 20, and Sections 3.8, 3.9, 3.13, 3.17, 4.4, 9.1, 12.8 and 21.8 and this Section 21.16 shall survive termination or expiration of this Agreement, in addition to any other provisions which by their nature should, or by their express terms do, survive or extend beyond the termination or expiration of this Agreement.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives to be effective as of the Effective Date.

Owner:

GCE HOLDINGS ACQUISITIONS, LLC

By: _____
Name: _____
Title: _____

Contractor:

ARB, INC.

By: _____
Name: _____
Title: _____

Exhibit 10.28

Confidential
Execution Version

CERTAIN CONFIDENTIAL INFORMATION IN THIS EXHIBIT HAS BEEN OMITTED AND REPLACED WITH "[…*…]" BECAUSE IT IS NOT MATERIAL AND WOULD BE COMPETITIVELY HARMFUL IF PUBLICLY DISCLOSED.**

LICENSE AGREEMENT

BETWEEN

GCE HOLDINGS ACQUISTIONS, LLC.

BAKERSFIELD, CALIFORNIA

AND

HALDOR TOPSØE A/S

LYNGBY, DENMARK

TABLE OF CONTENTS

PREAMBLE

THIS AGREEMENT effective as of the 24th day of October, 2018 (hereinafter referred to as the "EFFECTIVE DATE"), between HALDOR TOPSØE A/S, a company organized and existing under the laws of Denmark, having its principal office at Haldor Topsøes Allé 1, DK-2800 Lyngby, Denmark (hereinafter referred to as "HTAS"), and GCE HOLDINGS ACQUISITIONS, LLC., a company organized and existing under the laws of Delaware, having an office at 2790 Skypark Drive, Suite 105, Torrance, California 90505 (hereinafter referred to as "LICENSEE") (each of HTAS and LICENSEE being a "PARTY" and collectively being the "PARTIES").

WITNESSETH THAT:

WHEREAS HTAS is the owner of certain proprietary rights relating to processes, catalysts, and equipment designs for the hydroprocessing of natural and synthesized hydrocarbons (including, without limitation, products from Fischer-Tropsch synthesis) to produce transportation fuels and specialty products and has the right to grant rights of use under said proprietary rights;

WHEREAS LICENSEE has selected said processes, catalysts, and equipment designs of HTAS for a renewables project to produce renewable diesel from organically derived feedstocks at the refinery facilities located in Bakersfield, California, to be purchased by LICENSEE (the "BAKERSFIELD REFINERY") with an initial design capacity for hydroprocessing 15,000 barrels per stream day of such organically derived feedstocks and therefore desires to obtain from HTAS the right to use such processes, equipment, and catalysts within this facility (as further defined in Appendix I to this AGREEMENT and hereinafter referred to as the "LICENSED UNIT");

WHEREAS HTAS is willing to grant to LICENSEE such a right;

WHEREAS LICENSEE and HTAS' U.S. subsidiary company, Haldor Topsoe, Inc. located in Houston, Texas (hereinafter referred to as "HTI"), have entered into an engineering agreement covering the supply of a DESIGN PACKAGE and related engineering services as more fully defined in such agreement (as defined in Appendix I to this AGREEMENT and hereinafter referred to as "ENGINEERING AGREEMENT");

WHEREAS LICENSEE will have the detailed design and/or construction of the LICENSED UNIT carried out under a contract with an engineering contractor skilled in detailed engineering, procurement and construction of refining facilities in the United States (as defined in Appendix I to this AGREEMENT and hereinafter referred to as "CONTRACTOR");

WHEREAS LICENSEE intends to enter into a SUPPLY AGREEMENT FOR HTAS CATALYSTS with HTI for the LICENSED UNIT; and

WHEREAS LICENSEE intends to enter into a SUPPLY AGREEMENT FOR HTAS EQUIPMENT with HTI for the LICENSED UNIT.

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants herein contained, the PARTIES agree as follows:

1.0 DEFINITIONS

1.1 The terms defined in Appendix I to this AGREEMENT shall, when used in this AGREEMENT and for all purposes of this AGREEMENT, have the meanings as specified in said Appendix I.

2.0 LICENSE RIGHTS

2.1 Subject to the terms and conditions of this AGREEMENT, HTAS hereby grants to LICENSEE non-exclusive, non-transferable rights (subject to sub-clauses 2.4 and 10.3 of this AGREEMENT) as follows:

(a) To have the LICENSED UNIT designed or have designed, construct or have constructed, operate or have operated, maintain or have maintained, repair or have repaired, and commission or have commissioned, using HTAS TECHNICAL INFORMATION and HTAS improvements (pursuant to clause 5.0 of this AGREEMENT) and engineering services to be supplied by HTI under the ENGINEERING AGREEMENT.

(b) To use HTAS CATALYSTS in the LICENSED UNIT.

(c) To use HTAS EQUIPMENT in the LICENSED UNIT.

(d) To practice HTAS PROCESSES in the LICENSED UNIT.

(e) To sell, export to, or use in any country the products of HTAS PROCESSES in the LICENSED UNIT.

2.2 For the purposes of paragraph (b) of sub-clause 2.1 of this AGREEMENT, LICENSEE shall purchase or shall cause CONTRACTOR to purchase from HTI, HTAS CATALYSTS as the first full charge for the LICENSED UNIT under the SUPPLY AGREEMENT FOR HTAS CATALYSTS.

2.3 For the purposes of paragraph (c) of sub-clause 2.1 of this AGREEMENT, LICENSEE shall purchase or shall cause CONTRACTOR to purchase from HTI, the HTAS EQUIPMENT required by the design of the LICENSED UNIT under the SUPPLY AGREEMENT FOR HTAS EQUIPMENT.

2.4 Subject to clause 6.0 of this AGREEMENT, LICENSEE shall be permitted to sublicense its rights under sub-clauses 2.1(a), (b), (c), and (d) to an operator or other contractor (including the CONTRACTOR) that is designing, engineering, procuring, constructing, commissioning, testing, operating, or maintaining the LICENSED UNIT for the limited purpose of providing the services in connection with foregoing activities; provided however, that no such sublicense may be granted to a competitor of HTAS in the field of refining or renewable fuel products.

2.5 HTAS shall not assert against LICENSEE or any customer of LICENSEE or of LICENSEE's AFFILIATES or permitted sub-licensees or any of their respective customers, in any country, which is lawfully purchasing, using or processing the product manufactured in the LICENSED UNIT, any PATENT RIGHTS (or any other intellectual property rights it may have in relation to the HTAS TECHNICAL INFORMATION, HTAS improvements or the HTAS PROCESS) owned or controlled by HTAS which the LICENSEE may require in connection with any activity of LICENSEE pertaining to exercising the rights granted by HTAS under this AGREEMENT, provided that LICENSEE is in compliance in all material respects with the terms of this AGREEMENT.

3.0 LICENSE FEE AND PAYMENT TERMS

3.1 […***…]

3.2 The license fee specified in sub-clause 3.1 of this AGREEMENT shall be invoiced by HTAS and paid by wire transfer to the account designated in sub-clause 3.8 of this AGREEMENT within 30 (thirty) days of receipt of invoice in amounts according to the following schedule:

(a) […***…] upon this AGREEMENT becoming effective in accordance with sub-clause 12.1 of this AGREEMENT;

(b) […***…] upon FINANCIAL CLOSE;

(c) […***…] upon MECHANICAL COMPLETION; and

(d) […***…] from HTAS' release from its process performance guarantee obligations as specified in sub-clause 0 of this AGREEMENT.

3.3 Notwithstanding the provisions of sub-clause 3.1 of this AGREEMENT, all amounts shall have been paid within 90 (ninety) days after START-UP, except such amounts which at that time might be pending for reasons attributable to HTAS.

3.4 On or before the last day of February following each calendar year, LICENSEE shall deliver to HTAS a written report of […***…]. Such license fees are due and payable at the time the report is due.

3.5 LICENSEE will keep, or cause to be kept, detailed and accurate records and books of account in accordance with generally accepted accounting principles, consistently applied, showing the information which LICENSEE is required to include in its reports of operations under this AGREEMENT and all other information necessary for the accurate determination of license fees payable under this AGREEMENT. LICENSEE agrees, upon not less than 7 (seven) days prior notice, to permit HTAS to inspect (at reasonable intervals and during regular business hours) all or any part of LICENSEE's operations of the LICENSED UNIT and of such records and books of account relating thereto, to the extent necessary to verify the license fees paid and payable under this AGREEMENT. HTAS' costs for the audit are to be paid by HTAS. However, if any report or payment furnished by LICENSEE is incorrect and results in an underpayment to HTAS in excess of […***…]

(U.S. DOLLARS […***…]), or if an audit is deemed by HTAS to be necessary in view of LICENSEE's repeated failure to submit timely reports of its operations under this AGREEMENT, LICENSEE shall reimburse HTAS for HTAS' costs for the audit within 30 (thirty) days after receipt of HTAS' invoice therefor. Any overpayment of license fees discovered by such audit shall be reimbursed by HTAS to LICENSEE.

3.6 Additional license fee, if any, payable to HTAS pursuant to sub-clause 3.5 of this AGREEMENT shall be calculated according to the formula specified in sub-clause 3.6 of Appendix II to this AGREEMENT.

3.7 All amounts specified to be paid to HTAS under this AGREEMENT shall be understood to be net amounts after deduction of any taxes (including but not limited to income tax, business tax, value added tax and turnover tax), customs, and other import taxes, duties, charges, or fees required to be withheld or paid in the United States or any other jurisdiction from which LICENSEE makes payments to HTAS pursuant to this AGREEMENT, which taxes shall be paid by LICENSEE. The LICENSEE shall within 30 (thirty) days after payment of any taxes and/or duties referred to in this sub-clause 3.7 furnish HTAS with the tax certificates related to such payments. All Danish taxes related to payments under this AGREEMENT shall be paid by HTAS.

LICENSEE shall assist HTAS and vice versa in any required proceedings or dealings with the tax authorities in United States. HTAS shall assist LICENSEE for the application of tax deduction or exemption, if possible. LICENSEE shall provide the relevant documents for such application.

3.8 HTAS shall issue invoices to LICENSEE for all amounts due under this AGREEMENT. All payments to HTAS under this AGREEMENT shall be made within 30 (thirty) days of the date of invoices issued to LICENSEE by HTAS. The payments shall be transferred in […***…] or other telecommunication and without charges or fees to be paid by HTAS.

3.9 In case of delay of payment of any amount which has fallen due as specified in this AGREEMENT, LICENSEE shall pay to HTAS interest calculated at the lesser of (a) […***…] or (b) […***…], on the overdue amount for the period from the date the amount became due until the date the amount has been paid into the account specified in sub-clause 3.8 of this AGREEMENT.

4.0 IMPROVEMENTS, TECHNICAL INFORMATION, AND PLANT VISITS

4.1 If prior to the termination of this AGREEMENT HTAS should make or should acquire from a third party (with the right to grant sub-licenses for using them without having to account therefor to such third party) any improvements, whether patentable or not, relating to and commercially ready for practicing HTAS PROCESSES and applicable in the LICENSED UNIT as designed and constructed in accordance with the DESIGN PACKAGE supplied by HTI to LICENSEE pursuant to sub-clause 5.1 of this AGREEMENT, then HTAS shall make available to LICENSEE the details of such improvements.

4.2 If prior to the termination of this AGREEMENT HTAS should develop improved catalysts or should acquire from a third party (with the right to grant sub-licenses for using them without having to account therefor to such third party) improved catalysts suitable for and commercially ready for use in the LICENSED UNIT, then HTAS shall promptly inform LICENSEE thereof.

4.3 The right to utilize in the operation of the LICENSED UNIT the improvements referred to in sub-clause 4.1 of this AGREEMENT and the improved catalysts referred to in sub-clause 4.2 of this AGREEMENT is included in the rights granted by HTAS under this AGREEMENT and is royalty-free provided that LICENSEE has paid the license fees specified in sub-clauses 3.1, 3.4, and 3.6 of this AGREEMENT.

4.4 If prior to the termination of this AGREEMENT LICENSEE should make any improvements, whether patentable or not, relating to practicing HTAS PROCESSES, then LICENSEE shall inform HTAS of the details of such improvements. LICENSEE agrees to grant and hereby grants to HTAS a non-exclusive, royalty-free license to practice such improvements with the right to grant to third parties sub-licenses to practice such improvements without having to account therefor to LICENSEE, provided HTAS shall use commercially reasonable efforts to ensure sub-licensees have granted the same rights to HTAS and such improvements are provided to LICENSEE pursuant to sub-clause 4.1 of this AGREEMENT.

4.5 LICENSEE shall make agreed upon technical and operating data from the LICENSED UNIT available in writing to HTAS or HTI on a regular basis and LICENSEE hereby grants to HTAS, together with a right to […***…].

4.6 During the effective term of this AGREEMENT, LICENSEE shall to a reasonable extent allow HTAS and/or HTI to visit the LICENSED UNIT to study the performance of the LICENSED UNIT. During such visits, HTAS and/or HTI shall duly observe all rules and regulations applicable to visitors at the site of the LICENSED UNIT, including the execution of a confidentiality and/or non-disclosure agreement applicable to visitors to the site.

5.0 HTAS OBLIGATIONS

5.1 To the extent and on the conditions as specified in the ENGINEERING AGREEMENT, HTAS shall cause HTI to make available to LICENSEE and/or, at LICENSEE's request, CONTRACTOR, HTAS TECHNICAL INFORMATION (including the DESIGN PACKAGE) as may be required for the design, construction, and operation of the LICENSED UNIT.

6.0 RESTRICTION ON USE AND CONFIDENTIALITY

6.1 Unless otherwise agreed in writing between LICENSEE and HTAS, subject to sub-clause 6.3(b) of this AGREEMENT, LICENSEE shall not use HTAS CATALYSTS, HTAS EQUIPMENT, or HTAS PROCESSES, or any future improvements thereof made or acquired by HTAS and communicated to LICENSEE under clause 4.0 of this AGREEMENT, for any other purposes than those pertaining to exercising the rights

granted by HTAS pursuant to clause 2.0 of this AGREEMENT. Further, LICENSEE shall refrain from making chemical or other analyses of HTAS CATALYSTS, and LICENSEE shall not provide samples or analyses of HTAS CATALYSTS to any third party without the prior written permission of HTAS.

6.2 Subject to sub-clause 6.3(b) of this AGREEMENT, LICENSEE shall not use HTAS TECHNICAL INFORMATION supplied to LICENSEE, directly or indirectly, in writing or otherwise under this AGREEMENT for any other purposes than those pertaining to exercising the rights granted by HTAS pursuant to clause 2.0 of this AGREEMENT, subject to the exceptions specified in sub-clause 6.4 of this AGREEMENT.

6.3 LICENSEE shall hold in confidence and not disclose to any third party any part of HTAS TECHNICAL INFORMATION supplied to LICENSEE, directly or indirectly, in writing or otherwise, subject to the exceptions specified in sub-clause 6.4 of this AGREEMENT. Notwithstanding the foregoing,

(a) if any part of HTAS TECHNICAL INFORMATION is subpoenaed or otherwise required to be disclosed to a third party by order of a court or other regulatory order, LICENSEE shall promptly notify HTAS in writing and in consultation with HTAS seek to obtain suitable protective order to maintain the confidentiality of HTAS TECHNICAL INFORMATION, provided, however, in the event such protective order or other remedy is not obtained, LICENSEE agrees to furnish only that portion of HTAS TECHNICAL INFORMATION which LICENSEE is advised by written opinion of counsel is legally required and to exercise best efforts to obtain assurance that confidential treatment will be afforded such portion of HTAS TECHNICAL INFORMATION disclosed; and

(b) LICENSEE may disclose, with prior notice to and approval by HTAS, HTAS TECHNICAL INFORMATION to third parties (including contractors, CONTRACTOR, equipment manufacturers, advisers, consultants and customers) and to its AFFILIATES in the exercise of its rights under this AGREEMENT, including without limitation for the detailed engineering, procurement, supply, construction, expansion, operation, maintenance, repair or replace of and financing, partnering or sale of the LICENSED UNIT, provided that those third parties or AFFILIATES prior to receiving such HTAS TECHNICAL INFORMATION undertake to be bound to HTAS by terms of secrecy and non-use substantially similar and no less restrictive to the terms of this AGREEMENT.

6.4 LICENSEE's obligations under sub-clauses 6.2 and 6.3 of this AGREEMENT shall not apply to such parts of HTAS TECHNICAL INFORMATION, which:

(a) at the time of the disclosure by HTAS to LICENSEE are in the public domain, or which later on become part of the public domain through no fault of LICENSEE,

(b) LICENSEE can show were in its possession, free of obligations of confidentiality, prior to the disclosure by HTAS to LICENSEE and were not previously obtained by LICENSEE, directly or indirectly, from HTAS, or

(c) LICENSEE can show were obtained free of obligations of confidentiality from a third party which had a lawful right to disclose the same to LICENSEE and which did not obtain such information, directly or indirectly, from HTAS.

6.5 It is understood that specific HTAS TECHNICAL INFORMATION disclosed to LICENSEE shall not be deemed to be within any of the three exceptions, (a), (b), and (c) of sub-clause 6.4 of this AGREEMENT, merely because it is embraced by more general information within any one or more of these exceptions. Furthermore, any combination of features shall not be deemed to be within these exceptions, unless the combination itself is within any one or more of these exceptions.

6.6 Without limiting sub-clause 6.3(b) of this AGREEMENT, LICENSEE shall limit the dissemination of the HTAS TECHNICAL INFORMATION to those of its executives and employees who are necessary to undertake the activities associated with LICENSEE's use of the HTAS TECHNICAL INFORMATION under this AGREEMENT. LICENSEE shall ensure that its executives and employees who will have access to HTAS TECHNICAL INFORMATION shall be under obligation to abide by the confidentiality obligations imposed on LICENSEE pursuant to this clause 6.0.

6.7 Not used.

6.8 LICENSEE shall not copy or reproduce in whole or in part any HTAS TECHNICAL INFORMATION provided hereunder other than as necessary for exercising the rights granted by HTAS pursuant to clauses 2.0, 4.0 and 6.0 of this AGREEMENT, subject to the exceptions specified in sub-clause 6.4 of this AGREEMENT. LICENSEE shall reproduce and include all proprietary, confidentiality, trade secret, and other notices on all copies of HTAS TECHNICAL INFORMATION and will not remove, alter, cover, or obfuscate any such notices from any HTAS TECHNICAL INFORMATION.

6.9 LICENSEE's obligations under this clause 6.0 shall continue after termination, if any, pursuant to sub-clauses 12.2, 12.6, or 12.7 of this AGREEMENT, and after assignment, if any, by LICENSEE pursuant to sub-clause 10.3 of this AGREEMENT.

6.10 HTAS shall have the right to disclose the technical and operating data received from LICENSEE pursuant to sub-clause 4.5 of this AGREEMENT to third parties who have agreed to keep same in confidence, provided that HTAS shall not identify LICENSEE in connection with such data.

7.0 PATENT INFRINGEMENT AND HOLD HARMLESS

7.1 HTAS declares that to the best of its knowledge and belief the use of HTAS TECHNICAL INFORMATION and HTAS PROCESSES in the LICENSED UNIT will not infringe any valid patent rights of a third party in effect as of the EFFECTIVE DATE.

7.2 LICENSEE shall promptly advise HTAS in writing upon becoming aware of any written claim of infringement or any action for infringement of patent rights of a third party in effect as of the EFFECTIVE DATE brought against LICENSEE by a third party and based upon the use of HTAS CATALYSTS or HTAS EQUIPMENT in the LICENSED UNIT or

the practice of HTAS PROCESSES in the LICENSED UNIT (an "INFRINGEMENT CLAIM"). HTAS shall undertake the defense of such claim or suit to final judgment or settlement provided that HTAS shall not be obligated to undertake such defense of any INFRINGEMENT CLAIM if a basis of such INFRINGEMENT CLAIM is that LICENSEE's use or practice varies from the requirements of the DESIGN BASIS, the DESIGN PACKAGE, instructions given by HTAS, CONTRACTOR, or equipment vendors in writing, operating manuals, or the PARTIES' AGREEMENTS

7.3 If HTAS undertakes the defense of an INFRINGEMENT CLAIM pursuant to sub-clause 7.2 of this AGREEMENT, HTAS shall have sole charge and direction of the defense. HTAS shall pay all costs related to such defense of any INFRINGEMENT CLAIM. HTAS may settle or compromise any INFRINGEMENT CLAIM; provided that HTAS may not settle or compromise any INFRINGEMENT CLAIM: (i) without the prior written consent of LICENSEE if LICENSEE shall be obligated to pay any amount of settlement which is not reimbursed by HTAS or (ii) without the prior written consent of LICENSEE (not to be unreasonably withheld, conditioned or delayed), if such settlement could adversely affect the design, engineering, procurement, construction, commissioning, testing, operation, or maintenance of the LICENSED UNIT or the production, export, sale, use or delivery of the products of HTAS PROCESSES, or results in or increases costs or expenses of LICENSEE, or adversely affects LICENSEE'S rights under this AGREEMENT, in each case, in any material respect (collectively, "ADVERSE EFFECT"). HTAS shall further indemnify and hold LICENSEE harmless from any damages or other sums that may become payable by LICENSEE under a final judgment or settlement or compromise up to a maximum amount specified in sub-clause 9.3 of this AGREEMENT. LICENSEE shall render to HTAS all reasonable assistance that may be required by HTAS in the defense of an INFRINGEMENT CLAIM and shall have the right to be represented therein by advisory counsel of its own selection and at its own expense.

7.4 In addition to the measures specified in sub-clause 7.2 of this AGREEMENT, HTAS may further, at its option, however, in reasonable consultation with LICENSEE, seek to abate the alleged infringement by modification of HTAS CATALYSTS, HTAS EQUIPMENT, HTAS PROCESSES, or the LICENSED UNIT and/or secure for LICENSEE an immunity from suit for infringement; provided, that such abatement or immunity does not have any ADVERSE EFFECT unless HTAS has received the prior written consent of LICENSEE (not to be unreasonably withheld, conditioned or delayed). In such case, HTAS shall reimburse LICENSEE for all costs related to said modifications and to said immunity.

7.5 The exclusive liability for IP infringement claims related to the use of HTAS CATALYSTS and HTAS EQUIPMENT in the LICENSED UNIT and the practice of HTAS PROCESSES in the LICENSED UNIT shall be as specified in this AGREEMENT.

8.0 PERFORMANCE GUARANTEES

8.1 HTAS guarantees that the LICENSED UNIT shall achieve the process performance guarantees ("PERFORMANCE GUARANTEES") for the LICENSED UNIT as specified in Appendix 0 to this AGREEMENT on the condition that:

(a) the LICENSED UNIT is designed and constructed materially in accordance with specifications of the DESIGN PACKAGE supplied by HTI to LICENSEE pursuant to sub-clause 5.1 of this AGREEMENT,

(b) the LICENSED UNIT is loaded with HTAS CATALYSTS in accordance with instructions given by HTI or HTAS,

(c) HTAS EQUIPMENT is supplied by HTI and is installed in the LICENSED UNIT materially in accordance with instructions given by HTI or HTAS,

(d) the LICENSED UNIT is started up and operated at all material times under APPROVED CONDITIONS and in accordance with instructions given by HTI and/or HTAS,

(e) the LICENSED UNIT is operated at all material times on GUARANTEE FEED within the feed rate and processing severity limitations specified in Appendix IV to this AGREEMENT,

(f) raw materials and utilities are available in necessary quantities and conform to the specifications supplied to HTI as DESIGN BASIS for the LICENSED UNIT,

(g) commissioning, START-UP, installation of HTAS CATALYSTS and HTAS EQUIPMENT, and the performance test run of the LICENSED UNIT shall be witnessed by engineers of HTI and/or HTAS against payment by LICENSEE as specified in the ENGINEERING AGREEMENT (provided that the engineers attend the test),

(h) the inspections and the technical advisory services to the extent specified in the ENGINEERING AGREEMENT have taken place, and the instructions given by HTAS' and/or HTI's inspectors and technical advisors for compliance with HTAS' and/or HTI's design during manufacture of equipment and during erection of the LICENSED UNIT have been implemented,

(i) the equipment which is not designed or supplied by HTAS and/or HTI within the LICENSED UNIT operates materially in accordance with the specifications supplied to HTAS and/or HTI as DESIGN BASIS for the LICENSED UNIT, and

(j) the equipment specified by HTAS and/or HTI within the LICENSED UNIT (excluding HTAS EQUIPMENT) is selected and operates in accordance with the specifications supplied by HTAS and/or HTI pursuant to the ENGINEERING AGREEMENT.

8.2 In order to determine whether the process performance guarantees referred to in sub-clause 8.1 of this AGREEMENT have been fulfilled, LICENSEE or CONTRACTOR shall (without any cost to HTAS) conduct a test run of the LICENSED UNIT as specified in Appendix 0 to this AGREEMENT under participation of trained LICENSEE and/or CONTRACTOR personnel. The test run shall be conducted as soon as reasonably possible after MECHANICAL COMPLETION and START-UP, […***…] after START-UP, and in

the presence of engineers of HTI and/or HTAS (which may be extended by mutual agreement) ("TEST DEADLINE"), unless the delay is due to HTAS' (or its AFFILIATES or subsidiaries) fault (whether under this AGREEMENT or one of the PARTIES' AGREEMENTS), in which case the TEST DEADLINE shall be extended for a day for each day of delay associated therewith. It is intended that the test run be performed with the LICENSED UNIT in operation at conditions approximating the DESIGN BASIS, however, provisions will, to the extent practical, be included in the protocols for the test run to allow for testing of the LICENSED UNIT in the event that LICENSEE is unable to provide operating conditions approximating the DESIGN BASIS.

If the LICENSED UNIT fails to achieve any process performance guarantees, and such failure is due to any defects in the design or engineering performed under the ENGINEERING AGREEMENT, HTAS shall ensure that the work under the ENGINEERING AGREEMENT is reperformed at no cost to LICENSEE in accordance with sub-clause 2.5 of Appendix III to this AGREEMENT.

8.3 HTAS shall be released from all obligations in respect of process performance guarantees under this AGREEMENT upon the occurrence of any of the following events:

(a) when the LICENSED UNIT has successfully passed all performance test runs in accordance with this AGREEMENT,

(b) if for reasons outside the control of HTAS or its AFFILIATES or subsidiaries (including under any of the PARTIES' AGREEMENTS), the LICENSED UNIT has not passed a successful test run […***…] after START-UP or […***…] MECHANICAL COMPLETION, or […***…] EFFECTIVE DATE, whichever is earliest ("COMPLETION DEADLINE"), unless the delay is due to HTAS' (or its AFFILIATES or subsidiaries) fault (whether under this AGREEMENT or one of the PARTIES' AGREEMENTS), in which case the COMPLETION DEADLINE shall be extended for a day for each day of delay associated therewith,

(c) if LICENSEE elects not to carry out modifications of the LICENSED UNIT as may be suggested by HTAS (as long as such modifications are not due to the fault of HTAS or its AFFILIATES or subsidiaries, including under the PARTIES' AGREEMENTS) or if LICENSEE fails to reperform a test run within […***…] after completion of modifications pursuant to the provisions of this AGREEMENT (unless the delay in reperforming the test run is due to HTAS' (or its AFFILIATES or subsidiaries) fault (whether under this AGREEMENT or one of the PARTIES' AGREEMENTS) in which case such date shall be extended for a day for each day of delay associated therewith, or

(d) when the liquidated damages, if any, referred to in Appendix 0 to this AGREEMENT have been paid in full to LICENSEE.

8.4 Any liquidated damages which, pursuant to Appendix 0 to this AGREEMENT, may become payable as compensation for non-fulfillment of process performance guarantees during the test run will be calculated as specified in Appendix 0 to this AGREEMENT.

8.5 In the event that HTAS should be released from its obligations in respect of process performance guarantees under the provisions of paragraphs (b) or (d) of sub-clause 8.4 of this AGREEMENT, HTAS shall, at the request of LICENSEE and on terms and conditions to be agreed upon in writing, assist LICENSEE in bringing the LICENSED UNIT to operate in accordance with the process performance guarantees referred to in sub-clause 8.1 of this AGREEMENT. All engineering services of HTAS in connection with such assistance shall be paid by LICENSEE on the basis of HTAS' usual rates applicable at the time such services are supplied.

8.6 It is understood that the total financial liability of HTAS under this clause 8.0 shall be subject to the limitations specified in clause 9.0 of this AGREEMENT.

9.0 LIMITATION OF LIABILITY

9.1 IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY UNDER THIS AGREEMENT FOR ANY CONSEQUENTIAL, SPECIAL, PUNITIVE, EXEMPLARY, INDIRECT OR INCIDENTAL DAMAGES (INCLUDING BUT NOT LIMITED TO LOSS OF CONTRACT OR PRODUCTION, LOSS OF ANTICIPATED PROFITS, LOSS OF USE, LOSS OF TIME, OR LOSS OF PRODUCT), WHETHER OR NOT FORESEEABLE, AND IRRESPECTIVE OF THE THEORY OR CAUSE OF ACTION UPON WHICH SUCH DAMAGES MIGHT BE BASED, INCLUDING BUT NOT LIMITED TO NEGLIGENCE OR OTHER TORT, CONTRACT, STRICT LIABILITY, INDEMNITY, BREACH OF WARRANTY, OR OTHERWISE, PROVIDED THAT THE LIMITATION OF LIABILITY IN THIS SUB-CLAUSE 9.1 SHALL NOT APPLY TO LIQUIDATED DAMAGES SET FORTH HEREIN, CLAIMS FOR BREACH OF THE CONFIDENTIALITY OBLIGATIONS PURSUANT TO CLAUSE 6.0 OF THIS AGREEMENT, OR AMOUNTS FOR WHICH AN INDEMNIFYING PARTY HAS AN INDEMNIFICATION OBLIGATION PURSUANT TO THE TERMS OF THIS AGREEMENT.

9.2 **TO THE MAXIMUM EXTENT PERMITTED BY LAW: (I) TO THE EXTENT THAT REMEDIES (BY WAY OF REIMBURSEMENT OF COSTS, LIQUIDATED DAMAGES, OR OTHERWISE) ARE SPECIFIED IN THIS AGREEMENT FOR DEFAULT BY HTAS UNDER THIS AGREEMENT, SUCH REMEDIES SHALL CONSTITUTE FULL AND FINAL SETTLEMENT OF HTAS' LIABILITIES WITH RESPECT TO THE RELATED DEFAULT (BUT IN NO EVENT SHALL SUCH LIMITATION OF REMEDY CLAUSE LIMIT (A) LICENSEE'S RIGHTS TO TERMINATE THIS AGREEMENT PURSUANT TO CLAUSE 12.0 OR (B) HTAS' OBLIGATIONS WITH RESPECT TO INDEMNITIES, PERFORMANCE GUARANTEES OR LIQUIDATED DAMAGES SPECIFIED IN THIS AGREEMENT); AND (II) LICENSEE'S RIGHTS AND REMEDIES ARE LIMITED TO THOSE EXPRESSLY SET FORTH IN THIS AGREEMENT AND ARE IN LIEU OF ALL OTHER REMEDIES (AT LAW OR IN EQUITY OR OTHERWISE**.)

9.3 EXCEPT FOR (I) BREACH OF THE CONFIDENTIALITY OBLIGATIONS PURSUANT TO CLAUSE 6.0 OF THIS AGREEMENT, (II) THE DEFENSE COSTS, EXPENSES OR FEES INCURRED IN CONNECTION WITH THE HTAS INFRINGEMENT CLAIM DEFENSE OBLIGATIONS PURSUANT TO SUB-CLAUSE 7.3 OF THIS AGREEMENT, OR (III) ANY WILLFUL MISCONDUCT OR GROSS NEGLIGENCE BY HTAS, TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE TOTAL LIABILITY OF HTAS IN RESPECT OF ALL LIABILITIES UNDER THIS AGREEMENT SHALL BE LIMITED TO THE HTAS LIABILITY CAP. WITH RESPECT TO HTAS INFRINGEMENT CLAIM DEFENSE OBLIGATIONS PURSUANT TO SUB-CLAUSE 7.3 OF THIS AGREEMENT, HTAS' LIABILITY SHALL NOT BE LIMITED BY THIS SUB-CLAUSE 9.3.

10.0 MISCELLANEOUS

10.1 This AGREEMENT (including its Appendices I, II, 0, and IV as attached to and made part of this AGREEMENT) and the PARTIES' AGREEMENTS, as applicable, set forth the entire and sole understanding between LICENSEE and HTAS with respect to the subject matter hereof, unless otherwise expressly specified in this AGREEMENT. No change in, addition to, or waiver of the provisions of this AGREEMENT shall be binding upon LICENSEE or HTAS unless approved in writing by authorized representatives of both PARTIES and with express reference to this AGREEMENT. Acknowledgement or acceptance by HTAS or HTI of a purchase order form or agreement for HTAS CATALYSTS or HTAS EQUIPMENT shall not constitute approval of any change in, addition to, or waiver of the provisions of this AGREEMENT.

10.2 LICENSEE shall be responsible for performing registrations and for obtaining approvals and clearances required in connection with this AGREEMENT or any activity under this AGREEMENT by any local or national authority having jurisdiction over LICENSEE. LICENSEE shall pay all charges and fees related thereto.

10.3 Neither PARTY may assign this AGREEMENT without the prior written consent of the other PARTY, except that LICENSEE may assign this AGREEMENT to a purchaser of substantially all of its assets or the LICENSED UNIT, CONTRACTOR or its AFFILIATES, or the entire part thereof related to the field of this AGREEMENT, or to a successor by merger or consolidation, provided that in case of any proposed assignment by LICENSEE, the assignee shall be approved by HTAS, which approval shall not be unreasonably withheld or delayed if the assignee is not a competitor of HTAS in the field of refining or renewable fuel products and is financially capable of paying any amounts due under this AGREEMENT. No assignment of this AGREEMENT shall be valid until and unless all provisions of this AGREEMENT have been assumed in writing by the assignee and the non-assigning PARTY has been duly notified of this assignment. When duly assigned in accordance with the foregoing, this AGREEMENT shall be binding upon and shall inure to the benefit of the assignee. No assignment by LICENSEE of this AGREEMENT shall relieve LICENSEE of its obligations under clause 6.0 of this AGREEMENT. If this AGREEMENT is assigned by LICENSEE pursuant to this sub-clause 10.3, LICENSEE shall within 30 (thirty) days after the designated assignment date

report to HTAS any previously unreported technical and operating data of the LICENSED UNIT. Notwithstanding the foregoing, LICENSEE may assign, pledge and/or grant a security interest in this AGREEMENT that LICENSEE has or which shall hereafter arise in and to LICENSEE to any of its lenders by providing HTAS advance written notice but without requiring HTAS' consent. HTAS agrees to comply with reasonable requests of LICENSEE for supporting documentation required by its lenders at LICENSEE's expense.

10.4 Neither PARTY shall be considered in default in the performance of its obligations under this AGREEMENT, if such performance is prevented or delayed by FORCE MAJEURE. FORCE MAJEURE shall be understood to be any cause which is beyond the reasonable control of the PARTY affected and which is not due to the fault or negligence of the PARTY affected and which is forthwith by notice from the PARTY affected brought to the attention of the other PARTY, including but not limited to war, hostilities, revolution, civil commotion, strike, lock-out, epidemic, accident, fire, wind, flood, hurricane, earth quake, or because of any law, order proclamation, regulation or ordinance of any government or of any sub-division thereof, or because of any act of God.

10.5 If one or both of the PARTIES should be prevented from fulfilling their obligations under this AGREEMENT by a state of FORCE MAJEURE (as defined in sub-clause 10.4 of this AGREEMENT) lasting continuously for a period of 6 (six) months or longer, the PARTIES shall consult with each other regarding the future implementation of this AGREEMENT.

11.0 LAW AND ARBITRATION

11.1 This AGREEMENT, including the interpretation and enforcement hereof, and the resolution of all disputes between the PARTIES arising out of or resulting from this AGREEMENT, shall be governed by, interpreted and construed in accordance with the laws of the State of Delaware, without regard to any conflicts of law principles that would require or permit the application of the law of any other jurisdiction.

11.2 Any dispute arising out of or in connection with the provisions of this Agreement, their construction, or the breach thereof, which cannot be settled amicably, shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce in effect at the time of applying for arbitration by one or more arbitrators appointed in accordance with said rules. Unless otherwise agreed, the venue of such arbitration shall be in Delaware, and the applicable procedural laws shall be Delaware laws. All documentation and oral proceedings shall be in the English language. The foregoing provisions shall not affect the right of either Party to apply to any court of competent jurisdiction for preliminary injunctive relief to safeguard the confidentiality provisions as well as other provisions under this Agreement.

11.3 During any arbitration pursuant to sub-clause 11.2 of this AGREEMENT, LICENSEE and HTAS shall continue to fulfill their respective obligations under this AGREEMENT, unless the subject matter of the dispute is of such a nature that this is by no means possible until the dispute has been finally settled.

12.0 EFFECTIVE TERM AND TERMINATION

12.1 This AGREEMENT shall become effective from the EFFECTIVE DATE, when it has been executed by authorized representatives of LICENSEE and HTAS, and one duly executed copy has been supplied to each PARTY.

12.2 Unless sooner terminated as provided for under sub-clause 12.6 or 12.7 of this AGREEMENT, this AGREEMENT can be terminated by either PARTY at any time following the tenth anniversary of the EFFECTIVE DATE by giving not less than 90 (ninety) days' prior written notice to the other PARTY.

12.3 If this AGREEMENT is terminated by LICENSEE pursuant to sub-clause 12.2, LICENSEE shall within 30 (thirty) days after the designated termination date report to HTAS any previously unreported technical and operating data of the LICENSED UNIT.

12.4 After termination pursuant to sub-clause 12.2 or sub-clause 12.6 of this AGREEMENT and provided the license fees payable under the terms of this AGREEMENT are fully paid, LICENSEE shall retain in perpetuity the right to continue operation of the LICENSED UNIT and practice of HTAS PROCESSES and use the HTAS TECHNICAL INFORMATION under the rights granted to LICENSEE pursuant to clause 2.0 of this AGREEMENT with right to improvements thereof which at the time have been or should have been communicated to LICENSEE under the provisions of clause 4.0 of this AGREEMENT.

12.5 After termination (for whichever reason) of this AGREEMENT, HTAS shall retain the rights granted to HTAS pursuant to clause 4.0 of this AGREEMENT.

12.6 If either Party should be in default in any material obligation under this Agreement (provided that LICENSEE's only material default for which this sub-clause 12.6 applies shall be the obligation to pay the license fee pursuant to clause 3.0 of this Agreement), the other Party may give written notice of termination to the Party in default, calling attention to details of the default and specifying a termination date not earlier than 2 (two) months after the date of the notice. Unless the Party in default, prior to the termination date specified in the notice, shall have remedied the default or made other dispositions to the satisfaction of the other Party, this Agreement shall automatically terminate on the specified termination date. Any indulgence on the part of either Party in respect of a default by the other Party shall not be construed as a waiver with respect to such default or to similar subsequent default.

12.7 LICENSEE may terminate this AGREEMENT by written notice to HTAS if the FINANCIAL CLOSE does not occur by […***…]. HTAS may terminate this AGREEMENT by written notice to LICENSEE if the FINANCIAL CLOSE does not occur by […***…] or when someone other than LICENSEE, an AFFILIATE of LICENSEE, or an assignee of LICENSEE or one of its AFFILIATES purchases the BAKERSFIELD REFINERY. In the event of termination of this AGREEMENT pursuant to this sub-clause 12.7, HTAS may retain any portion of the license fee that has been paid. In the event of

termination pursuant to this sub-clause 12.7 of this AGREEMENT, the rights granted to LICENSEE under clauses 2.0 and 4.0 of this AGREEMENT shall terminate automatically.

12.8 Upon termination (for whichever reason) of this AGREEMENT, the PARTIES' rights and obligations under clauses 6.0, 9.0, and 11.0 of this AGREEMENT, as well as the PARTIES' rights and obligations related to any claim of the other PARTY accrued hereunder prior to the effective date of such termination of this AGREEMENT shall survive such termination and shall continue.

13.0 ADDRESSES OF THE PARTIES

13.1 The addresses of the PARTIES hereto for communications and notices are as follows:

For HTAS: HALDOR TOPSØE A/S
Haldor Topsøes Allé 1
DK-2800 Lyngby
Denmark
Attn: Chief Executive Officer

For LICENSEE: GCE HOLDINGS ACQUISITIONS, LLC.
2790 Skypark Drive, Suite 105
Torrance, California 90505
Attn: President

IN WITNESS WHEREOF, the PARTIES hereto have caused their representatives, duly authorized for that purpose, to execute this AGREEMENT on the dates written below.

HALDOR TOPSØE A/S:		GCE HOLDINGS ACQUISITIONS, LLC.:	
By:	/s/ JOHAN MCGENSEN	By:	/s/ RICHARD PALMER
Name:	Johan McGensen	Name:	Richard Palmer
Title:	Vice President	Title:	President
Date:	August 12, 2019	Date:	August 4, 2019

APPENDIX I

DEFINITIONS

ADVERSE EFFECT shall have the meaning given in sub-clause 7.3.

AFFILIATE shall mean (i) any person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with a PARTY, and (ii) any Person that, directly or indirectly, is the beneficial owner of 50% (fifty percent) or more of any class of equity securities of, or other ownership interests in, a PARTY or of which the PARTY is directly or indirectly the owner of 50% (fifty percent) or more of any class of equity securities or other ownership interests. For purposes of this definition, "control" (including, with correlative meanings, the terms "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities or otherwise.

AGREEMENT shall have the meaning given in the preamble.

APPROVED CONDITIONS shall mean that the equipment within the LICENSED UNIT are operating as specified, and the LICENSED UNIT shall be suitably instrumented, properly responsive to controls, and sufficiently stable in operation to avoid objectionable fluctuations in operating temperatures, pressures, rates of flow, qualities of CHARGE STOCK, hydrogen feed gas and the like; and that the conditions of operations, such as temperatures, pressures, flow rates, hydrogen quality, fractionation performance, and other operating variables meet the requirements specified in clauses 2.0 and 3.0 of Appendix IV to this AGREEMENT or otherwise agreed by HTAS in writing for the operation in question and are within the design capabilities of the LICENSED UNIT.

BAKERSFIELD REFINERY shall have the meaning given in the recitals.

BARREL shall mean 42 (forty two) United States gallons of 231 (two hundred thirty one) cubic inches each, measured at 60^{o}F (sixty degrees Fahrenheit).

CHARGE STOCK shall mean renewable feeds (including any normally incident impurities) charged to the LICENSED UNIT.

COMPLETION DEADLINE shall have the meaning set forth in sub-clause 8.4(b).

CONTRACTOR shall mean an engineering contractor skilled in detailed engineering, procurement and construction of refining production facilities in the United States.

DESIGN BASIS shall mean the design conditions agreed between the PARTIES which shall be used as the basis for the preparation of the DESIGN PACKAGE for the LICENSED UNIT specified in the ENGINEERING AGREEMENT.

DESIGN FEED shall mean the liquid hydrocarbon stream to be processed in the LICENSED UNIT having specifications supplied to HTI as DESIGN BASIS for the LICENSED UNIT quoted in the ENGINEERING AGREEMENT.

DESIGN PACKAGE shall mean the documents specified in sub-clause 2.1 of the ENGINEERING AGREEMENT.

DIESEL PRODUCT means the hydrocarbon liquid material exiting the bottoms of the product stripper and/or fractionator provided that the fractionator design review is ordered by LICENSEE and performed by HTI.

EFFECTIVE DATE shall have the meaning given in the preamble.

ENGINEERING AGREEMENT shall mean an engineering agreement for the supply by HTI to LICENSEE of the DESIGN PACKAGE and services for the LICENSED UNIT. The ENGINEERING AGREEMENT has been executed by and between LICENSEE and HTI.

FINANCIAL CLOSE shall mean the closing of the purchase by LICENSEE or its AFFILIATE of the BAKERSFIELD REFINERY.

FORCE MAJEURE shall have the meaning set forth in sub-clause 10.4.

GUARANTEE FEED shall mean CHARGE STOCK fed to the LICENSED UNIT meeting the specifications set forth in clause 1.0 of Appendix IV to this AGREEMENT.

HTAS shall have the meaning given in the preamble.

HTAS CATALYSTS shall mean a catalyst or catalysts now or hereafter in commercial production by HTAS or HTI and selected by HTAS for use in the LICENSED UNIT.

HTAS EQUIPMENT shall mean equipment of a design developed by HTAS and selected by HTAS for use in the LICENSED UNIT.

HTAS LIABILITY CAP shall mean […***…].

HTAS PROCESSES shall mean:

(a) HTAS HYDROPROCESSING PROCESSES, which shall mean any or all processes for denitrification, desulfurization, demetalization, dearomatization, deoxydation, de-carboxylation, hydrocracking, hydrogenation, isomerisation, dewaxing, olefins saturation, and/or silica absorption of hydrocarbon streams, which processes are operated under use of catalysts and/or process technology developed by HTAS and/or conducted in equipment of HTAS' design; and

(b) HTAS RENEWABLE PROCESSES, which shall mean any or all processes for converting hydrocarbonaceous streams (which may or may not contain significant amount of oxygen) from renewable sources into products in the presence of hydrogen, including any or all of the HTAS HYDROPROCESSING PROCESSES and non-catalytic processes like separation/distillation of the products, which processes are operated under use of catalysts and/or process technology developed by HTAS and/or conducted in equipment of HTAS' design.

HTAS TECHNICAL INFORMATION shall mean data, plans, specifications, techniques, flow sheets, drawings, instructions, and similar information relating to the LICENSED UNIT, to the DESIGN PACKAGE, the HTAS CATALYSTS, the HTAS EQUIPMENT, and/or the practicing of HTAS PROCESSES.

HTI shall have the meaning given in the recitals.

INFRINGEMENT CLAIM shall have the meaning given in sub-clause 7.2.

IP shall mean patents, patent applications, trademarks (whether registered or common law), service marks, trade names, copyrights which have been filed with the federal copyright authorities, trade secrets, know-how, trade dress and other rights and property commonly referred to as intellectual property, and rights or licenses to use the same.

LICENSEE shall have the meaning given in the preamble.

LICENSED UNIT shall mean the renewable diesel production unit within Battery Limits as specified in the ENGINEERING AGREEMENT to be installed in the BAKERSFIELD REFINERY.

MECHANICAL COMPLETION shall mean the date, when the LICENSED UNIT is completed to a state of being ready to receive DESIGN FEED.

PAID-UP ANNUAL BARRELS shall mean the number of BARRELS of CHARGE STOCK per calendar year for which a license fee has been paid as specified in sub-clauses 3.1, 3.4, and 3.6, if applicable, of this AGREEMENT, i.e. the number of BARRELS of CHARGE STOCK which LICENSEE may hydroprocess in the LICENSED UNIT each calendar year without further payment of license fees and for which LICENSEE obtains an irrevocable, perpetual fully-paid up LICENSEE to operate the LICENSED UNIT under the PAID-UP ANNUAL BARRELS.

PARTY or PARTIES shall have the meaning given in the preamble.

PARTIES' AGREEMENTS shall mean this AGREEMENT, the SUPPLY AGREEMENT FOR HTAS CATALYSTS, the SUPPLY AGREEMENT FOR HTAS EQUIPMENT, and the ENGINEERING AGREEMENT.

PATENT RIGHTS shall mean the rights under claims of any and all existing and future patents and patent applications, domestic and foreign, which HTAS owns or can license to third parties and which are covering the practice of the HTAS PROCESS, including any catalyst, and/or the production, processing, use or sale of the products produced by the HTAS PROCESS and/or the use of any HTAS TECHNICAL INFORMATION and/or HTAS improvements.

PERFORMANCE GUARANTEES shall mean as set forth in sub-clause 8.1.

START-UP shall mean the first introduction of CHARGE STOCK into the LICENSED UNIT.

SUPPLY AGREEMENT FOR HTAS CATALYSTS shall mean an agreement for the supply by HTI to LICENSEE of the first charge of HTAS CATALYSTS for installation in the LICENSED UNIT.

SUPPLY AGREEMENT FOR HTAS EQUIPMENT shall mean an agreement for the supply by HTI to LICENSEE of the HTAS EQUIPMENT for installation in the LICENSED UNIT.

TEST DEADLINE has the meaning set forth in sub-clause 8.2.

U.S. DOLLARS shall mean the legal tender of the United States of America.

APPENDIX II

INCREMENTAL LICENSE FEE

1.0 INCREMENTAL LICENSE FEE CALCULATION

[…***…]

APPENDIX III

GUARANTEES, TEST RUN, AND LIQUIDATED DAMAGES

[…***…]

APPENDIX IV

SPECIFICATIONS FOR GUARANTEE FEED

[…***…]

EXHIBIT 21.1

Subsidiaries of Global Clean Energy Holdings, Inc.

Sustainable Oils, Inc., a Delaware corporation

GCE Holdings Acquisitions, LLC, a Delaware limited liability company

GCE Operating Company, LLC, a Delaware limited liability company

Bakersfield Renewable Fuels, LLC, a Delaware limited liability company

BKRF HCP, LLC, a Delaware limited liability company

BKRF HCB, LLC, a Delaware limited liability company

BKRF OCP, LLC, a Delaware limited liability company

BKRF OCB, LLC, a Delaware limited liability company

G.E.H. Dominicana, S.R.L., formed under the laws of the Dominican Republic

Globales Energia Renovables S DE RL DE CV, formed under the laws of Mexico

Exhibit 23.1

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We hereby consent to the incorporation by reference in the Registration Statement Form S-8 No. 333-92446 of Global Clean Energy Holdings, Inc. (the "Company") of our reports dated _____, relating to the consolidated financial statements, which appear in this Form 10-K of the Company for the years ended December 31, 2016, December 31, 2017, December 31, 2018 and December 31, 2019.

/s/ Hall & Company Certified Public Accountants and Consultants, Inc.

Irvine, California
October 5, 2020

Exhibit 31.1

Certification of Periodic Report Under Section 302 of the Sarbanes-Oxley Act

I, Richard Palmer, certify that:

1. I have reviewed this report on Form 10-K for the fiscal year ended December 31, 2019 of Global Clean Energy Holdings, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d- 15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

   (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this annual report is being prepared;

   (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent functions):

   (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: October 6, 2020

By: /s/ RICHARD PALMER
Name: Richard Palmer,
Title: President, Chief Executive Officer
(Principal Executive Officer)

Exhibit 31.2

Certification of Periodic Report Under Section 302 of the Sarbanes-Oxley Act

I, Ralph Goehring, certify that:

1. I have reviewed this report on Form 10-K for the fiscal year ended December 31, 2019 of Global Clean Energy Holdings, Inc.;

1. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

2. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

3. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d- 15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

   (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this annual report is being prepared;

   (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

4. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent functions):

   (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: October 6, 2020

By: /s/ RALPH GOEHRING
Name: Ralph Goehring,
Title: Chief Financial Officer
(Principal Financial and Accounting Officer)

Exhibit 32.1

CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350
AS ADOPTED PURSUANT TO SECTION 906
OF THE SARBANES-OXLEY ACT OF 2002

Pursuant to 18 U.S.C. § 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, the undersigned officer of Global Clean Energy Holdings, Inc. (the "Company") hereby certifies that, to his knowledge:

(i) The Annual Report on Form 10-K of the Company for the fiscal year ended December 31, 2019 (the "Report") fully complies with the requirements of Section 13(a) or Section 15(d), as applicable, of the Securities Exchange Act of 1934, as amended; and

(ii) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

October 6, 2020

By: /s/ RICHARD PALMER
Name: Richard Palmer
Title: President and Chief Executive Officer
(Principal Executive Officer)

Exhibit 32.2

CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350
AS ADOPTED PURSUANT TO SECTION 906
OF THE SARBANES-OXLEY ACT OF 2002

Pursuant to 18 U.S.C. § 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, the undersigned officer of Global Clean Energy Holdings, Inc. (the "Company") hereby certifies that, to his knowledge:

(i) The Annual Report on Form 10-K of the Company for the fiscal year ended December 31, 2019 (the "Report") fully complies with the requirements of Section 13(a) or Section 15(d), as applicable, of the Securities Exchange Act of 1934, as amended; and

(ii) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

October 6, 2020

By: /s/ RALPH GOEHRING
Name: Ralph Goehring,
Title: Chief Financial Officer
(Principal Financial and Accounting Officer)