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August 11, 2014

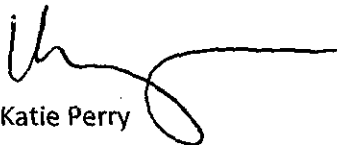
Dear Public Utilities Commission of Ohio,

As requested please find additional information related to the Agera Energy LLC Application for Retail Generation Providers and Power Marketers, Docket No. 14-1343-ELCRS.

The following documents are included with this filing:

- Update to section A-3 to reference Ohio office location
- Additional documents requested under section A-15 outlining incorporation as a limited liability company in state of Delaware.
- FERC application, Docket No. ER14-2472-000, referenced in cover letter. This is also located online at: http://elibrary.ferc.gov/idmws/file_list.asp?accession_num=20140721-5122
- Glacial Energy ("Glacial") sale order, Docket Number 377 regards Bankruptcy Court sale of substantially all of Glacial's assets to Platinum Partners Value Arbitrage Fund LP or its designee. Online access: http://www.omnimgt.com/cmsvol2/pub_46805/482055_377.pdf.

Regards,



Katie Perry
Director of Operations
Agera Energy, LLC

Reference: Docket No. 14-1343-ELCRS

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* This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business.
Technician R Date Processed AUG 12 2014

A-3 OHIO BUSINESS ADDRESS

Applicant is amending the original application to include the Ohio business address.

Agera Energy LLC
159 Crocker Park Blvd 4th Floor
Westlake, OH 44145

Toll Free: 844-692-4372

Website: www.ageraenergy.com

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**STATE OF DELAWARE
CERTIFICATE OF AMENDMENT
OF**

GreenLeaf Energy LLC

FIRST: The name of Limited Liability Company is GreenLeaf Energy LLC
(the "Company").

SECOND: The first article of Certificate of Formation of the Company relating
to the name is hereby amended in its entirety as follows:

"FIRST: The name of this limited liability company is:
Agera Energy LLC "

IN WITNESS WHEREOF, the undersigned has executed this Certificate on April
03, 2014.

/s/ Taylor Lolya

Taylor Lolya,
Authorized Person

State of Delaware
Secretary of State
Division of Corporations
Delivered 05:07 PM 03/05/2014
FILED 04:48 PM 03/05/2014
SRV 140292324 - 5492806 FILE

CERTIFICATE OF FORMATION

OF

GreenLeaf Energy LLC

FIRST: The name of the limited liability company is GreenLeaf Energy LLC

SECOND: The address of its registered office in the State of Delaware is 1811 Silverside Road in the City of Wilmington, Delaware 19810, in the County of New Castle. The name of its registered agent at such address is Vcorp Services, LLC.

THIRD: Members may be admitted in accordance with the terms of the Operating Agreement of the limited liability company.

IN WITNESS WHEREOF, the undersigned has executed this Certificate of Formation, on March 05, 2014.

/s/Aaron Sputz
Aaron Sputz, Authorized Person

**APPLICATION FOR AUTHORITY
OF**

GreenLeaf Energy LLC

Under Section 802 of the Limited Liability Company Law

- FIRST: The name of the limited liability company is: GreenLeaf Energy LLC
- SECOND: The jurisdiction of organization of the limited liability company is Delaware. The date of its organization is: 03/05/2014
- THIRD: The county within this state in which the office or, if more than one office, the principal office of the limited liability company is to be located is: Kings County.
- FOURTH: The Secretary of State is designated as agent of the limited liability company upon whom process against it may be served. The address within or without this state to which the Secretary of State shall mail a copy of any process served against him or her is:
- 669 Crown Street
Brooklyn, NY 11213
- FIFTH: The address of the office required to be maintained in the jurisdiction of its formation is:
- 1811 Silverside Road
Wilmington, DE 19810
- SIXTH: The foreign limited liability company is in existence in its jurisdiction of formation at the time of filing of this application.
- SEVENTH: The name and address of the Secretary of State or other authorized official in its jurisdiction of organization where a copy of its articles of organization is filed is:

Delaware Secretary of State
401 Federal Street, Suite 4
Dover, Delaware 19901

/s/Taylor Lolya

Taylor Lolya,
Authorized Person

APPLICATION FOR AUTHORITY

OF

GreenLeaf Energy LLC

Under Section 802 of the Limited Liability Company Law

Filed by:

Vcorp Services, LLC
25 Robert Pitt Drive, Suite 204
Monsey, New York 10952
Cust. Ref. #1393437

DRAWDOWN ACCOUNT #HD



Phone: (212) 885-5095
Fax: (917) 332-3829
Email: CGutierrez@BlankRome.com

July 21, 2014

VIA ELECTRONIC FILING

The Honorable Kimberly D. Bose
Secretary
Federal Energy Regulatory Commission
888 First Street, N.E. Room 1-A
Washington, DC 20426

Re: Application of Agera Energy LLC for
Market-Based Rate Authorization and Request for Waiver in
Docket No. ER14-____-000

Dear Secretary Bose:

Pursuant to Section 205 of the Federal Power Act, Rule 205 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission ("FERC" or the "Commission"), and Part 35 of the Commission's regulations, attached please find for filing the application ("Application") of Agera Energy LLC ("Applicant" or "Agera") for authorization to make market-based rate sales of energy, capacity and ancillary services under a proposed market-based rate tariff (the "Tariff").

The Application requests that the Commission issue an order: (a) accepting for filing the Tariff; (b) granting waiver of the Commission's 60-day notice requirement to permit the Tariff to become effective as of July 23, 2014; (c) granting blanket authorization for Applicant to make wholesale sales of electric energy, capacity, and ancillary services at market-based rates pursuant to the Tariff; and (d) granting such waivers of, and blanket authorizations under, the Commission's regulations, as described below, as are routinely granted to other market-based rate sellers. Finally, Applicant seeks a determination from the Commission that the Applicant is deemed to be a Category 1 seller.

405 Lexington Avenue New York, NY 10174-0208

www.BlankRome.com



July 21, 2014

Page 2

Applicant is submitting the Application in the format required under Order No. 714. The following documents are included with this filing:

- this transmittal letter;
- the Application of “Agera Energy LLC for Order Accepting Initial Market-Based Rate Tariff, Waiving Regulations, and Granting Blanket Authorizations”;
- Amended and Restated Limited Liability Company Agreement of Agera Energy LLC and Related Ownership Agreements; (Attachment A);
- Affiliate Asset Appendix in the format required by Order No. 697 (Attachment B);
- Agera Energy LLC FERC Market-Based Rate Tariff, in RTF format with attached metadata; and
- Agera Energy LLC FERC Market-Based Rate Tariff in PDF format for publishing in eLibrary.

In accordance with 18 C.F.R. § 388.112, Agera requests privileged treatment of the information set forth in Attachment A of this filing. The protected information is privileged and confidential, and public disclosure of the information might cause substantial harm to Agera or place it at a competitive disadvantage. Agera understands that the Commission staff will notify it in advance of any public disclosure of any information contained in Attachment A of this filing. Any questions regarding the Application should be addressed to the undersigned.

Respectfully submitted,

/s/ Carlos E. Gutierrez
Nicholas A. Giannasca
Carlos E. Gutierrez
Counsel for Agera Energy LLC

CEG:mr

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Agera Energy LLC)

Docket No. ER14 - ____ -000

APPLICATION OF AGERA ENERGY LLC
FOR ORDER ACCEPTING INITIAL MARKET-BASED RATE TARIFF,
WAIVING REGULATIONS AND GRANTING BLANKET AUTHORIZATIONS

Pursuant to Section 205 of the Federal Power Act ("FPA"), 16 U.S.C § 824d, Rules 205 and 207 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission ("FERC" or "Commission"), 18 C.F.R. §§ 385.205 and 385.207 (2013), and Part 35 of the Commission's regulations, 18 C.F.R. Part 35 (2013), Agera Energy LLC ("Agera" or "Applicant") hereby submits for filing this application ("Application") for an order authorizing Agera to make sales of electric energy, capacity and ancillary services at market-based rates under Agera's market-based rate tariff ("Tariff"), which is being submitted with this filing. Applicant respectfully requests that the Commission issue an order: (a) accepting for filing the Tariff; (b) granting waiver of the Commission's 60-day notice requirement to permit the Tariff to become effective as of July 23, 2014; (c) granting blanket authorization for Applicant to make wholesale sales of electric energy, capacity, and ancillary services at market-based rates pursuant to the Tariff; and (d) granting such waivers of, and blanket authorizations under, the Commission's regulations, as described below, as are routinely granted to other market-based rate sellers. Finally, Applicant seeks a determination from the Commission that Applicant is deemed to be a Category 1 seller.

Applicant intends to become a power marketer licensed to sell electricity (and other products and services) to retail customers in various states in competition with other retail suppliers, including utilities. To supply its electric load, Applicant may purchase energy in day-ahead and/or real-time organized wholesale energy markets. If Applicant's actual retail load exceeds its day-ahead market purchases, Applicant will purchase additional energy in the real-time market. If Applicant's actual retail loads are less than its day-ahead market purchases, Applicant will sell that excess energy in real-time markets. Applicant requires the requested market-based rate authority to engage in such wholesale sales of electricity.

I. COMMUNICATION AND CORRESPONDENCE

All communications and service related to this Application should be directed to the following person(s):

Michael Joseph Nordlicht
Manager
Agera Energy LLC
555 Pleasantville Road
Suite 107
Briarcliff Manor, NY 10510
Phone: (914) 236-1400
joseph.nordlicht@ageraenergy.com

Nicholas A. Giannasca
Carlos E. Gutierrez
Blank Rome LLP
The Chrysler Building
405 Lexington Avenue
New York, NY 10174
Phone: (212) 885-5018
Fax: (917) 332-3063
ngiannasca@blankrome.com
cgutierrez@blankrome.com

II. REQUEST FOR CONFIDENTIAL TREATMENT

Pursuant to 18 C.F.R. § 388.112(b), Applicant requests privileged and confidential treatment for the Amended and Restated Limited Liability Company Agreement of Agera Energy LLC (the "LLC Agreement") and related agreements reflecting the ownership of Applicant and Agera Holdings, LLC (see Section III(B) below) contained in Attachment A of

this Application. The protected information is privileged and confidential, and public disclosure of the information might cause substantial harm to Applicant or place it at a competitive disadvantage.

Applicant is electronically filing Attachment A under "privileged" status and requests that it remain in the Commission's non-public files. Applicant understands that the Commission staff will notify it in advance of any public disclosure of any information for which confidential treatment is being sought. Any questions regarding this request for confidential treatment should be directed to Nicholas A. Giannasca, whose contact information is shown in Section I, above.

III. DESCRIPTION OF APPLICANT AND UPSTREAM OWNERSHIP AND CONTROL STRUCTURE

A. Applicant – Agera Energy LLC

Applicant, a Delaware limited liability company, intends to become certified to sell electricity at retail in various states. To date, Applicant has not engaged in wholesale sales of electricity. Applicant does not own or control electric generation or transmission assets or facilities, or any input to electric power production.¹ Applicant does not have a franchised service area for the sale of electricity to captive customers. In addition, neither Applicant, nor any affiliate² of Applicant, owns or controls, or is affiliated with an entity that owns or controls, generation or transmission assets or facilities, or any input to electric power production, or that

¹ 18 C.F.R. § 35.36 defines "inputs to electric power production" as "intrastate natural gas transportation, intrastate natural gas storage or distribution facilities; sites for generation capacity development; physical coal supply sources and ownership of or control over who may access transportation of coal supplies."

² An affiliate is: (i) any person that directly or indirectly owns, controls, or holds with power to vote, 10 percent or more of the outstanding voting securities of the specified company; (ii) any company 10 percent or more of whose outstanding voting securities are owned, controlled, or held with power to vote, directly or indirectly, by the specified company; (iii) any person or class of persons that the Commission determines, after appropriate notice and opportunity for hearing, to stand in such relation to the specified company that there is liable to be an absence of arm's-length bargaining in transactions between them as to make it necessary or appropriate in the public interest or for the protection of investors or consumers that the person be treated as an affiliate; and (iv) any person that is under common control with the specified company. 18 C.F.R. § 35.36(a)(9)(i)-(iv).

has a franchised service area for the sale of electricity to captive customers.

Applicant has issued a convertible promissory note to a lender (the "Note"). Under the Note, the lender does not have the right to manage and control Applicant, but the lender has those rights and remedies that are customarily conferred on a lender to protect its economic interests. The Note permits the lender, subject to certain conditions, to convert the principal balance of this debt instrument to a number of units of limited liability company interests in Applicant. The Note provides that the exercise of this conversion right is subject to the procurement of all required regulatory approvals, including the approval of the Commission.

B. Agera Holdings, LLC

Agera Holdings, LLC ("Agera Holdings") is a Delaware limited liability company.³ One hundred percent (100%) of the membership interests in Applicant is owned by Agera Holdings, and Agera Holdings is Applicant's sole member. Agera Holdings does not own interests in any other entity. Its sole business is to act as a holding company and control the business of its single wholly-owned subsidiary, Applicant. Agera Holdings is owned 95.01% by Michael Joseph Nordlicht and 4.99% by MF Energy Holdings, LLC ("MF Energy"). (See Attachment A for relevant ownership agreements.)

C. Michael Joseph Nordlicht

Michael Joseph Nordlicht does not own, control or have any affiliation with any generation, transmission or distribution facilities. Mr. Nordlicht does not currently hold the position of officer or director of any public utility, electrical equipment supplier, or entity

³ Nothing in the limited liability company agreement of Agera Holdings impacts the level of control exercised by Agera MC (see Section E below) over Applicant.

authorized to underwrite or participate in the marketing of public utility securities.⁴ Further, Michael Joseph Nordlicht does not own, control or have any affiliation with any inputs to electric power production. Except for his ownership position in Agera Holdings and Agera MC (as described below in Section E), and his membership interest in CD, Michael Joseph Nordlicht is not involved in the energy industry.

D. MF Energy

MF Energy is a Delaware limited liability company created for the sole purpose of owning a 4.99% interest in Agera Holdings. (See Attachment A for relevant ownership agreements.) MF Energy does not own, control, or have an affiliation with generation, transmission, distribution or inputs to electric power production. One hundred percent (100%) of the membership interests in MF Energy is owned by Mark Feuer. Mark Feuer does not own, control, or have an affiliation with generation, transmission, distribution, or inputs to electric power production. Except for his ownership position in MF Energy, Mark Feuer is not involved in the energy industry.

E. Agera Management Corp.

Pursuant to the LLC Agreement, Applicant is managed by Agera Management Corp., a Delaware corporation ("Agera MC").⁵ Agera MC does not own, control, or have an affiliation with generation, transmission, distribution, or inputs to electric power production. Additionally, Agera MC does not supervise, direct or have day-to-day control over the business and operations of any entity other than Applicant. All of the outstanding shares of Agera MC are owned by

⁴ Mr. Nordlicht is the sole member of Carnegie Direct LLC, a Delaware limited liability company ("CD"). CD, which was established as the marketing affiliate of Applicant, currently has no operations and owns no assets.

⁵ LLC Agreement at Section 6.1. The LLC Agreement has been submitted as part of this Application (Attachment A) as a confidential exhibit. There is no separate management agreement between Applicant and Agera MC.

Michael Joseph Nordlicht. Under the LLC Agreement, Agera MC has general supervision, direction and day-to-day control of the business and operations of Applicant.⁶ There are limitations on the rights and powers of Agera MC, including those actions that require a vote of the members of Applicant. Such actions requiring the vote of members include any action effecting a change in control over Applicant.⁷ As owner of 100% of the equity in Agera MC, Michael Joseph Nordlicht effectively controls Applicant.⁸

IV. APPLICANT SATISFIES THE COMMISSION'S STANDARDS FOR MARKET-BASED RATE AUTHORIZATION

Applicant requests authorization to sell electric energy, capacity, and ancillary services at market-based rates pursuant to the Tariff. The Commission has granted open-ended market-based rate authority to power marketers when it has determined that the marketer and its affiliates do not have, or have adequately mitigated, market power in generation and transmission; cannot engage in anticompetitive practices through preferential affiliate transactions or reciprocal dealing; and cannot otherwise erect barriers to market entry by competing suppliers.⁹ Under the approach adopted in Order No. 697, which Applicant follows here, the Commission will grant market-based rate authority to a seller that demonstrates that it lacks horizontal and vertical market power (including a lack of barriers to entry) and will not engage in affiliate abuse. Applicant meets the Commission's standards for market-based rate authorization.

⁶ LLC Agreement at Section 6.1.1.

⁷ LLC Agreement at Section 6.2.

⁸ Given that Agera MC (see Section E below) has general supervisory, direct and day-to-day control of the business and operations of Applicant, Agera MC's control interest renders the voting security ownership interest of Michael Joseph Nordlicht (95.01%) and MF Energy (4.99%) in Applicant "passive." See *AES Creative Res., L.P.* 129 FERC ¶61,239 (2009).

⁹ See *Google Energy LLC, Order Granting Market-Based Rate Authorization*, 130 FERC ¶ 61,107 (2010).

A. No Horizontal Market Power

Neither Applicant, nor any of its affiliates, owns, controls or is affiliated with any electric generation facilities. Accordingly, Applicant lacks horizontal market power and cannot bar entry to the market by virtue of generation market power.

B. No Vertical Market Power

In order for a seller to receive Commission authorization to charge market-based rates, the seller and its affiliates must not have, or must have adequately mitigated, any vertical market power. Pursuant to Order No. 697, the Commission looks to both transmission market power and barriers to entry in reaching this determination. First, with regard to transmission market power, neither the Applicant, nor any of its affiliates, owns, controls or is affiliated with any electric transmission facilities. Accordingly, Applicant and each of its affiliates lacks transmission market power and cannot bar entry to relevant markets by virtue of transmission market power.

Second, with respect to barriers to entry, neither the Applicant, nor any of its affiliates, owns, controls or is affiliated with any facilities or resources that could be used to restrict market entry by competing power suppliers, marketers or brokers. Neither Applicant, nor any of its affiliates, owns, controls or is affiliated with intrastate natural gas transportation, storage or distribution facilities; any sites for the construction of new generation capacity; fuel supplies, fuel supply transportation facilities or other essential resources or inputs that could be used to restrict market entry of any competing power suppliers. As required by Order No. 697, Applicant affirms that it and its affiliates have not erected, and will not erect, barriers to entry in any relevant markets. Accordingly, Applicant and each of its affiliates cannot bar entry into relevant markets.

C. Affiliate Restrictions

In Order No. 697, the Commission chose to discontinue referring to affiliate abuse as a separate prong of its market power analysis.¹⁰ Instead, the Commission codified the affiliate restrictions in 18 C.F.R. § 35.39. Order No. 697 states that the Commission will address affiliate abuse by requiring that the affiliate restrictions be satisfied on an ongoing basis as a condition of obtaining and retaining market-based rate authority.¹¹ Applicant will comply with affiliate restrictions applicable to market-based rate sellers contained in Part 35 of the Commission's regulations. As this Commission has explained, "[t]his will address affiliate abuse by requiring that the conditions set forth in the regulations be satisfied on an ongoing basis as a condition of obtaining and retaining market-based rate authority."¹²

V. APPLICANT REQUESTS AUTHORIZATION TO SELL ANCILLARY SERVICES

A. Sales of Ancillary Services

Applicant requests authorization to engage in the sale of ancillary services at market-rates in organized electricity markets. Applicant's proposed tariff includes the Commission's standardized tariff language for such sales of ancillary services in the organized electricity markets (PJM, New England, New York, California, MISO and Southwest Power Pool).¹³ Applicant also requests authority under *Avista*¹⁴ and Order No. 697 to make third-party sales of other, specified ancillary services (Regulation and Frequency Response, Reactive Supply and Voltage Control Service, Energy and Generator Imbalance Service, Operating Reserve-Spinning, and Operating Reserve-Supplemental) in markets other than those specified in the Commission's

¹⁰ Order No. 697 at P 467.

¹¹ *Id.*

¹² *Id.*

¹³ See Order No. 698-A, App. C, as revised in Order 697-B.

¹⁴ *Avista Corp.*, 87 FERC ¶ 61,233, *order on reh'g*, 89 FERC ¶61,136 (1999).

standard language adopted in Order No. 697.¹⁵ Applicant's proposed tariff includes a provision authorizing such third-party sales of the specified ancillary services, with the limitations on such sales adopted by *Avista* and reaffirmed in Order No. 697.¹⁶

VI. APPLICANT QUALIFIES AS A "CATEGORY 1" SELLER

In Order No. 697, the Commission established two categories of market-based rate sellers and advised that, for all new applications for market-based rate authority, the Commission will make a finding regarding which category - Category 1 or Category 2 - a seller qualifies.¹⁷ Under Order No. 697, a seller that meets the following criteria qualifies as a Category 1 seller: wholesale power marketers and wholesale power producers that own or control 500 MW or less of generation in aggregate per region; that do not own, operate or control transmission facilities other than limited equipment necessary to connect individual generating facilities to the transmission grid (or have been granted waiver of the requirements of Order No. 888); that are not affiliated with anyone that owns, operates or controls transmission facilities in the same region as the seller's generation assets; that are not affiliated with a franchised public utility in the same region as the seller's generation assets; and that do not raise other vertical market power issues.¹⁸

¹⁵ According to the Commission, such third-party sales may not include the following: (1) sales to a regional transmission organization or an independent system operator, i.e., where that entity has no ability to self-supply ancillary services but instead depends on third parties; (2) sales to a traditional, franchised public utility affiliated with the Applicant, or sales where the underlying transmission service is on the transmission system of a public utility affiliated with the Applicant, or sales where the underlying transmission service is on the transmission system of a public utility affiliate with the Applicant; and (3) sales to a public utility that is purchasing ancillary services to satisfy its own open access transmission tariff requirements to offer ancillary services to its own customers.

¹⁶ See Order No. 697, at P 1061, App. C, as revised by Order No. 697-A, at P 386, as revised by Order No. 697-B, at P 90.

¹⁷ Order No. 697 at P 851.

¹⁸ Order No. 697 at P 849, n.1000; 18 C.F.R. § 35.36(a)(2).

Applicant requests that the Commission find that it qualifies as a Category 1 seller in all regions and is, therefore, exempt from the requirement to automatically submit updated market power analyses under Order No. 697. As explained above, Applicant, and each of its affiliates: (i) does not own, control and is not affiliated with any electric generation facilities; (ii) does not own, control and is not affiliated with any transmission facilities; and (iii) is not affiliated with a franchised public utility.

VII. REPORTING REQUIREMENTS

Applicant will comply with the Commission's reporting or updating requirements, both existing requirements and new requirements, when they become effective, including:

- (a) Applicant will submit Electric Quarterly Reports regarding its electricity transactions or such other reports or documents as may be required by the Commission for other entities with market-based rates consistent with the procedures adopted in Order No. 2001.¹⁹ Applicant agrees to submit such reports even if no transactions occurred during a particular calendar quarter;
- (b) consistent with Commission requirements, Applicant will report to the Commission within 30 days after any change in status that would reflect a departure from the characteristics relied upon by the Commission in evaluating Applicant's request for market-based rate authority;

¹⁹ 18 C.F.R. § 35.10b.

(c) Applicant will also submit quarterly reports providing information on site control activities pursuant to Order Nos. 697-C and 697-D if sites have been acquired during the previous quarter;²⁰ and

(d) Applicant will comply fully with the Commission's market behavior rules, as codified at 18 C.F.R. § 35.41. In accordance with such rules, Applicant hereby notifies the Commission that, as of the effective date of its Tariff, Applicant will not report transactions to publishers of electricity or natural gas price indices. If, at any point, Applicant begins to report price data to any index publishers, Applicant will notify the Commission within fifteen (15) days.

VIII. REQUESTS FOR WAIVERS AND ADDITIONAL BLANKET AUTHORIZATIONS

Consistent with the Commission's prior orders granting authority to make sales at market-based rates, Applicant requests the following waivers, blanket approvals, and authorizations typically granted by the Commission to market-based rate sellers like Applicant:

- (a) waiver of the filing requirements of subparts B and C of Part 35 of the Commission's regulations requiring the filing of cost-of service information, except for Sections 35.12(a), 35.13(b), 35.15 and 35.16;
- (b) waiver of the accounting, reporting and other requirements of Parts 41, 101, and 141 of the Commission's regulations concerning accounting and reporting requirements, with the exception of 18 C.F.R. §§ 141.14 and 141.15;
- (c) blanket authorization under FPA Section 204 and Part 34 of the Commission's regulations for all future issuances of securities and assumptions of liability;²¹ and
- (d) such other waivers and blanket authorizations routinely granted to other non-utility generating companies. These requests are consistent with the waivers and blanket approvals recently granted to other non-utility generating companies.²²

²⁰ Order No. 697-C at P 18; Order No 697-D at P 21 ("if no sites have been acquired during a quarter, then a seller should not file a report for that quarter"); 18 C.F.R. § 35.42(d).

²¹ See *id.* At P 999

In addition, to the extent any requirement of the Commission's regulations or policies is not met by this filing, Applicant respectfully requests waiver.

IX. REQUEST FOR WAIVER TO ESTABLISH AN EFFECTIVE DATE OF JULY 23, 2014

Applicant respectfully requests a waiver of the Commission's prior notice requirement in 18 C.F.R. § 35.3 to allow its Tariff to become effective on July 23, 2014. The Commission has often granted waivers of the prior notice requirement to allow tariffs to become effective upon less than 60 days' notice. Applicant is seeking an effective date of July 23, 2014 so that Applicant may qualify as soon as possible to transact business as a retail supplier of electricity in certain regional transmission organization service areas where authorization to undertake wholesale sales of electricity is a condition to conducting such retail electricity sales. Here, Applicant seeks only those waivers that the Commission routinely grants to other similarly-situated applicants. Further, this Application presents no market power issues. Accordingly, there is good cause for a waiver of the Commission's prior notice requirement, and Applicant respectfully requests that the Commission issue an order accepting its Tariff with an effective date of July 23, 2014.

²² See, e.g., Letter Order, *High Prairie Wind Farm II, UC*, Docket No. ER07-407-000. Feb. 20, 2007; Letter Order, *BTEC Southaven LLC*, Docket No. ER07-109, Feb. 15, 2007; Letter Order, *Casselman Windpower, LLC*, Docket No. ER07-254, Dec. 29, 2006.

X. CONCLUSION

For the foregoing reasons, Applicant respectfully requests that the Commission: (1) grant Applicant's request for market-based rate authorization; (2) grant a waiver of the Commission's 60-day prior notice requirement and accept for filing the proposed Tariff with an effective date of July 23, 2014; (3) waive Commission regulations and grant blanket approvals as set forth herein; and (4) find Applicant is a Category 1 seller in all regions.

Respectfully submitted,

Nicholas A. Giannasca
Carlos E. Gutierrez
Blank Rome LLP
The Chrysler Building
405 Lexington Avenue
New York, NY 10174
Tel: (212) 885-5018
Fax: (917) 332-3063
Email: ngianassca@blankrome.com
cgutierrez@blankrome.com

Attorneys for Agera Energy LLC

Dated: July 21, 2014

Attachments

ATTACHMENT A

AMENDED AND RESTATED LIMITED LIABILITY
COMPANY AGREEMENT OF AGERA ENERGY LLC
AND RELATED OWNERSHIP AGREEMENTS

**CONTAINS PRIVILEGED AND CONFIDENTIAL INFORMATION
PURSUANT TO 18 C.F.R. § 388.112 – DO NOT RELEASE**

ATTACHMENT B

AGERA ENERGY LLC
MARKET-BASED RATE AUTHORITY AND GENERATION ASSETS

Filing Entity and its Energy Affiliates	Docket #	Generation Name	Owned By	Controlled By	Date Control Transferred	Balancing Authority Area	Geographic Region	In-Service Date	Nameplate and/or Seasonal Rating
Agera Energy LLC	ER14- _____ _____	N/A ²³	N/A	N/A	N/A	N/A	N/A	N/A	N/A

²³ Not applicable.

ATTACHMENT B (CONTINUED)

AGERA ENERGY LLC
ELECTRIC TRANSMISSION ASSETS, NATURAL GAS
PIPELINES AND/OR GAS STORAGE FACILITIES

Filing Entity and its Energy Affiliates	Asset Name	Owned By	Controlled By	Date Control Transferred	Balancing Authority Area	Geographic Region	In-Service Date	Size
Agera Energy LLC	N/A ²⁴	N/A	N/A	N/A	N/A	N/A	N/A	N/A

²⁴ Not applicable.

AGERA ENERGY LLC

MARKET-BASED RATE TARIFF

1. Availability: Seller makes electric energy, capacity and/or ancillary services available under this Tariff to any purchaser for resale, except as prohibited below.
2. Applicability: This Tariff is applicable to all sales of energy, capacity and/or ancillary services by Seller at market-based rates.
3. Rates: All sales shall be made at rates established by agreement between purchaser and Seller.
4. Seller Category: Seller is a Category 1 seller in all regions (i.e., Northeast, Southeast, Central, Southwest Power Pool, Southwest and Northwest), as defined in 18 C.F.R. § 35.36(a).
5. Limitations and Exemptions Regarding Market-Based Rate Authority: Seller has been granted the following waivers and blanket authorization: (1) waiver of Subparts B and C of Part 35 of the Commission's regulations requiring the filing of rate schedules, except for sections 35.12(a), 35.13(b), 35.15, and 35.16; (2) waiver of the accounting and other requirements of Parts 41, 101 and 141 of the Commission's regulations, with the exception of sections 141.14 and 141.15; (3) blanket approval under Part 34 of the Commission's regulations for all future issuances of securities and assumption of liabilities. See Agera Energy LLC, Docket No. ER14-000 (unpublished letter order).
6. Compliance with Commission Regulations: Seller shall comply with the provisions of 18 C.F.R. Part 35, Subpart H, as applicable, and with any conditions the Commission imposes in its orders concerning Seller's market-based rate authority, including orders in which the Commission authorizes Seller to engage in affiliate sales under this Tariff or otherwise restricts or limits Seller's market-based rate authority. Failure to comply with the applicable provisions of 18 C.F.R. Part 35, Subpart H, and with any orders of the Commission concerning Seller's market-based rate authority, will constitute a violation of this Tariff.
7. Ancillary Services: Seller will make available to any purchaser with whom it has contracted, the ancillary services listed in this Paragraph.

PJM: Seller offers regulation and frequency response service, energy imbalance service, and operating reserve service (which includes spinning, 10-minute, and 30-minute reserves) for sale into the market administered by PJM Interconnection, L.L.C. ("PJM") and, where the PJM Open Access Transmission Tariff permits, the self-supply of these services to purchasers for a bilateral sale that is used to satisfy the ancillary services requirements of the PJM Office of Interconnection.

New York: Seller offers regulation and frequency response service, and operating reserve service (which include 10-minute non-synchronous, 30-minute operating reserves, 10-minute spinning reserves, and 10-minute non-spinning reserves) for sale to purchasers in the market administered by the New York Independent System Operator, Inc.

New England: Seller offers regulation and frequency response service (automatic generator control), operating reserve service (which includes 10-minute spinning reserve, 10-minute non-spinning reserve, and 30-minute operating reserve service) to purchasers within the markets administered by the ISO New England, Inc.

California: Seller offers regulation service, spinning reserve service, and nonspinning reserve service to the California Independent System Operator Corporation ("CAISO") and to others that are self-supplying ancillary services to the CAISO.

MISO: Seller offers regulation service and operating reserve service (which include 10-minute spinning reserve and 10-minute supplemental reserve) for sale to the Midcontinent Independent System Operator, Inc. (MISO) and to others that are self-supplying ancillary services to MISO.

Southwest Power Pool: Seller offers regulation service and operating reserve service (which include 10-minute spinning reserve and 10-minute supplemental reserve) for sale to the Southwest Power Pool, Inc. (SPP) and to others that are self-supplying ancillary services to SPP.

Third-party ancillary services: Seller offers: Regulation and Frequency Response Service, Reactive Supply and Voltage Control Service, Energy and Generator Imbalance Service, Operating Reserve-Spinning, and Operating Reserve-Supplemental. Sales will not include the following: (1) sales to an RTO or an ISO, i.e., where that entity has no ability to self-supply ancillary services but instead depends on third parties; and (2) sales to a traditional, franchised public utility affiliated with the third party supplier, or sales where the underlying transmission service is on the system of the public utility affiliated with the third-party supplier. Sales of Operating Reserve-Spinning and Operating Reserve-Supplemental will not include sales to a public utility that is purchasing ancillary services to satisfy its own open access transmission tariff requirements to offer ancillary services to its own customers, except where the Commission has granted authorization. Sales of Regulation and Frequency Response Service and Reactive Supply and Voltage Control Service will not include sales to a public utility that is purchasing ancillary services to satisfy its own open access transmission tariff requirements to offer ancillary services to its own customers, except at rates not to exceed the buying public utility transmission provider's OATT rate for the same service or where the Commission has granted authorization.

8. Other Terms and Conditions: All other terms and conditions shall be established by agreement between the purchaser and Seller.

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

-----X	
In re	:
	:
GRIDWAY ENERGY HOLDINGS, INC., <i>et al.</i> ¹	:
	:
Debtors.	:
	:
-----X	
	Chapter 11
	Case No. 14-10833 (CSS)
	Jointly Administered
	Ref. Docket No.: 13, 191 and 374

**ORDER (I) AUTHORIZING THE SALE OF THE DEBTORS' ASSETS FREE
AND CLEAR OF LIENS, CLAIMS, ENCUMBRANCES, AND OTHER
INTERESTS, (II) AUTHORIZING THE ASSUMPTION AND ASSIGNMENT
OF CERTAIN EXECUTORY CONTRACTS AND UNEXPIRED LEASES IN
CONNECTION THEREWITH,
AND (III) GRANTING RELATED RELIEF**

Upon the motion (the "Motion"), of Gridway Energy Holdings, Inc. and certain of its affiliates, each a debtor and debtor in possession (each a "Debtor" and collectively, the "Debtors") in the above-captioned cases (the "Chapter 11 Cases"), pursuant to sections 105(a), 363, and 365 of title 11 of the United States Code (the "Bankruptcy Code"), rules 2002, 6004, 6006, 9008, and 9014 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and rules 2002-1 and 6004-1 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "Local Rules"), seeking entry of an order (this "Order"), among other things, (i) authorizing the sale of certain of the Debtors'

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Gridway Energy Holdings, Inc. (5072); Glacial Energy Holdings (3292); Glacial Energy, Inc. (1189); Glacial Energy of New York (0776); Glacial Energy of New England, Inc. (1724); Glacial Energy of Maryland, Inc. (7173); Glacial Energy of California, Inc. (1795); Glacial Energy of Illinois, Inc. (1796); Glacial Energy of New Jersey, Inc. (8671); Glacial Energy of Pennsylvania, Inc. (9762); Glacial Energy of Texas (1517); Glacial Energy of Washington DC, Inc. (5548); Glacial Energy of Ohio, Inc. (0103); Glacial Energy of Michigan, Inc. (7110); Glacial Natural Gas, Inc. (0165); Negawatt Business Solutions (6299); Negawatt Business Solutions, Inc. (f/k/a/ Gridway Energy Partners, Inc.) (7086); Zipphany, L.L.C. (7934); and Glacial Energy VI, LLC (1142). The location of the headquarters of Glacial Energy VI, LLC is 5326 Yacht Haven Grande, Box 36, St. Thomas, VI 00802. The location of the headquarters for the remaining Debtors is 24 Massachusetts 6A, Sandwich, MA 02563.

assets (the "Purchased Assets") to Buyer² pursuant to that certain Asset Purchase Agreement attached to this Order as Exhibit A (the "APA"),³ free and clear of all Liens, claims, encumbrances, and other interests, except to the extent specifically provided in the APA, including, without limitation, rights or claims based on successor or transferee liability (the "Sale Transaction"), (ii) authorizing the assumption and assignment of certain executory contracts and unexpired leases in connection with the Sale Transaction (the "Assumed Contracts"), and (iii) granting certain related relief, all as more fully described in the Motion and the APA; and the Court having entered an order on May 14, 2014 (the "Bidding Procedures Order", see Docket No. 191) (a) authorizing and approving bidding procedures for submitting bids for the purchase of the Purchased Assets ("Bidding Procedures") and conducting an auction for the Purchased Assets (the "Auction"), (b) authorizing and approving the bid protections as set forth in the APA (c) authorizing and approving procedures for the assumption and assignment of certain executory contracts and unexpired leases in connection with the sale of the Purchased Assets (the "Assumption and Assignment Procedures"), (d) scheduling a deadline to submit competing and higher bids for the Purchased Assets, the date and time of the Auction, and the date and time of the hearing to consider the approval of the proposed sale of the Purchased Assets (the "Sale

² As used in this Order and in the APA, the term "Buyer" means Platinum Partners Value Arbitrage Fund LP ("Platinum") unless Platinum has designated, prior to Closing of the transactions contemplated by the APA, pursuant to and in accordance with Section 12.11 of the APA, one or more Persons other than Platinum to receive some or all of the Purchased Assets and to assume all Assumed Liabilities related to such Purchased Assets, in which case such Person or Persons so designated (each a "Designated Buyer") shall be deemed to be the Buyer with respect to the Purchased Assets that it has been designated to purchase and any related Assumed Liabilities and, in the case of a designation of more than one Person to receive Purchased Assets or in the event that Platinum designates a Person to receive less than all of the Purchased Assets with Platinum receiving the remainder, the term "Buyer" shall mean, collectively, each Person (including Platinum) that will receive Purchased Assets under the APA and, in relation to each Buyer, the term "Purchased Assets" shall mean the Purchased Assets that such Buyer will receive under the APA and the term "Assumed Liabilities" shall mean the Assumed Liabilities relating to such Purchased Assets.

³ Unless otherwise noted, capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the APA.

Hearing”), (e) authorizing the form and manner of notice of the Auction, the Sale Hearing; the date, time and place of the hearing to consider entry of the Bidding Procedures Order (the “Bidding Procedures Hearing”), the Bid Deadline (as that term is defined in the Bidding Procedures), the assumption and assignment of certain executory contracts and unexpired leases in connection with the Sale Transaction, and the date, time and place of the Sale Hearing, and (f) granting certain related relief; and the Debtors having received a timely bid from Platinum on June 4, 2014, which bid was modified in writing by Platinum on June 6, 2014, and further modified by Platinum on the record at the Auction; and the Auction having commenced on June 10, 2014, and which was adjourned until June 11, 2014 and concluded on such date; and the Debtors having determined that Platinum’s modified bid was (and is) the Successful Bid (as such term is defined and described in the Bidding Procedures Order), and the bid proffered by the Stalking Horse Bidder (as such term is defined and described in the Bidding Procedures Order) has been designated by the Debtors as the Back-Up Bid (as such term is defined and described in the Bidding Procedures Order); and the Sale Hearing having been held on June 16, 2014; and upon the record of the Sale Hearing and all of the proceedings held before the Court; and the Court having reviewed the Motion and all affidavits, declarations, responses, and objections thereto and having found and determined that the relief requested in the Motion is in the best interests of the Debtors, their estates and creditors, and all parties in interest, and that the legal and factual bases set forth in the Motion and at the Sale Hearing establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor:

IT IS FOUND AND DETERMINED, that:⁴

⁴ The findings and conclusions set forth herein constitute this Court’s findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such.

Jurisdiction and Venue

A. This Court has jurisdiction over the Motion, the APA, the Sale Transaction, the assumption and assignment of the Assumed Contracts, and all of the other transactions contemplated by the APA pursuant to 28 U.S.C. §§ 157 and 1334 and the Amended Standing Order of Reference from the United States District Court for the District of Delaware dated as of February 29, 2012. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue of these cases and proceedings is proper in this District and this Court under 28 U.S.C. §§ 1408 and 1409.

Statutory Predicates

B. The statutory predicates for the relief requested in the Motion are sections 105(a), 363, and 365 of the Bankruptcy Code and Bankruptcy Rules 2002, 6004, 6006, 9008, and 9014.

Final Order

C. This Order constitutes a final and appealable order within the meaning of 28 U.S.C. § 158(a). Notwithstanding Bankruptcy Rules 6004(h) and 6006(d), and to any extent necessary under Bankruptcy Rule 9014 and rule 54(b) of the Federal Rules of Civil Procedure, as made applicable by Bankruptcy Rule 7054, this Court expressly finds that there is no just reason for delay in the implementation of this Order and that waiver of any applicable waiting period is appropriate, and expressly directs entry of judgment as set forth herein.

Compliance with Bidding Procedures Order

D. As demonstrated by (i) the testimony and other evidence proffered or introduced at the Sale Hearing and (ii) the representations of counsel made on the record at the Sale Hearing, the Debtors have thoroughly and fairly marketed the Purchased Assets and

conducted the related sale process in good faith and in compliance in all respects with the Bidding Procedures and the Bidding Procedures Order. All interested persons and entities have been afforded a full, fair, and reasonable opportunity to (i) conduct due diligence investigations, (ii) submit bids and to submit higher or otherwise better bids to purchase the Purchased Assets, and (iii) object or be heard with respect to the Motion and the relief granted by this Order. The Bidding Procedures were non-collusive, designed and implemented in good faith, substantively and procedurally fair to all parties, and obtained the highest and best value for the Purchased Assets for the Debtors, their creditors, and their estates. In accordance with the Bidding Procedures, the Debtors determined that the bid submitted by the Buyer and memorialized by the APA is the Successful Bid (as defined in the Bidding Procedures).

Notice

E. As evidenced by the affidavits and certificates of service and publication previously filed with the Court, in light of the exigent circumstances of these bankruptcy cases and based on the representations of counsel at the Bidding Procedures Hearing and the Sale Hearing, (i) proper, timely, adequate, and sufficient notice of the Motion, the Bidding Procedures, the Assumption and Assignment Procedures, the Auction, the Bidding Procedures Hearing, the Sale Transaction and the assumption and assignment of the Assumed Contracts, all of the other transactions contemplated by the APA, and the Sale Hearing have been provided in accordance with Bankruptcy Rules 2002(a), 6004(a), 6006(c), 9008 and 9014, and all applicable provisions of the Bankruptcy Code and the Local Rules and in compliance with the Bidding Procedures Order; (ii) such notice was good, sufficient, reasonable, and appropriate under the particular circumstances of the Chapter 11 Cases, and reasonably calculated to reach and apprise all holders of Liens, claims, encumbrances, and other interests, including, without limitation, any holder asserting any rights or claims based on any successor or transferee liability, about the

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Motion, the Bidding Procedures, the Assumption and Assignment Procedures, the Auction, the Bidding Procedures Hearing, the Sale Transaction and the assumption and assignment of the Assumed Contracts, all of the other transactions contemplated by the APA, and the Sale Hearing; and (iii) no other or further notice of the Motion, the Bidding Procedures, the Assumption and Assignment Procedures, the Auction, the Bidding Procedures Hearing, the Sale Transaction and the assumption and assignment of the Assumed Contracts, and any other transactions contemplated by the APA, the Sale Hearing, or any matters in connection therewith, is or shall be required. With respect to entities whose identities are not known or reasonably ascertainable by the Debtors, publication of the Auction and Sale Notice (as defined in the Motion) was sufficient and reasonably calculated, under the circumstances, to and did provide adequate notice to such entities.

F. On May 21, 22, 23 and 29, 2014, the Debtors served individualized notices (the "Assumption and Assignment Notice") of the potential assumption and assignment of the Assumed Contracts on the counterparties to such Assumed Contracts, which notice included (i) the Assumed Contracts that could potentially be assumed and assigned, (ii) the name of the counterparties to such Assumed Contracts, (iii) the amount, if any, determined by the Debtors to be necessary to be paid (the "Cure Amounts") as of the date of the Assumption and Assignment Notices upon the assumption of the Assumed Contracts, and (iv) the deadline by which any counterparty to any of the Assumed Contracts must object to the possible assumption by the Debtors and assignment to the Buyer of the Assumed Contracts. The service of such Assumption and Assignment Notices was good, sufficient, and appropriate under the particular circumstances, and no other or further notice of the assumption and assignment of the Assumed Contracts or the applicable Cure Amounts is required. Each counterparty to the Assumed Contracts has had an opportunity to object to the assumption by the Debtors and the assignment

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to the Buyer of the Assumed Contracts and to the applicable Cure Amounts set forth in the Assumption and Assignment Notices.

Corporate Authority

G. Each Debtor (i) has full corporate power and authority to execute and deliver the APA and all other documents contemplated thereby, (ii) has all of the necessary corporate power and authority to consummate the transactions contemplated by the APA, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts, (iii) has taken all corporate action necessary to authorize and approve the APA and the consummation by the Debtors of the transactions contemplated thereby, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts, and (iv) subject to entry of this Order, needs no consents or approvals, other than those expressly set forth in the APA, to consummate the transactions contemplated thereby, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts.

Good Faith

H. The Buyer is a good faith purchaser within the meaning of section 363(m) of the Bankruptcy Code, and is therefore entitled to the full protection of that provision and any other applicable or similar provisions under bankruptcy and nonbankruptcy law. The Buyer has at all times acted in good faith within the meaning of section 363(m) of the Bankruptcy Code in consummating the transactions contemplated by the APA, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts. The APA and the transactions contemplated thereby, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts, were negotiated, proposed, and entered into by the Sellers and the Buyer without collusion, in good faith, and from arm's length

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bargaining positions, and such parties are “unrelated” for purposes of ERISA Section 4204, as may be applicable. None of the Sellers, the Buyer, or their respective agents, officials, personnel, representatives, and advisors, have engaged in any conduct that would cause or permit the avoidance of the APA or any of the transactions contemplated thereby, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts, or the imposition of costs, fees, expenses, or damages under section 363(n) of the Bankruptcy Code. None of the Buyer or its respective agents, officials, personnel, representatives, or advisors is an “insider” of any of the Debtors, as that term is defined in section 101(31) of the Bankruptcy Code. The Buyer has disclosed that it is indirectly affiliated with Photon Management LLC and Hasbro Management LLC, which entities are minority shareholders of Debtor Glacial Energy Holdings.

Business Justification

I. The Debtors have demonstrated good, sufficient, and sound business reasons and compelling circumstances to enter into the APA and to consummate the transactions contemplated thereby, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts, and such actions are appropriate and reasonable exercises of the Debtors’ business judgment and in the best interests of the Debtors, their estates and creditors, and other parties in interest. Such business reasons include, but are not limited to, the facts that (i) the APA and the terms thereof constitute the highest and best offer for the Purchased Assets and provide fair and reasonable consideration for the Purchased Assets, (ii) no other entity or group of entities has offered to purchase the Purchased Assets for greater economic value to the Debtors or their estates than the Buyer, (iii) the Sale Transaction pursuant to the terms of the APA presents the best opportunity to realize the value of the Purchased Assets and avoid decline and devaluation of the Purchased Assets, (iv) the consideration to be provided

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by the Buyer under the APA exceeds the liquidation value of the Purchased Assets, and (v) unless the Sale Transaction and all of the other transactions contemplated by the APA are concluded expeditiously as provided for in the Motion and pursuant to the APA, recoveries to creditors may be diminished. The Debtors' determination that the APA constitutes the highest and best offer for the Purchased Assets constitutes a valid and sound exercise of the Debtors' business judgment.

J. The terms and conditions of the APA, including, without limitation, the consideration to be realized by the Debtors pursuant to the APA, are fair and reasonable. Approval of the Motion, the APA, and the transactions contemplated thereby, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts, is in the best interests of the Debtors, their estates and creditors, and all other parties in interest.

No Fraudulent Transfer

K. The consideration provided by the Buyer for the Purchased Assets pursuant to the APA (i) is fair and reasonable, (ii) is the highest and best offer for the Purchased Assets, (iii) will provide a greater recovery for the Debtors' creditors and estates than would be provided by any other practical available alternative, and (iv) constitutes reasonably equivalent value and fair consideration under the Bankruptcy Code and under the laws of the United States and of each state, territory, possession, and the District of Columbia.

L. The Buyer is not a mere continuation of the Debtors or their estates, there is no continuity or common identity between the Buyer and any of the Debtors, and there is no continuity of enterprise between the Buyer and any of the Debtors. The Buyer is not holding itself out to the public as a continuation of any of the Debtors. The Buyer is not a successor to any of the Debtors or their estates, and none of the transactions contemplated by the APA, including, without limitation, the Sale Transaction or the assumption and assignment of the

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Assumed Contracts, amounts to a consolidation, merger, or de facto merger of the Buyer with or into any of the Debtors. None of the transactions contemplated by the APA, including, without limitation, the Sale Transaction or the assumption and assignment of the Assumed Contracts, is being undertaken for the purpose of escaping liability for any of the Debtors' debts or hindering, delaying or defrauding creditors under the Bankruptcy Code or under the laws of the United States or of any state, territory, possession or the District of Columbia.

Free and Clear

M. The transfer of the Purchased Assets to the Buyer will be legal, valid, and effective transfers of the Purchased Assets, and will vest the Buyer with all right, title, and interest of the Sellers to the Purchased Assets free and clear of all Liens, claims, encumbrances, and other interests of any kind or nature whatsoever (other than any Liens created by the Buyer), including, without limitation, rights or claims (for purposes of this Order, the term "claim" shall have the meaning ascribed to such term in section 101(5) of the Bankruptcy Code) based on any successor or transferee liability, including, without limitation, (i) those that purport to give to any party a right or option to effect any forfeiture, modification, right of first refusal, or termination of the Sellers' or the Buyer's interest in the Purchased Assets or any similar rights, and (ii) (a) those arising under all mortgages, deeds of trust, security interests, conditional sale or other title retention agreements, pledges, Liens, judgments, demands, encumbrances, rights of first refusal or charges of any kind or nature, if any, including, without limitation, any restriction on the use, voting, transfer, receipt of income, or other exercise of any attributes of ownership, and (b) all claims arising in any way in connection with any agreements, acts, or failures to act, of any of the Sellers or any of the Sellers' predecessors or affiliates, whether known or unknown, contingent or otherwise, whether arising prior to or subsequent to the commencement of these Chapter 11 Cases, and whether imposed by agreement, understanding, law, equity, or otherwise,

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including, without limitation, claims otherwise arising under doctrines of successor or transferee liability, or under federal or state tax laws.

N. The Sellers may transfer the Purchased Assets free and clear of all Liens, claims, encumbrances, and other interests of any kind or nature whatsoever (other than any Liens created by the Buyer), including, without limitation, rights or claims based on any successor or transferee liability, because, in each case, one or more of the standards set forth in section 363(f)(1)-(5) of the Bankruptcy Code has been satisfied. Those (i) holders of Liens, claims, encumbrances, and other interests, including, without limitation, rights or claims based on any taxes or successor or transferee liability, and (ii) non-Debtor parties to the Assumed Contracts, who did not object or who withdrew their objections to the Motion, are deemed to have consented pursuant to section 363(f)(2) of the Bankruptcy Code. Those (i) holders of Liens, claims, encumbrances, and other interests, including, without limitation, rights or claims based on any taxes or successor or transferee liability, and (ii) non-Debtor parties to the Assumed Contracts who did object, fall within one or more of the other subsections of section 363(f) of the Bankruptcy Code, including, without limitation, section 363(f)(5) of the Bankruptcy Code, because the holders of any such interest could be compelled in a legal or equitable proceeding to accept monetary satisfaction on account of such interest, and are adequately protected by having their interests, if any, attach to the proceeds of the Sale Transaction ultimately attributable to the Purchased Assets in which each such creditor alleges an interest, in the same order of priority, with the same validity, force, and effect that each such creditor had prior to the sale, subject to any claims and defenses the Debtors, their estates, or other parties may possess with respect thereto.

O. The Buyer would not have entered into the APA and would not consummate the transactions contemplated thereby, including, without limitation, the Sale

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Transaction and the assumption and assignment of the Assumed Contracts, (i) if the transfer of the Purchased Assets was not free and clear of all Liens, claims, encumbrances, and other interests of any kind or nature whatsoever (other than any Liens created by the Buyer), including, without limitation, rights or claims based on any taxes or successor or transferee liability, or (ii) if the Buyer would, or in the future could, be liable for any such Liens, claims, encumbrances, and other interests, including, without limitation, rights or claims based on any taxes or successor or transferee liability (subject only, in the case of the Buyer with respect to the Purchased Assets, to the Assumed Liabilities). The Buyer will not consummate the transactions contemplated by the APA, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts, unless this Court expressly orders that none of the Buyer, its respective affiliates, its respective present or contemplated members, partners or shareholders, or the Purchased Assets will have any liability whatsoever with respect to, or be required to satisfy in any manner, whether at law or equity, or by payment, setoff, or otherwise, directly or indirectly, any Liens, claims, encumbrances, and other interests, including, without limitation, rights or claims based on any taxes, successor or transferee liability, except for the Assumed Liabilities.

P. Not transferring the Purchased Assets free and clear of all Liens, claims, encumbrances, and other interests of any kind or nature whatsoever (other than any Liens created by the Buyer), including, without limitation, rights or claims based on successor or transferee liability, except for the Assumed Liabilities, would adversely impact the Debtors' efforts to maximize the value of their estates, and the transfer of the Purchased Assets other than pursuant to a transfer that is free and clear of all Liens, claims, encumbrances, and other interests of any kind or nature whatsoever would be of substantially less benefit to the Debtors' estates.

Q. The Buyer would not have entered into the APA and will not consummate the transactions contemplated thereby unless this Court expressly orders that, without limiting the generality of the foregoing, none of the Buyer, its respective affiliates, its respective present or contemplated members, partners or shareholders, or the Purchased Assets will have any liability whatsoever with respect to, or be required to satisfy in any manner, whether at law or equity, or by payment, setoff, or otherwise, directly or indirectly, any Liens, claims, encumbrances, and other interests relating to any U.S. federal, state, or local income tax liabilities, including, without limitation, any such tax liabilities that are attributable to the recapture of an excess loss account under Treasury Regulation Section 1.1502-19 (or any similar provision of state or local tax law), that the Debtors are liable for or incur in connection with consummation of the transactions contemplated by the APA, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts.

Validity of Transfer

R. The consummation of the transactions contemplated by the APA, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts, is legal, valid, and properly authorized under all applicable provisions of the Bankruptcy Code, including, without limitation, sections 105(a), 363, and 365, and all of the applicable requirements of such sections have been complied with in respect of the transactions contemplated under the APA.

S. The Purchased Assets constitute property of the Debtors' estates, and good title thereto is vested in the Debtors' estates within the meaning of section 541(a) of the Bankruptcy Code. The Debtors are the sole and lawful owners of the Purchased Assets, and no other person has any ownership right, title, or interest therein.

Assumed Contracts

T. The assumption and assignment of the Assumed Contracts, free and clear of all Liens, claims, encumbrances, and other interests of any kind or nature whatsoever, pursuant to the terms of this Order is integral to the transactions contemplated by the APA and is in the best interests of the Debtors, their estates and creditors, and all other parties in interest, and represents a reasonable exercise of the Debtors' sound and prudent business judgment.

U. Pursuant to the terms of the APA, on or before the Relevant Closing Date, the Debtors shall have: (i) cured or provided adequate assurance of cure of, any monetary default existing as of and including the Relevant Closing Date under any of the Assumed Contracts, within the meaning of section 365(b)(1)(A) of the Bankruptcy Code, and (ii) provided compensation, or adequate assurance of compensation, to any party for actual pecuniary loss to such party resulting from a monetary default existing as of and including the Relevant Closing Date under any of the Assumed Contracts, within the meaning of section 365(b)(1)(B) of the Bankruptcy Code.

V. The Buyer has demonstrated adequate assurance of its future performance under the Assumed Contracts within the meaning of sections 365(b)(1)(C) and 365(f)(2)(B) of the Bankruptcy Code. Pursuant to section 365(f) of the Bankruptcy Code, the Assumed Contracts to be assumed and assigned under the APA shall be assigned and transferred to, and remain in full force and effect for the benefit of, the Buyer notwithstanding any provision in the contracts or other restrictions prohibiting the assignment or transfer.

W. The releases set forth in paragraph 34 of this Order and the APA irrevocably and unconditionally releases parties that either provided a stalking horse bid for the Purchased Assets or were critical to the formulation, negotiation, and implementation of the APA and the transactions contemplated thereby, including, without limitation, the Sale

Transaction and the assumption and assignment of the Assumed Contracts. The releases include Buyer and its affiliates, Vantage Commodities Financial Services, LLC ("Vantage") and its affiliates, and all such parties' past, present and future shareholders, partners, members, board of directors and/or supervisors, managers, officers, employees, agents, representatives and advisors (collectively, the "Released Parties").

Compelling Circumstances for an Immediate Sale

X. To maximize the value of the Purchased Assets and preserve the viability of the business to which the Purchased Assets relate, it is essential that the transactions contemplated by the APA, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts, occur within the time constraints set forth in the Motion, the Bidding Procedures Order, and the APA. Time is of the essence in consummating the transactions contemplated by the APA, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts.

Y. The Debtors have demonstrated compelling circumstances and a good, sufficient, and sound business purpose and justification for the immediate approval and consummation of the transactions contemplated by the APA, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts, prior to, and outside of, a chapter 11 plan. The transactions contemplated by the APA, including, without limitation, the Sale Transaction, and the assumption and assignment of the Assumed Contracts, neither impermissibly restructure the rights of the Debtors' creditors nor impermissibly dictate the terms of a chapter 11 plan for the Debtors, and therefore do not constitute a sub rosa plan.

Z. Given all of the circumstances of the Chapter 11 Cases and the adequacy and fair value of the Purchase Price under the APA, the consummation of the transactions

contemplated by the APA, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts, constitutes a reasonable and sound exercise of the Debtors' business judgment.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED THAT:

General Provisions

1. The Motion is granted as provided herein, and entry into and performance under, and in respect of, the APA and the consummation of the transactions contemplated thereby, including, without limitation, the Sale Transaction, the Transition Services Agreement (the "TSA") (a copy of which is affixed as an exhibit to the APA), and the assumption and assignment of the Assumed Contracts, is authorized and approved. The Motion complies with all provisions of Local Rule 6004-1 other than those previously waived by the Court.

2. Any objections and responses to the Motion or the relief requested therein that have not been withdrawn, waived, settled, or resolved, and all reservation of rights included in such objections and responses, are overruled on the merits and denied with prejudice.

3. This Court's findings of fact and conclusions of law set forth in the Bidding Procedures Order are incorporated herein by reference.

Approval of the APA

4. The APA, all ancillary documents, including, without limitation, the TSA, and the transactions contemplated thereby, the Sale Transaction and the assumption and assignment of the Assumed Contracts and all the terms and conditions thereof, are approved. If there is any conflict between the APA and this Order, this Order shall govern.

5. Pursuant to sections 105, 363, and 365 of the Bankruptcy Code, the Debtors are authorized to perform their obligations under, and comply with the terms of, the APA, and all ancillary documents including, without limitation the Transition Services

Agreement, and to consummate the transactions contemplated thereby, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts, pursuant to, and in accordance with, the terms and provisions of the APA and this Order.

6. The Debtors are authorized and directed to execute and deliver, and empowered to perform under, consummate, and implement, the APA, together with all additional instruments and documents that the Sellers or the Buyer reasonably deem necessary or appropriate to implement the APA and effectuate the transactions contemplated thereby, including, without limitation, the Sale Transaction, the TSA and the assumption and assignment of the Assumed Contracts, and to take all further actions as may reasonably be required by the Buyer for the purpose of assigning, transferring, granting, conveying, and conferring to the Buyer or reducing to possession the Purchased Assets, or as may be necessary or appropriate to the performance of any other obligations as contemplated by the APA.

7. This Order and the APA shall be binding in all respects upon the parties and their respective successors (including any trustee, receiver, receiver-manager, interim receiver or monitor, or similar officer appointed in respect of Sellers in the Chapter 11 Cases) and permitted assigns. Platinum may, at any time prior to 10:00 a.m. on the Business Day immediately preceding the Relevant Closing Date, by written notice to Sellers, (i) designate one or more Persons other than the Platinum as its designee to receive some or all of the Purchased Assets in accordance with the provisions of the APA and to assume all Assumed Liabilities related to such Purchased Assets, and (ii) assign any related rights and obligations of Platinum under the APA to such Designated Buyer, in which case each such Designated Buyer shall be deemed to be the Buyer with respect to the Purchased Assets that it has been designated to purchase and any related Assumed Liabilities. Upon any such designation and assignment, the provisions of this Order and of the APA relating to such Purchased Assets and Assumed

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Liabilities (including all rights and obligations relating thereto) shall be deemed to inure to the benefit of, and be binding on, such Designated Buyer (and not Platinum), and such Designated Buyer shall be entitled to enforce such provisions of this Order and the APA, as if such Designated Buyer were a party to the APA on the date hereof.

8. Nothing contained in any plan confirmed in any of the Chapter 11 Cases, any order confirming any such plan, any order converting any of the Chapter 11 Cases to a case under chapter 7 of the Bankruptcy Code, or any order dismissing any of the Debtors' bankruptcy cases shall conflict with or derogate from the provisions of the APA or this Sale Order in any material way.

9. To the fullest extent permitted under applicable law, the Buyer shall be authorized, as of the Relevant Closing Date, to operate under any licenses, Permits, registrations, and government authorizations or approvals of the Debtors with respect to the Purchased Assets, and all such licenses, Permits, registrations, and governmental authorizations and approvals are deemed to have been, and hereby are, directed to be transferred to the Buyer as of the Relevant Closing Date; provided, however, that nothing in the APA or this Order shall authorize the transfer of a permit or license without governmental approval where applicable nonbankruptcy law requires governmental approval of such transfer; provided, further, that the foregoing is not intended to modify the protections provided by section 525 of the Bankruptcy Code to the extent applicable.

10. Any and all claims of the Buyer against the Debtors or their estates arising under the TSA by and among the Debtors and the Buyer, including, without limitation for any and all amounts due or that become due to the Buyer for services rendered on or after the date of this Order and for claims, obligations, or damages owed to the Buyer pursuant to the TSA, including any claims for breach of any provisions in the TSA, shall be afforded administrative

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expense priority pursuant to section 503(b)(1) of the Bankruptcy Code, without need for the Buyer to file any claim or application with, or obtain any order from, this Court.

Transfer of the Purchased Assets Free and Clear

11. Pursuant to sections 105(a), 363(b), 363(f), 365(b) and 365(f) of the Bankruptcy Code, in accordance with the APA, (a) the Purchased Assets shall be transferred to the Buyer and (b) the Purchased Assets shall be free and clear of all Liens, claims, encumbrances, and other interests of any kind or nature whatsoever (other than any Liens created by the Buyer), including, without limitation, rights or claims based on any taxes or successor or transferee liability.

12. Except as expressly permitted or otherwise specifically provided by the APA or this Order, all persons and entities, including, but not limited to, all debt security holders, equity security holders, governmental, tax, and regulatory authorities, lenders, trade creditors, dealers, employees, litigation claimants, and other creditors, holding Liens, claims, encumbrances, and other interests of any kind or nature whatsoever, including, without limitation, rights or claims based on any taxes or successor or transferee liability, against or in a Seller or the Purchased Assets (whether legal or equitable, secured or unsecured, matured or unmatured, contingent or noncontingent, senior or subordinated), arising under or out of, in connection with, or in any way relating to, the Sellers, the Purchased Assets, the use or operation of the Purchased Assets prior to the Relevant Closing Date, or the transactions contemplated by the APA, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts, are forever barred, estopped, and permanently enjoined from asserting against the Buyer, its respective successors and assigns, its respective property and the Purchased Assets, or such persons' or entities' Liens, claims, encumbrances, or other interests, including, without limitation, rights or claims based on any taxes or successor or transferee liability.

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13. This Order (a) shall be effective as a determination that, as of the Relevant Closing Date, (i) no Liens, claims, encumbrances, or other interests of any kind or nature (other than any Liens created by the Buyer) shall be assertable against the Buyer, its affiliates, their respective present or contemplated members, partners or shareholders, successors, or assigns, or any of its or their respective assets (including, without limitation, the Purchased Assets), (ii) the Purchased Assets shall have been transferred to the Buyer free and clear of all Liens, claims, encumbrances, and other interests of any kind or nature whatsoever (other than any Liens created by the Buyer), and (iii) the transfers described herein have been effected, and (b) is and shall be binding upon and govern the acts of all entities, including, without limitation, all filing agents, filing officers, title agents, title companies, recorders of mortgages, recorders of deeds, registrars of deeds, registrars of patents, trademarks, or other intellectual property, administrative agencies, governmental departments, secretaries of state, federal and local officials, and all other persons and entities who may be required by operation of law, the duties of their office, or contract, to accept, file, register, or otherwise record or release any documents or instruments, or who may be required to report or insure any title or state of title in or to any lease, and each of the foregoing persons and entities is directed to accept for filing any and all of the documents and instruments necessary and appropriate to consummate the transactions contemplated by the APA.

14. The transfers of the Purchased Assets to the Buyer in accordance with the APA constitute legal, valid, and effective transfers of the Purchased Assets and shall vest the Buyer with all right, title, and interest of the Sellers in and to the Purchased Assets, free and clear of all Liens, claims, encumbrances, and other interests of any kind or nature whatsoever, including, without limitation, rights or claims based on any taxes or successor or transferee liability (other than any Liens created by the Buyer), as set forth in section 363(f) of the Bankruptcy Code.

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15. On the Relevant Closing Date, each of the Sellers' creditors and any other holder of a Lien, claim, encumbrance, or other interest of any kind or nature whatsoever (other than any Liens created by the Buyer), is authorized and directed to execute such documents and take all other actions as may be necessary to release its Lien, claim, encumbrance, or other interest in the Purchased Assets, if any, as such Lien, claim, encumbrance, or other interest may have been recorded or may otherwise exist.

16. If any person or entity that has filed financing statements, mortgages, mechanic's Liens, lis pendens, or other documents or agreements evidencing a Lien, claim, encumbrance, or other interest (other than any Liens created by the Buyer) in the Purchased Assets shall not have delivered to the Sellers prior to the Relevant Closing Date, in proper form for filing and executed by the appropriate parties, termination statements, instruments of satisfaction, releases of all Liens, claims, encumbrances, or other interests that the person or entity has with respect to the Purchased Assets, or otherwise, then (a) the Seller and the Buyer are each authorized to execute and file such statements, instruments, releases, and other documents on behalf of the person or entity with respect to the Sellers and the Purchased Assets, and (b) the Buyer is authorized to file, register, or otherwise record a certified copy of this Order, which shall constitute conclusive evidence of the release of all Liens, claims, encumbrances, and other interests of any kind or nature whatsoever in the Purchased Assets.

17. On the Relevant Closing Date, all persons or entities in possession of any of the Purchased Assets are directed to surrender possession of such Purchased Assets to the Buyer.

18. Following the Relevant Closing Date, none of the Debtors, their affiliates, or any creditor or holder of any Lien, claim, encumbrance, or other interest of any kind or nature whatsoever (other than Liens created by the Buyer) shall interfere with the Buyer's title to, or use

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and enjoyment of, the Purchased Assets, based on, or related to, any such Lien, claim, encumbrance, or other interest, or based on any actions the Debtors may take in their bankruptcy cases or otherwise.

19. All persons and entities are prohibited and enjoined from taking any action to adversely affect or interfere with the ability of the Debtors to transfer the Purchased Assets to the Buyer in accordance with the APA and this Order; provided, however, that the foregoing restriction shall not prevent any person or entity from appealing this Order or opposing any appeal of this Order.

20. To the extent provided by section 525 of the Bankruptcy Code, no governmental unit may deny, revoke, suspend, or refuse to grant or renew any permit, license, or similar grant relating to the operation of the Purchased Assets on account of the filing or pendency of the Chapter 11 Cases or the consummation of the transactions contemplated by the APA, including, without limitation, the Sale Transaction, the TSA and the assumption and assignment of the Assumed Contracts.

Assumption and Assignment of the Assumed Contracts

21. Except as otherwise expressly provided in the APA or this Order, upon the Relevant Closing Date, pursuant to sections 105(a), 363, and 365 of the Bankruptcy Code, the Debtors are authorized to assume each of the Assumed Contracts free and clear of all Liens, claims, encumbrances, and other interests of any kind or nature whatsoever (other than any Liens created by the Buyer).

22. Notwithstanding anything to the contrary in the Sale Procedures Order or any notice of proposed assignment and assumption issued in the Chapter 11 Cases, on or before the date that is one (1) Business Day before the Relevant Closing Date (the "Designation Deadline"), Platinum shall provide to the Sellers a list of those Contracts that it elects to have

assumed and assigned to Buyer on the Relevant Closing Date (the "Designated Contracts"). Platinum shall be entitled to remove certain Contracts from the list of Designated Contracts at any time prior to the Designation Deadline. In the event that Platinum removes any of such Contracts from such list, the Sellers will provide the relevant counterparty written notice that the applicable Contract is no longer identified as a Designated Contract.

23. The Cure Amounts set forth on Exhibit B attached to this Order, are the sole amounts necessary to be paid upon assumption of the Assumed Contracts under sections 365(b)(1)(A) and (B) and 365(f)(2)(A) of the Bankruptcy Code. Upon the payment of the Cure Amounts, if any, by the Buyer, the Assumed Contracts shall remain in full force and effect, and no default shall exist under the Assumed Contracts nor shall there exist any event or condition which, with the passage of time or giving of notice, or both, would constitute such a default. The Cure Amounts shall not be subject to further dispute or audit, including, without limitation, any based on performance or lack thereof prior to the Relevant Closing Date, irrespective of whether such Assumed Contract contains an audit clause. After the payment of the Cure Amounts by the Buyer, none of the Debtors or the Buyer shall have any further liabilities to the counterparties to the Assumed Contracts other than the Buyer's obligations under the Assumed Contracts that become due and payable after the Relevant Closing Date. To the extent that an Assumed Contract constitutes an executory contract or unexpired lease under section 365 of the Bankruptcy Code, all requirements and conditions under sections 363 and 365 of the Bankruptcy Code for the assumption by the Debtors of such Assumed Contracts have been satisfied. Upon the Relevant Closing Date, in accordance with sections 363 and 365 of the Bankruptcy Code, (i) the Buyer shall be fully and irrevocably vested with all right, title and interest of the Debtors under the Assumed Contracts, (ii) the Buyer shall be deemed to be substituted for the Debtors as a party to the applicable Assumed Contracts, and (iii) the Debtors

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shall be relieved, pursuant to section 365(k) of the Bankruptcy Code, from any further liability under the Assumed Contracts.

24. The Buyer has provided adequate assurance of future performance under the Assumed Contracts within the meaning of sections 365(b)(1)(C), 365(b)(3) (to the extent applicable), and 365(f)(2)(B) of the Bankruptcy Code.

25. There shall be no right to payment, termination, modification, acceleration or cancellation, assignment fees, increases, or any other fees charged to the Debtors or the Buyer as a result of the execution and delivery by Buyer of the APA or related documents, the TSA, the consummation of the Transactions, or the compliance by Buyer with any provisions in the APA. The validity of the transactions contemplated by the APA, including, without limitation, the Sale Transaction, the TSA and the assumption and assignment of the Assumed Contracts, shall not be affected by any dispute between any of the Debtors or their affiliates and another party to an Assumed Contract regarding the payment of any amount, including any cure amount under the Bankruptcy Code. Upon assignment to the Buyer, the Assumed Contracts shall be valid and binding, in full force and effect, and enforceable by the Buyer in accordance with their respective terms.

26. Pursuant to sections 105(a), 363, and 365 of the Bankruptcy Code, all counterparties to the Assumed Contracts are forever barred and permanently enjoined from raising or asserting against the Debtors or the Buyer any assignment fee, default, breach or claim of pecuniary loss, or condition to assignment, arising under or related to the Assumed Contracts and existing as of and including the Relevant Closing Date, or under the APA or arising by reason of the consummation of transactions contemplated by the APA, including, without limitation, the Sale Transaction, the TSA and the assumption and assignment of the Assumed Contracts. Any party that may have had the right to consent to the assignment of an Assumed

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Contract is deemed to have consented to such assignment for purposes of section 365(e)(2)(A)(ii) of the Bankruptcy Code and otherwise, if such party failed to object to the assumption and assignment of such Assumed Contract.

No Successor or Transferee Liability

27. None of the Buyer, its present or contemplated members, partners or shareholders, its respective successors or assigns, or any of the foregoing's respective affiliates, agents, officials, personnel, representatives, or advisors shall have any liability for any claim assertable against the Debtors or their estate or related to the Purchased Assets. The Buyer shall not be deemed, as a result of any action taken in connection with the APA or any of the transactions or documents ancillary thereto or contemplated thereby, or in connection with the transfer of the Purchased Assets, (a) to be a legal successor, or otherwise be deemed a successor to the Debtors, (b) to have, de facto or otherwise, merged with or into the Debtors, or (c) to be a mere continuation or substantial continuation of the Debtors or the enterprise of the Debtors. Without limiting the foregoing, the Buyer shall not have any successor, transferee, derivative, or vicarious liabilities of any kind or character for any claims, including, without limitation, under any theory of successor or transferee liability, de facto merger or continuity, environmental, tax, labor and employment, products, or antitrust liability, whether known or unknown as of the Relevant Closing Date, now existing or hereafter arising, asserted or unasserted, fixed or contingent, liquidated or unliquidated.

28. Effective upon the Relevant Closing Date, and except as otherwise expressly provided in this Order, all persons and entities are forever prohibited and enjoined from commencing or continuing in any manner any action or other proceeding, whether in law or equity, in any judicial, administrative, arbitral, or other proceeding, against the Buyer, its respective past, present, or contemplated members, partners or shareholders, its respective

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predecessors, its respective successors, assigns, or affiliates, or its respective assets, including, without limitation, the Purchased Assets, with respect to any claim against the Debtors, including, without limitation, the following actions: (a) commencing or continuing any action or other proceeding pending or threatened against the Debtors as against the Buyer, its respective past, present, or contemplated members or shareholders, its respective predecessors, its respective successors, assigns, or affiliates, or its respective assets, including, without limitation, the Purchased Assets, (b) enforcing, attaching, collecting, or recovering in any manner any judgment, award, decree, or order against the Debtors as against the Buyer, its respective past, present, or contemplated members or shareholders, its respective predecessors, its respective successors, assigns, or affiliates, or its respective assets, including, without limitation, the Purchased Assets, (c) creating, perfecting, or enforcing any Lien, claim, interest, or encumbrance against the Debtors as against the Buyer, its respective past, present, or contemplated members or shareholders, its respective predecessors, its respective successors, assigns, or affiliates, or its respective assets, including, without limitation, the Purchased Assets, (d) asserting any setoff, right of subrogation, or recoupment of any kind for any obligation of any of the Debtors as against any obligation due the Buyer, its respective past, present, or contemplated members or shareholders, its respective predecessors, its respective successors, assigns, or affiliates, or its respective assets, including, without limitation, the Purchased Assets (e) commencing or continuing any action, in any manner or place, that does not comply, or is inconsistent with, the provisions of this Order, or the agreements or actions contemplated or taken in respect thereof, or (f) revoking, terminating, or failing or refusing to renew any license, permit, or authorization to operate any of the Purchased Assets or conduct any of the businesses operated with such assets.

29. Except for the Assumed Liabilities (solely in the case of the Buyer with respect to the Purchased Assets) or as expressly provided in the APA or this Order, the Buyer

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shall not have any liability or responsibility for any liability or other obligation of the Sellers or their Estates arising under or related to the Purchased Assets. Without limiting the generality of the foregoing, and except as expressly provided in the APA or this Order, the Buyer shall not be liable for any Liens, claims, encumbrances, or other interests of any kind or nature against the Sellers or their Estate or any of their predecessors or affiliates, and the Buyer shall have no successor, transferee, or vicarious liabilities of any kind or character, including, without limitation, liabilities based on any theory of antitrust, environmental, tax, successor, or transferee liability, labor law, de facto merger, or substantial continuity, whether known or unknown as of the Relevant Closing Date, now existing or hereafter arising, whether fixed or contingent, asserted or unasserted, liquidated or unliquidated, with respect to the Sellers or their Estate or any obligations of the Sellers or their Estates arising prior to the Relevant Closing Date.

30. Upon the Relevant Closing Date, the Sellers shall have no liability or responsibility for the Assumed Liabilities associated therewith.

31. Without limiting the generality of the foregoing, none of the Buyer, its respective affiliates, its respective present or contemplated members, partners or shareholders, or the Purchased Assets shall have any liability whatsoever with respect to, or be required to satisfy in any manner, whether at law or equity, or by payment, setoff, or otherwise, directly or indirectly, any Liens, claims, encumbrances, and other interests relating to any U.S. federal, state, or local income tax liabilities, including, without limitation, any such tax liabilities that are attributable to the recapture of an excess loss account under Treasury Regulation Section 1.1502-19 (or any similar provision of state or local tax law), that the Debtors are obligated for or incur in connection with consummation of the transactions contemplated by the APA, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts.

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32. This Order (a) shall be effective as a determination that, except for the Assumed Liabilities (solely in the case of the Buyer with respect to the Purchased Assets), on or prior to the Relevant Closing Date, all Liens, claims, encumbrances, and other interests of any kind or nature whatsoever existing as to the Sellers with respect to the Purchased Assets have been unconditionally released and terminated, and that the transfers described in this Order have been effected, and (b) shall be binding upon and govern the acts of all entities, including, without limitation, all filing agents, filing officers, title agents, title companies, recorders of mortgages, recorders of deeds, registrars of deeds, administrative agencies, governmental departments, secretaries of state, federal, state, and local officials, and all other persons and entities who may be required by operation of law, the duties of their office, or contract, to accept, file, register, or otherwise record or release any documents or instruments, or who may be required to report or insure any title or state of title in or to any of the Purchased Assets.

33. Each and every federal, state, and local governmental agency or department is authorized to accept any and all documents and instruments necessary or appropriate to consummate the transactions contemplated by the APA, including, without limitation, the Sale Transaction, the TSA and the assumption and assignment of the Assumed Contracts.

34. To the fullest extent permissible under applicable law, except as otherwise provided in the APA or this Order, the Debtors irrevocably and unconditionally release, remise, and forever discharge the Buyer and its Affiliates from any and all suits, legal or administrative proceedings, claims, demands, damages, losses, costs, liabilities, interest or causes of action whatsoever, at law or in equity, known or unknown, which the Debtors, their estates and their affiliates might now or subsequently may have, based on, relating to or arising out of the Auction, the Stalking Horse Bid (as that term is used in the Bidding Procedures Order), the APA

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and this Order, the transactions contemplated by the APA and this Order, the ownership, use or operation of the Purchased Assets or the condition, quality, status or nature of the Purchased Assets, including rights to contribution under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, breaches of statutory or implied warranties, nuisance or other tort actions, rights to punitive damages, common law rights of contribution and rights under insurance maintained by the Released Parties.

35. The transactions contemplated by the APA, including, without limitation, the Sale Transaction, the TSA and the assumption and assignment of the Assumed Contracts, are undertaken by the Buyer without collusion and in good faith, as that term is used in section 363(m) of the Bankruptcy Code, and were negotiated by the parties at arm's length, and accordingly, the reversal or modification on appeal of the authorization provided in this Order to consummate the transactions contemplated by the APA, including, without limitation, the Sale Transaction, the TSA and the assumption and assignment of the Assumed Contracts, shall not affect the validity of such transactions, unless such authorization is duly stayed pending such appeal. The Buyer is a purchaser in good faith and the Buyer (and any Designated Buyer) and its agents, officials, personnel, representatives, and advisors are entitled to all the protections afforded by section 363(m) of the Bankruptcy Code.

36. The Buyer has given fair and substantial consideration under the APA for the benefit of the Debtors and their creditors and estates. The consideration provided by the Buyer for the Purchased Assets under the APA is greater than the liquidation value of the Purchased Assets, and shall be deemed to constitute reasonably equivalent value and fair consideration under the Bankruptcy Code and under the laws of the United States, any state, territory, possession, or the District of Columbia.

37. The consideration provided by the Buyer for the Purchased Assets under the APA is fair and reasonable, and the transactions contemplated by the APA, including, without limitation, the Sale Transaction, the TSA and the assumption and assignment of the Assumed Contracts, may not be avoided under section 363(n) of the Bankruptcy Code.

Sale Proceeds and Cash Accounts

38. Within two (2) business days following the Economic Transfer Time, all proceeds from the Sale Transaction and any cash held by the Debtors immediately prior to the Economic Transfer Time (except for (a) Cash-Backed Collateral and (b) cash held by the Debtors in any account listed within the Excluded Assets, which cash, in the case of clause (b) above, shall continue to be subject to the Final DIP Order (as defined below)), shall be: (i) *first*, paid by the Debtors to Vantage in satisfaction, on a dollar-for-dollar basis, of the Expense Reimbursement (as defined in paragraph 39 below); (ii) *second*, paid by the Debtors to Vantage in satisfaction, on a dollar-for-dollar basis, of the DIP Obligations (as defined in this Court's "Final Order (I) Authorizing Debtors to Obtain Postpetition Financing Pursuant to 11 U.S.C. §§ 105, 362, and 364, (II) Authorizing Debtors to Use Cash Collateral, (III) Granting Liens and Superpriority Claims to Postpetition Lenders Pursuant to 11 U.S.C. §§ 364 and 507, and (IV) Granting Adequate Protection to Prepetition LES Lenders Pursuant to 11 U.S.C. §§ 361, 362, 363, 364, and 507" [Docket No. 197] (the "Final DIP Order") and (iii) *third*, to the extent any proceeds or cash remain following any satisfaction of the DIP Obligations and the Expense Reimbursement, deposited by the Debtors in an escrow account as cash collateral of the Prepetition LES Lenders (as defined in the Final DIP Order) or the Swap Counterparty (as defined in the Final DIP Order), to be disbursed to the Prepetition LES Lenders or Swap Counterparty in accordance with any further order(s) of this Court.

Expense Reimbursement

39. Pursuant to the Bidding Procedures Order, Vantage is entitled to a reimbursement for all of its actual, reasonable out-of-pocket expenses (the "Expense Reimbursement") in connection with the Stalking Horse Bid (as that term is used in the Bidding Procedures Order) in an amount not greater than \$500,000.00, which shall be paid by the Debtors to Vantage within two (2) business days following the Economic Transfer Time.

Related Relief

40. Notwithstanding the possible applicability of Bankruptcy Rules 6004, 6006, 7062, 9014, or otherwise, the terms and conditions of this Order shall be immediately effective and enforceable upon its entry. The Debtors are not subject to any stay in the implementation, enforcement, or realization of the relief granted in this Order, and may, subject to the terms and conditions of the APA, and in their discretion and without further delay, close the transactions contemplated under the APA and the TSA and take any action and perform any act authorized under this Order.

41. The Buyer shall not be required to seek or obtain relief from the automatic stay under section 362 of the Bankruptcy Code to enforce any of its remedies under the APA or any other sale-related document. The automatic stay imposed by section 362 of the Bankruptcy Code is modified solely to the extent necessary to implement the preceding sentence; provided, however, that this Court shall retain exclusive jurisdiction over any and all disputes with respect thereto.

42. The terms and provisions of the APA and this Order shall be binding in all respects upon the Debtors, their respective affiliates, estates, and creditors, all holders of equity interests in any of the Debtors, all holders of any Claims, all counterparties to each Assumed Contract, all interested parties in the Chapter 11 Cases and their respective successors and

assigns, the Buyer and its successors and assignees, and any trustees, if any subsequently appointed in any of the Debtors' Chapter 11 Cases or upon a conversion to chapter 7 under the Bankruptcy Code of any of the Debtors' cases. This Order and the APA shall inure to the benefit of the Debtors, their estates and creditors, the Buyer, and their respective successors and assigns, and each of the foregoing's respective agents, officials, personnel, representatives, and advisors.

43. No law of any state or other jurisdiction relating to bulk sales or similar laws shall apply in any way to the transactions contemplated by the APA, including, without limitation, the Sale Transaction, the TSA and the assumption and assignment of the Assumed Contracts, the Motion, and this Order.

44. The terms and provisions of the APA and this Order shall inure to the benefit of the Debtors, their estates, and their creditors, the Buyer, any Designated Buyer and each of the foregoing's respective agents, officials, personnel, representatives, and advisors.

45. The failure to specifically include any particular provision of the APA in this Order shall not diminish or impair the effectiveness of such provision, it being the intent of the Court that the APA be authorized and approved in its entirety.

46. The APA, the TSA and any related agreements, documents, or other instruments may be modified, amended, or supplemented by the parties thereto and in accordance with the terms thereof, without further order of the Court; provided that any such modification, amendment, or supplement does not have a material adverse effect on the Debtors' estates. Any such proposed modification, amendment, or supplement that does have a material adverse effect on the Debtors' estates shall be subject to further order of the Court, on ten (10) days' notice.

47. The provisions of this Order are non-severable and mutually dependent on each other.

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48. All time periods set forth in this Order shall be calculated in accordance with Bankruptcy Rule 9006(a).

49. To the extent that this Order is inconsistent with any prior order or pleading with respect to the Motion or the transactions contemplated by the APA, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts, the terms of this Order shall govern.

50. This Court retains exclusive jurisdiction to enforce and implement the terms and provisions of this Order, the APA, all ancillary documents, all amendments thereto, any waivers and consents thereunder, and each of the agreements executed in connection therewith, in all respects, including, but not limited to, retaining jurisdiction to (a) compel delivery of the Purchased Assets to the Buyer, (b) compel delivery of the Purchase Price or performance of other obligations owed by or to the Debtors, (c) resolve any disputes arising under or related to the APA, including any disputes that may arise with respect to any purchase price adjustment under section 3.5 of the APA, except as otherwise provided therein, (d) interpret, implement, and enforce the provisions of this Order, and (e) protect the Buyer against the assertion of any Lien, claim, encumbrance, or other interest, of any kind or nature whatsoever, against the Purchased Assets.

51. Platinum shall have no liability for, or other obligation to pay, any incentive payments that the Debtors or any of them have agreed to pay to those employees who are identified in the pleading filed by the Debtors in these cases at Docket Number 370, and notwithstanding any assignment to Platinum of any employment agreements with respect to such employees.

52. The Buyer shall pay Determined Cure Costs with respect to Assumed Contracts at the Relevant Closing Date(s).

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53. Nothing herein or in the APA (i) releases, nullifies, precludes, or enjoins the enforcement of any environmental liability to a governmental unit that any entity would otherwise be subject to as the owner or operator of property after the Relevant Closing Date, (ii) authorizes the transfer or assignment of any governmental (a) license, (b) permit, (c) registration, (d) authorization or (e) approval, or the discontinuance of any obligation thereunder, without compliance with applicable legal requirements under police or regulatory law, and (iii) divests any tribunal of any jurisdiction that it may have under environmental law to interpret this Order or to adjudicate any defense asserted under this Order.

54. Nothing in this Order, the APA or any other document executed in connection with the transactions contemplated by the APA is intended to modify, or shall be deemed to modify, in any way: (i) any of the terms or conditions of any state or federally approved protocols, statutes, regulations, regulatory orders and/or tariff applicable to Debtors, the Buyer or their respective businesses; (ii) the terms and conditions of any customer contract; or (iii) the terms or conditions of any agreement or arrangement between any of the Debtors and: (AA) a regional transmission organization ("RTO") or independent service organization ("ISO"); (BB) a public utility; or (CC) a federal or state public service agency, board or commission.

55. Nothing in this Order is intended, or shall it be deemed, to preclude an exercise of the authority and jurisdiction of any federal or state public service agency, board or commission, with respect to any law or regulation concerning the business to be conducted by the Debtors prior to the Relevant Closing Date or by the Buyer after the Relevant Closing Date.

56. Nothing in this Order is intended, or shall be deemed, to impose liability on Buyer for any act, omission, dispute, breach or obligation under: (i) any customer contract; or (ii) any contract or arrangement with a public utility, any federal or state public service agency, board or commission, or any RTO/ISO with respect to the period prior to the Relevant Closing

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Date; provided, however, that the Buyer shall be responsible for payment of Determined Cure Costs with respect to Assumed Contracts at the Relevant Closing Date(s).

57. The Buyer shall be certified as a retail electric provider under applicable state law and shall satisfy all applicable regulatory requirements prior to the Relevant Closing Date and/or prior to the assumption and assignment of any Assumed Contract or any customer contract from the Debtors or any of them.

58. Notwithstanding anything to the contrary contained in this Order or in the APA (or in any exhibit or schedule thereto), to the extent that the Debtors (or any of them) seek to effect an assumption and assignment of any Assumed Contract as to which an RTO, ISO or public utility (including the Texas PUC) is a counterparty, and such counterparty has filed, prior to the date hereof, (i) a written objection or written reservation of rights in these Chapter 11 Cases to the Debtors' motion seeking approval of the Sale Transaction, (ii) a written objection or written reservation of rights to the Cure Amounts, (iii) a written objection or written reservation of rights to the Debtors' Assumption and Assignment Notices, and/or (iv) a written objection or written reservation of rights to the Debtors' proposed schedule(s) of assumption and assignment of executory contracts filed in the Chapter 11 Cases (each, a "Counterparty"), the Debtors shall be required to provide written notice of the same to the applicable Counterparty and its counsel at least ten (10) business days prior thereto (the "Notice Period"). If the applicable Counterparty objects to the proposed assumption and assignment of any Assumed Contracts to which it is party on one or more grounds asserted in its written objection and/or its written reservation of rights filed prior to the date hereof (in either instance, an "Objection"), it shall, within five (5) business days after its receipt of notice from the Debtors, inform the Debtors and the Buyer (and their respective counsel) in

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writing (a "Counterparty Dispute Notification") that such Counterparty objects to the proposed assumption and assignment (a "Dispute"). A Counterparty Dispute Notification shall set forth in reasonable detail the grounds for objection, which grounds shall be limited to those set forth in the Objection. If, despite good faith efforts, the parties are unable to resolve the Dispute within five (5) business days after receipt of the Counterparty Dispute Notification by the Debtors and the Buyer (or such further time as the parties may mutually agree), the Dispute shall be presented to the Bankruptcy Court for prompt determination thereof, and the proposed assumption and assignment of the applicable Assumed Contract(s) shall only be effected under and pursuant to a further order of this Court. If a Dispute is resolved by the parties without the need for a Court determination, all Objections filed or otherwise asserted by the relevant Counterparty shall be deemed withdrawn with prejudice and no other or further order of this Court shall be required for the Debtors to effect an assumption and assignment of the applicable Assumed Contract(s) to the Buyer and, in such event, the Buyer shall be deemed to have fully complied with, and satisfied the provisions of, section 365 of the Bankruptcy Code. Pending a Court determination as to a Dispute or resolution thereof, and notwithstanding anything to the contrary contained in this Order or in the APA (or in any exhibit or schedule thereto), the Debtors, the Buyer and the Counterparties reserve their respective rights and defenses as to (i) any Dispute, and (ii) whether an Assumed Contract to which a Counterparty is party to is "executory" under section 365 of the Bankruptcy Code and applicable law. Each of Vectren Energy Delivery of Indiana, Inc. a/k/a Indiana Gas Company, Vectren Energy Delivery of Indiana, Inc. a/k/a Southern Indiana Gas and Electric Company, and Vectren Energy Delivery of Ohio, Inc. shall be deemed to be a Counterparty as defined and described above.

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59. Nothing in this Order is intended, nor shall it be deemed, to preclude any exercise of the authority and jurisdiction of the New Hampshire Public Utilities Commission (NHPUC) with respect to any applicable law concerning the regulation of the business to be conducted by the Buyer, or the adjudication of any dispute concerning any Customer Contracts (as such term is defined in the APA), including any dispute over conduct of the Debtors that allegedly occurred during the six (6) months prior to the Relevant Closing Date, and the NHPUC is not precluded from entering appropriate orders to address any alleged Pre-Relevant Closing Date disputes ("Pre-Relevant Closing Date Disputes"); provided that, the Buyer reserves its rights and defenses in connection with the foregoing, and provided further that the Buyer shall not be liable for claims, damages and/or penalties in an aggregate amount in excess of \$3,000.00 on account of any such Pre-Relevant Closing Date Disputes.

60. If, within thirty (30) days after the Economic Closing, Vantage or Buyer notifies the other in writing that, based on updated information regarding the Eligible Account Receivables or the Cash-Backed Collateral (the "Updated Information"), the Purchase Price shall be adjusted, Vantage and Buyer shall use their respective good faith efforts to calculate the appropriate adjustment. If the Purchase Price paid at the Economic Closing was less than the purchase price as calculated based on the Updated Information (the "Higher Purchase Price"), then Buyer shall, within five (5) days following such resolution or decision, pay to the Sellers an amount equal to the Higher Purchase Price less the Purchase Price. Alternatively, if, based upon the parties' resolution or independent accounting firm's decision, as the case may be, the Purchase Price paid at the Economic Closing was more than the purchase price as calculated based on the Updated Information (the "Lower Purchase Price"), then within five (5) days

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following such determination, the Sellers shall pay to the Buyer, from Vantage's Cash Collateral (as defined in the Final DIP Order), to the extent such cash is not necessary to meet administrative expenses in the amounts set forth in the Approved Budget (as defined in the Final DIP Order), an amount equal to the Purchase Price less the Lower Purchase Price (the "Overpayment Amount"). In the event that no such cash is available or if such cash is not sufficient to pay the Buyer the entire Overpayment Amount, then within five (5) days following such determination, Vantage shall pay to the Buyer an amount (the "Vantage Payment Amount") equal to the Overpayment Amount less the amount paid by the Sellers to the Buyer, and the Sellers' outstanding DIP Obligations (as defined in the Final DIP Order) shall be deemed adjusted to reflect that the outstanding DIP Obligations are increased by the amount of the Vantage Payment Amount. Notwithstanding anything to the contrary herein, Vantage shall not be obligated to pay the Vantage Payment Amount to Buyer unless Vantage has received from the Sellers proceeds from the sale equal to the Purchase Price.

Dated: June 17, 2014
Wilmington, Delaware



CHRISTOPHER S. SONTCHI,
UNITED STATES BANKRUPTCY JUDGE

EXHIBIT A

APA

ASSET PURCHASE AND SALE AGREEMENT
BY AND AMONG
GLACIAL ENERGY HOLDINGS,
THE SELLING DEBTORS PARTY HERETO
AND
PLATINUM PARTNERS VALUE ARBITRAGE FUND LP

Dated as of June __, 2014

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Exhibits

- A Form of Bill of Sale
- B Form of Transition Services Agreement

ASSET PURCHASE AND SALE AGREEMENT

This ASSET PURCHASE AND SALE AGREEMENT, dated as of June __, 2014 (this "Agreement"), is made and entered into by and among Glacial VI, LLC, a US Virgin Islands limited liability company ("Glacial VI"), Glacial Energy Holdings, a Nevada corporation ("Lead Seller") having an address at 24 Massachusetts 6A, Sandwich, MA 02563, each of the Selling Debtors (as defined below, and together with Glacial VI and Lead Seller "Sellers", and each individually a "Seller") and Platinum Partners Value Arbitrage Fund LP, a Cayman Islands limited partnership ("Platinum") having an address at 152 West 57th Street, 4th Floor, New York, New York 10019. Sellers and Platinum sometimes herein referred to collectively as the "Parties" and individually as a "Party."

WITNESSETH:

WHEREAS, on April 10, 2014 (the "Petition Date"), the Sellers commenced voluntary cases under chapter 11 of title 11 of the United States Code, 11 U.S.C. § 101 et seq. (the "Bankruptcy Code") in the United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Court") (collectively, the "Chapter 11 Cases");

WHEREAS, Sellers are debtors-in-possession under the Bankruptcy Code and manage their respective properties pursuant to sections 1107(a) and 1108 of the Bankruptcy Code;

WHEREAS, Sellers are currently engaged in the Business (as defined below);

WHEREAS, Platinum desires to purchase the Purchased Assets (as defined below) free and clear of all Liens (as defined below);

WHEREAS, on the terms and subject to the conditions hereinafter set forth and pursuant to a Sale Order (as defined herein) and sections 105(a), 363 and 365 of the Bankruptcy Code, the Parties desire to enter into this Agreement;

WHEREAS, pursuant to the terms and subject to the conditions of this Agreement and the Transition Services Agreement (as defined herein), effective as of the Economic Transfer Time (as defined herein) and continuing until the Asset Transfer Closing (as defined herein), Buyer (as defined below) desires to assume responsibility for all Fully Loaded Costs (as defined herein) and all Commodity Supply Payment Obligations (as defined herein) of the Business and be entitled to all Cash Receipts (as defined herein) of the Business;

WHEREAS, pursuant to the terms and subject to the conditions of this Agreement, at the Asset Transfer Closing, Sellers wish to sell and transfer to Buyer, and Buyer wishes to purchase and acquire from Sellers, the Purchased Assets (as defined below), and assume from Sellers and thereafter pay, discharge and perform the Assumed Liabilities (as defined herein); and

WHEREAS, the transactions contemplated by this Agreement are subject to the approval by the Bankruptcy Court of this Agreement and will be consummated only pursuant to the Sale Order entered in the Chapter 11 Cases.

NOW, THEREFORE, in consideration of the premises hereof and of the mutual covenants, representations, warranties and agreements herein contained, and for good and valuable consideration the receipt and sufficiency of which the Parties hereby acknowledge, and intending to be legally bound hereby, the Parties hereby agree as follows:

ARTICLE I

DEFINITIONS

Section 1.1 Certain Definitions.

For purposes of this Agreement, the following terms shall have the meanings specified in this Section 1.1:

"Action" means any action, suit, arbitration, claim, inquiry, proceeding or investigation by or before any Governmental Body of any nature, civil, criminal, regulatory or otherwise, in law or in equity.

"Affiliate" (and, with a correlative meaning "affiliated") means, with respect to any Person, any direct or indirect subsidiary of such Person, and any other Person that directly, or indirectly through one or more intermediaries, controls or is controlled by or is under common control with such first Person. As used in this definition, "control" (including with correlative meanings, "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 or policies (whether through ownership of securities or partnership or other ownership interests, by Contract or otherwise).

"Assumed Contracts" means all Contracts listed on Schedule 1.1(a) including without limitation the Transferred Customer Contracts, the Transferred Broker Contracts, the Transferred TDSP and Utility Contracts, the Transferred IP Licenses, the Transferred Real Property Leases and all Other Assumed Contracts, in each case subject to Buyer's right to designate any Contract as an Excluded Contract and to exclude it from the Purchased Assets pursuant to and in accordance with Sections 2.6 and 7.3 hereof.

"Auction" means that certain auction, if any, conducted pursuant to the terms of the Sale Procedures Order.

"Bankrupt" means, with respect to any obligor under an Account Receivable, that such obligor has (i) applied for, suffered or consented to the appointment of any receiver, interim receiver, receiver-manager, custodian, trustee or liquidator of its assets, (ii) had possession of all or a material part of its property taken by any receiver, interim receiver, receiver-manager, custodian, trustee or liquidator, (iii) filed, or had filed against it, any request or petition for liquidation, reorganization, arrangement, adjustment of debts, adjudication as bankrupt, winding-up or voluntary or involuntary case under any federal or state bankruptcy laws, (iv) admitted in writing its inability to pay its debts as they become due, or become generally unable to pay its debts as they become due, (v) become insolvent, (vi) made a general assignment for the benefit of its creditors, or (vii) ceased operation of its business.

"Broker" means any Person that assists a Seller in soliciting Customers in connection with the Business or otherwise facilitates sales of products or services of the Seller in connection with the Business, including Contracts with brokers, referrers, telemarketers and door-to-door vendors and Contracts relating to multi-level-marketing arrangements and affinity programs.

"Broker Contract" means any Contract with any Broker.

"Business" means the business of marketing and selling electricity and/or natural gas and/or related products and/or services to Customers in California, Connecticut, Delaware, Florida, Illinois, Indiana, Massachusetts, Maryland, Maine, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Texas, Virginia and Washington, DC.

"Business Day" means a day other than a Saturday, Sunday or other day on which commercial banks in New York City are authorized or required by Law to close.

"Buyer" means Platinum unless Platinum has designated, pursuant to and in accordance with Section 12.11, one or more Persons other than Platinum to receive some or all of the Purchased Assets (including any related rights pursuant to Section 2.1(b) if applicable) on account of Platinum's bid in accordance with the provisions of the Sale Order and to assume all Assumed Liabilities related to such Purchased Assets (including any related obligations pursuant Section 2.1(a) if applicable), in which case such Person or Persons so designated (each a **"Designated Buyer"**) shall be deemed to be the Buyer with respect to the Purchased Assets that it has been designated to receive (including any related rights pursuant to Section 2.1(b) if applicable) and any related Assumed Liabilities (including any related obligations pursuant to Section 2.1(a) if applicable) and, in the case of a designation of more than one Person to receive Purchased Assets or in the event that Platinum designates a Person to receive less than all of the Purchased Assets with Platinum receiving the remainder, the term "Buyer" shall mean, collectively, each Person (including Platinum) that will receive Purchased Assets hereunder (including any related rights pursuant to Section 2.1(b) if applicable) and, in relation to each Buyer, the term "Purchased Assets" shall mean the Purchased Assets that such Buyer will receive hereunder (including any related rights pursuant to Section 2.1(b) if applicable) and the term "Assumed Liabilities" shall mean the Assumed Liabilities relating to such Purchased Assets (including any related obligations pursuant to Section 2.1(a) if applicable).

"Cash-Backed Collateral" means all amounts on deposit in all accounts in the name of a Seller, all amounts on deposit with transmission and distribution service providers, independent system operators and state public utility commissions, and all other cash and cash equivalents, in each case, to the extent included in the Purchased Assets, and any other cash in any account listed in Schedule 3.1.

"Cash Receipts" means all revenue and other amounts received by Sellers from Customers, transmission and distribution service providers, utilities, independent system operators, regional transmission operators, local distribution companies, pipelines or otherwise in connection with the Business or on account of Sellers' possession of any Purchased Assets or Sellers' provision of the Services.

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

"Commodity Supply Payment Obligations" means any payments required to be made by Sellers to EDFT for the supply of electricity or natural gas under the ISDA pursuant to and in accordance with the terms of the ISDA.

"Consent" means any consent, waiver, approval, order or authorization of, or registration, declaration or filing with or notice to, any Governmental Body or other Person.

"Contract" means (whether written or oral) any contract, indenture, note, bond, loan, instrument, lease, license, undertaking, commitment or other agreement.

"Cure Costs" means any and all costs, expenses or actions that the Sellers are required to pay or perform to assume any of the Assumed Contracts pursuant to section 365(f) of the Bankruptcy Code.

"Customer" means any Person with an effective Contract with a Seller for the retail purchase of electricity and/or natural gas and/or related products and/or services.

"Customer Contract" means each Contract in effect as of the date of determination between a Seller and a Customer for the retail sale of electricity and/or natural gas and/or related products and/or services.

"Delinquent Obligor" means any obligor under an Account Receivable if fifty percent (50%) or more of the total Accounts Receivable owed by such obligor to Sellers are aged 91 days or more as of the Economic Transfer Time.

"Designated Buyer" has the meaning set forth in the definition of "Buyer".

"Determined Cure Costs" means, in the aggregate, all Cure Costs payable in respect of the Assumed Contracts as determined pursuant to a Final Order and pursuant to section 365(f) of the Bankruptcy Code, which Order may be the Sale Order.

"DIP Claim" means the priming, first-priority perfected secured claims granted to the DIP Lender under the DIP Order, the DIP Credit Agreement and any related documentation.

"DIP Credit Agreement" means that certain Senior Secured Superpriority Debtor-In-Possession Credit Agreement annexed to the DIP Motion.

"DIP Lender" means Vantage, in its capacity as lender under the DIP Credit Agreement.

"DIP Motion" means the motion filed in the Chapter 11 Cases requesting entry of an order (i) authorizing the Sellers to obtain postpetition financing pursuant to sections 105, 362, and 364 of the Bankruptcy Code, (ii) granting liens and superpriority claims to postpetition lenders pursuant to sections 364 and 507 of the Bankruptcy Code, (iii) providing adequate protection to prepetition secured lenders pursuant to sections 361, 362, 364, and 507 of the Bankruptcy Code, and (iv) scheduling a final hearing.

"DIP Order" means any Order of the Bankruptcy Court granting, among other things, the DIP Motion and granting the DIP Liens (as defined in the DIP Motion).

"Economic Transfer Time" means 12:01 a.m. on June 18, 2014.

"EDFT" means EDF Trading North America, LLC.

"Eligible Accounts Receivable" means all Accounts Receivable other than (1) any Accounts Receivable aged 91 days or more as of the Economic Transfer Time, (2) any Accounts Receivable owed by obligors that are Bankrupt, or are subject to a payment plan in favor of Sellers in each case as of the Economic Transfer Time, and (3) any Accounts Receivable of Delinquent Obligors.

"Excluded Contracts" means the Contracts that are not Assumed Contracts and any other Contracts designated as Excluded Contracts pursuant to the terms of this Agreement.

"Excluded Matter" means any one or more of the following: (i) the effect of any change in the United States or foreign economies or securities or financial markets in general, except to the extent such changes have a disproportionate effect on the Sellers relative to other participants in the industry in which the Sellers operate; (ii) the effect of any change that generally affects any industry in which Sellers operate, except to the extent such changes have a disproportionate effect on the Sellers relative to other participants in the industry in which the Sellers operate; (iii) the effect of any change arising in connection with earthquakes, hostilities, acts of war, sabotage or terrorism or military actions or any escalation or material worsening of any such hostilities, acts of war, sabotage or terrorism or military actions existing or underway as of the date hereof, except to the extent such changes have a disproportionate effect on the Sellers relative to other participants in the industry in which the Sellers operate; (iv) the effect of any changes in applicable Laws or GAAP after the date hereof; (v) any effect resulting from the public announcement of this Agreement; or (vi) any effect resulting from the filing of the Bankruptcy Case.

"Final Determination" means (i) with respect to U.S. federal income Taxes, a "determination" as defined in Section 1313(a) of the Code, and (ii) with respect to Taxes other than U.S. federal income Taxes, any final determination of Liability in respect of a Tax that, under applicable Law, is not subject to further appeal, review or modification through proceedings or otherwise, including the expiration of a statute of limitations or a period for the filing of claims for refunds, amended Tax Returns or appeals from adverse determinations.

"Final Order" means an Order, judgment or other decree of the Bankruptcy Court or any other Governmental Body of competent jurisdiction that has not been reversed, vacated, modified or amended, is not stayed and remains in full force and effect; provided that such Order shall be considered a Final Order only after the time period for third parties seeking appeal has expired without the filing of any appeal or motion for reconsideration.

"Fully Loaded Costs" means, without duplication, all reasonable and documented out-of-pocket costs and expenses paid by Sellers to the extent reasonably necessary to provide the Services (as defined in the Transition Services Agreement) to Buyer pursuant to the Transition Services Agreement and a reasonable allocation of general and administrative

expenses and overhead expenses of Sellers commensurate with the Services then being provided by Sellers to Buyer under the Transition Services Agreement; provided, however, that in no event shall "Fully Loaded Costs" include (a) any expenses (general, administrative, overhead or otherwise) relating to Sellers' administration of the Chapter 11 Cases or pursuit of any related claims or the administration of any plan of liquidation under Chapter 7 of the Bankruptcy Code; (b) any Commodity Supply Payment Obligations, or (c) any costs or expenses for Services provided by a third party, which shall be billed directly to Buyer by such third party on a cost pass-through basis without mark-up by Sellers.

"GAAP" means generally accepted accounting principles in the United States as of the date hereof.

"Governmental Body" means any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to any United States or foreign, federal, state or local government, any governmental authority, agency, department, board, commission or instrumentality or any political subdivision thereof, and any tribunal or court or arbitrator(s) of competent jurisdiction, and shall include the Bankruptcy Court.

"Intellectual Property" means all worldwide intellectual property and rights wholly or jointly owned, assigned or registered to any Seller or any of its Subsidiaries arising from or in respect of the following: all (i) inventions, discoveries, industrial designs, business methods, patents and patent applications (including provisional and Patent Cooperation Treaty applications), including continuations, divisionals, continuations-in-part, reexaminations and reissues, extensions, renewals and any patents that may be issued with respect to the foregoing; (ii) trademarks, service marks, certification marks, collective marks, trade names, business names, assumed names, d/b/a's, fictitious names, brand names, trade dress, logos, symbols, Internet domain names and corporate names, and general intangibles of a like nature, whether registered, unregistered or arising by Law, and all applications, registrations, and renewals for any of the foregoing, together with the goodwill associated with and symbolized by each of the foregoing; (iii) published and unpublished works of authorship in any medium, whether copyrightable or not (including databases, data files and other compilations of information, computer software, source code, object code, application programming interfaces, architecture, algorithms, and related specifications and other similar materials and Internet website content), copyrights and moral rights therein and thereto, and registrations and applications therefor, and all issuances, renewals, extensions, restorations and reversions thereof; and (iv) confidential and proprietary information, trade secrets, and know-how, including methods, processes, business plans, schematics, concepts, software and databases (including source code, object code and algorithms), formulae, drawings, prototypes, models, designs, devices, technology, research and development and customer information and lists.

"Intellectual Property Licenses" means (i) any Contract that contains any grant by any Seller to any third Person of any right to manufacture, use, offer to sell, sell, publish, perform or exploit any Intellectual Property owned by any Seller, and/or (ii) any Contract that contains any grant by any third Person to any Seller of a right to manufacture, use, offer to sell, sell, publish, perform or exploit a third Person's intellectual property rights.

"ISDA" means the ISDA Master Agreement (1992) between the Sellers and EDFT dated as of October 11, 2011 and certain schedules and annexes thereto including the Second Amended and Restated Schedule and the Credit Support Annex effective as of January 11, 2013, and certain transactions and confirmations thereunder, as amended or modified from time to time.

"Law" means any federal, state, local or foreign law (including common law), statute, code, ordinance, rule, or regulation or other requirement enacted, promulgated, issued or entered by a Governmental Body.

"Legal Proceeding" means any judicial, administrative or arbitral actions, suits, proceedings (public or private) or claims or any proceedings by or before a Governmental Body.

"Liability" means any and all debts, losses, liabilities, claims (including "Claims" as defined in section 101(5) of the Bankruptcy Code), damages, expenses, Taxes, fines or other penalties, costs, royalties, proceedings, deficiencies or obligations (including those arising out of any action, such as any settlement or compromise thereof or judgment or award therein), of any nature, whether known or unknown, absolute, contingent, accrued or unaccrued, liquidated or unliquidated, or otherwise and whether due or to become due, and whether in contract, tort, strict liability or otherwise, and whether or not resulting from third party claims.

"Lien" means any lien, encumbrance, pledge, mortgage, deed of trust, security interest, claim, lease, charge, option, right of first refusal, right of first offer, easement, servitude, proxy, voting trust or agreement, transfer restriction under any shareholder or similar agreement or encumbrance or any other restriction or limitation whatsoever.

"Material Adverse Effect" means (i) a material adverse effect on the Purchased Assets (taken as a whole) or (ii) a material adverse effect on the ability of Sellers to consummate the Transactions or perform their obligations under this Agreement or any other Transaction Document, in each case other than an effect resulting from an Excluded Matter.

"Negawatt" means Negawatt Business Solutions, Inc. (f/k/a Gridway Energy Partners, Inc.), an indirect wholly-owned subsidiary of Lead Seller.

"Order" means any order, injunction, judgment, decree, ruling, writ, assessment or arbitration award of a Governmental Body.

"Ordinary Course of Business" means the ordinary and usual course of normal day-to-day operations of the Business consistent with past practice.

"Organizational Documents" means, with respect to any Person (other than an individual), (a) the certificate or articles of incorporation or organization and any joint venture, limited liability company, operating or partnership agreement and other similar documents adopted or filed in connection with the creation, formation or organization of such Person and (b) all bylaws and similar documents, instruments or agreements relating to the organization or governance of such Person, in each case, as amended or supplemented.

"Permits" means any approvals, authorizations, consents, licenses, permits, certificates of, or granted by, a Governmental Body.

"Person" means and includes natural persons, corporations, limited partnerships, limited liability companies, general partnerships, joint stock companies, joint ventures, associations, companies, trusts, banks, trust companies, land trusts, business trusts or other organizations, whether or not legal entities, and all Governmental Bodies.

"Purchased Intellectual Property" means all Intellectual Property (whether or not registered) that relates to the Business or which is used, offered for sale, sold, published, performed or exploited in the operation of the Business, including all databases, proprietary models, trade names, proprietary software and other intellectual property used or held for use by any Seller in connection with the Business.

"Purchased Information Technology Equipment" means all hardware and other information technology and office equipment used or held for use by any Seller in connection with the Business, including servers, routers, modems, laptop and desktop computers, telephones and related equipment, facsimile machines, photocopiers, hand-held devices and other similar equipment.

"Qualified Designated Buyer" means any Designated Buyer that is authorized and enabled to provide electric or natural gas service (as applicable) to all Customers that such Designated Buyer has been designated by Platinum pursuant to Sections 4.1(b) and 12.11 hereof and that, subject to the terms of the Transition Services Agreement, has all Consents required in order to provide such service.

"Released Liens" means (i) any Lien that, pursuant to section 363(f) of the Bankruptcy Code, will be released from the Purchased Assets upon entry of the Sale Order; and (ii) other Liens that will be released on or prior to Economic Transfer Time at no cost or expense to Buyer.

"Relevant Closing" means the Asset Transfer Closing or any Partial Asset Transfer Closing, as the context requires.

"Relevant Closing Date" means any date on which a Relevant Closing occurs.

"Representatives" means, with respect to any Person, its officers, directors, managers, employees, attorneys, investment bankers, accountants and other agents and representatives.

"Sale Motion" means the motion of Sellers seeking approval and entry of the Sale Procedures Order and the Sale Order, filed on April 10, 2014 in the Chapter 11 Cases at Docket Number 13.

"Sale Order" means a Final Order of the Bankruptcy Court issued pursuant to sections 105(a), 363 and 365 of the Bankruptcy Code, in form and substance acceptable to Platinum and Sellers, each in their reasonable discretion, approving this Agreement and all of the terms and conditions hereof and approving and authorizing Sellers to consummate the

transactions contemplated hereby, provided, however, that Platinum may waive the requirement that the Sale Order shall be a Final Order in its sole discretion and provided further that the effectiveness of the Sale Order has not been stayed.

"Sale Procedures Order" means the Final Order of the Bankruptcy Court, establishing a date by which Competing Bids must be submitted, as requested under the Sale Motion, entered into on May 14, 2014.

"Sellers' Knowledge" means the actual knowledge of those officers and directors of Sellers identified on Schedule 1.1(b).

"Selling Debtors" means collectively, Glacial Energy Holdings, Glacial Energy, Inc., Glacial Energy of New York, Glacial Energy of New England, Inc., Glacial Energy of Maryland, Inc., Glacial Energy of California, Inc., Glacial Energy of Illinois, Inc., Glacial Energy of New Jersey, Inc., Glacial Energy of Pennsylvania, Inc., Glacial Energy of Texas, Glacial Energy of Washington DC, Inc., Glacial Energy of Ohio, Inc., Glacial Energy of Michigan, Inc., Glacial Natural Gas, Inc., Negawatt Business Solutions and Gridway Energy Holdings, Inc,

"Straddle Period" means any Tax period beginning on or before, and ending after, the Relevant Closing Date.

"Subsidiary" or "subsidiary" means, with respect to any Person, any corporation, limited liability company, joint venture or partnership of which such Person (a) beneficially owns, either directly or indirectly, more than fifty percent (50%) of (i) the total combined voting power of all classes of voting securities of such entity entitled, under ordinary circumstances, to vote in the election of directors or other governing body of such Person, (ii) the total combined equity interests, or (iii) the capital or profit interests, in the case of a partnership; or (b) otherwise has the power to vote or to direct the voting of sufficient securities to elect a majority of the board of directors or similar governing body of such Person.

"Tax" means all federal, state, provincial, territorial, municipal, local or foreign income, profits, franchise, gross receipts, environmental (including taxes under Section 59A of the Code), alternative or add on minimum, customs, duties, net worth, sales, use, goods and services, withholding, value added, ad valorem, employment, social security, escheat, disability, occupation, pension, real property, personal property (tangible and intangible), stamp, transfer, conveyance, severance, production, excise and other taxes (including payments in lieu of taxes), withholdings, duties, levies, imposts, fees and other similar charges and assessments (including any and all interest, fines, penalties and additions attributable to, or otherwise imposed on or with respect to, any such taxes, withholdings, duties, levies, imposts, fees and other similar charges and assessments) imposed by or on behalf of any Governmental Body or Tax Authority, including any obligation to indemnify or otherwise to assume or succeed to the Tax liability of any other Person.

"Tax Authority" means any federal, state, local or foreign government, or agency, instrumentality or employee thereof, charged with the determination, assessment, regulation, collection or administration of any Tax or of Law relating to Taxes.

"Tax Return" means all returns, declarations, reports, estimates, information returns and statements filed or required to be filed in respect of any Taxes, including all attachments and schedules thereto and amendments thereof.

"Transaction Documents" means this Agreement, the Bill of Sale, the Sale Order and the Transition Services Agreement.

"Transactions" means the transactions contemplated by this Agreement, the Transition Services Agreement and the other Transaction Documents.

"Transferred Customers" means all Customers of the Business as of the date of determination.

"Transition Period" means the period from the Economic Transfer Time until the Asset Transfer Closing.

"Vantage" means Vantage Commodities Financial Services I, LLC, a Delaware limited liability company

"Ziphany" means Ziphany LLC, and indirect wholly-owned subsidiary of Lead Seller.

Section 1.2 Terms Defined Elsewhere in this Agreement.

For purposes of this Agreement, the following terms have meanings set forth in the sections indicated:

Term	Section
Accounts Receivable	Section 2.2(d)
Affiliated Group	Section 5.7
Agreement	Preamble
Allocation Schedule	Section 3.3
Alternative Transaction	Section 4.4(n)
Asset Transfer Closing	Section 4.1
Asset Transfer Closing Date	Section 4.1
Assumed Liabilities	Section 2.4
Assumption Notices	Section 7.3(a)
Bankruptcy Code	Recitals
Bankruptcy Court	Recitals
Bill of Sale	Section 4.2(a)
Cash Deposit	Section 3.4
Chapter 11 Cases	Recitals
Competing Bid	Section 7.1
Cure Schedule	Section 2.4
Designated Contract	Section 7.3(b)
Designation Deadline	Section 7.3(b)
Escrow Agreement	Section 3.4

Term	Section
Excluded Assets	Section 2.3
Excluded Liabilities	Section 2.5
Lead Seller	Preamble
Licensed Intellectual Property	Section 5.8(a)
Non-Transferred Asset	Section 2.8(a)
Other Assumed Contracts	Section 2.2(k)
Overpayment	Section 3.5
Owned Intellectual Property	Section 5.8(a)
Party	Preamble
Petition Date	Recitals
Platinum	Preamble
Platinum Documents	Section 6.2
Purchase Price	Section 3.1
Purchase Price Calculation	Schedule 3.1
Purchased Assets	Section 2.2(a)
Required Consents	Section 2.8(a)
Sellers	Preamble
Seller Documents	Section 5.2
Shortfall	Section 3.5
Tax Contest	Section 9.1(b)
Termination Date	Section 4.4(a)
Transfer	Section 2.8(a)
Transfer Taxes	Section 9.1(a)
Transferred Broker Contracts	Section 2.2(a)
Transferred Customer Contracts	Section 2.2(a)
Transferred IP Licenses	Section 2.2(h)
Transferred Real Property Leases	Section 2.2(j)
Transferred TDSP and Utility Contracts	Section 2.2(f)
Transition Services Agreement	Section 8.7

Section 1.3 Other Definitional and Interpretive Matters.

(a) Unless otherwise expressly provided, for purposes of this Agreement, the following rules of interpretation shall apply:

(i) Calculation of Time Period. When calculating the period of time before which, within which or following which any act is to be done or step taken pursuant to this Agreement, the date that is the referenced end date shall be excluded in calculating such period. If the last day of such period is a non-Business Day, the period in question shall end on the next succeeding Business Day.

(ii) Dollars. Any reference in this Agreement to \$ shall mean U.S. dollars.

(iii) Exhibits/Schedules. The Exhibits and Schedules to this Agreement are hereby incorporated and made a part hereof and are an integral part of this Agreement. All Exhibits and Schedules annexed hereto or referred to herein are hereby incorporated in and made a part of this Agreement as if set forth in full herein. Any matter or item disclosed on one schedule shall be deemed to have been disclosed on each other schedule to the extent that the relevance of any such information to such other schedule is readily apparent on its face from the text of such disclosure and without independent examination of documents referred to therein. Any capitalized terms used in any Schedule or Exhibit but not otherwise defined therein shall be defined as set forth in this Agreement.

(iv) Gender and Number. Any reference to a gender shall include all genders, and words imparting the singular number only shall include the plural and vice versa.

(v) Headings. The provision of a Table of Contents, the division of this Agreement into Articles, Sections and other subdivisions and the insertion of headings are for convenience of reference only and shall not affect or be utilized in construing or interpreting this Agreement. All references in this Agreement to any "Section" are to the corresponding Section of this Agreement unless otherwise specified.

(vi) Herein. The words such as "herein," "hereinafter," "hereof" and "hereunder" refer to this Agreement as a whole and not merely to a subdivision in which such words appear unless the context otherwise requires.

(vii) Including. The word "including" or any variation thereof means "including, without limitation" and shall not be construed to limit any general statement that it follows to the specific or similar items or matters immediately following it.

(viii) Amendments and Successors. Any agreement, instrument or statute defined or referred to herein or in any agreement or instrument that is referred to herein means such agreement, instrument or statute as from time to time amended, modified or supplemented including (in the case of agreements or instruments) by waiver or consent and (in the case of statutes) by succession of comparable successor statutes and references to all attachments thereto and instruments incorporated therein. References to a Person are also to the Person's successors and permitted assigns, as applicable.

(ix) Jointly Drafted. This Agreement is the product of negotiations among the Parties, each of which is represented by legal counsel, and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provision of this

Agreement. Rules of construction relating to interpretation against the drafter of an agreement shall not apply to this Agreement and are expressly waived by each Party.

ARTICLE II

PURCHASE AND SALE OF ASSETS; ASSUMPTION OF LIABILITIES

Section 2.1 Transfer of Costs and Receipts.

On the terms and subject to the conditions set forth in this Agreement, including Section 7.3 hereof, during the Transition Period:

(a) Buyer shall be responsible for all Fully Loaded Costs and all Commodity Supply Payment Obligations, in each case pursuant to and in accordance with the terms of the Transition Services Agreement; and

(b) Buyer shall be entitled to all Cash Receipts pursuant to and in accordance with the terms of the Transition Services Agreement.

Section 2.2 Purchase and Sale of the Purchased Assets.

On the terms and subject to the conditions set forth in this Agreement including Section 7.3 hereof, (i) at the Asset Transfer Closing, each Seller shall transfer, assign and deliver to Buyer, and Buyer shall accept from such Seller, free and clear of any and all Liens (other than Liens created by Buyer) to the maximum extent permitted by Sections 105, 363(f) and 365 of the Bankruptcy Code, all of such Seller's right, title and interest in, to and under, the Purchased Assets (as defined below), and (ii) at any Partial Asset Transfer Closing, each Seller shall transfer, assign and deliver to Buyer, and Buyer shall accept from such Seller, free and clear of any and all Liens (other than Liens created by Buyer) to the maximum extent permitted by Sections 105, 363(f) and 365 of the Bankruptcy Code, all of such Seller's right, title and interest in, to and under, the Purchased Assets being sold, transferred, assigned and delivered at such Partial Asset Transfer Closing. The term "Purchased Assets" shall mean, collectively, all of each Seller's right, title and interest in, to and under the Assumed Contracts and the following assets (some of which are also included within the definition of Assumed Contracts), subject, in the case of each Contract, to Platinum's right, in its sole discretion, to designate such Contract as an Excluded Contract and exclude it from the Purchased Assets hereunder pursuant to and in accordance with Sections 2.6 and 7.3 hereof:

(a) all Customer Contracts with Transferred Customers that are in effect as of the Relevant Closing (the "Transferred Customer Contracts");

(b) all Broker Contracts listed on Schedule 2.2(b), attached hereto that are in effect as of the Relevant Closing (the "Transferred Broker Contracts");

(c) all Customer collection accounts and all aggregation and other accounts of any Seller (including those held at Wells Fargo Bank, National Association and The First National Bank of Central Texas) and all cash deposited therein as of the Relevant Closing,

including the accounts listed on Schedule 2.2(c) attached hereto and all cash deposited therein as of the Relevant Closing;

(d) all billed or unbilled accounts or notes receivable held by any Seller as of the Relevant Closing relating to the Business and any security, claim, remedy or other right related thereto (collectively, "Accounts Receivable");

(e) all inventory held by any Seller as of the Relevant Closing for use in connection with the Business;

(f) all amounts deposited by any Seller with any transmission and distribution service providers, independent system operators and state public utility commissions as of the Relevant Closing and all rights to the return thereof, and all right, title and interest of any Seller in, to and under any related Contract or tariff in effect as of the Relevant Closing (the "Transferred TDSP and Utility Contracts"), and any other cash in any account listed in Schedule 3.1;

(g) to the extent transferable by law, all Permits related to operation of the Business (subject to applicable approvals of Government Bodies);

(h) all Purchased Intellectual Property, including all rights of any Seller in, to and under any Intellectual Property Licenses in effect as of the Relevant Closing to the extent transferable to Buyer (the "Transferred IP Licenses");

(i) all Purchased Information Technology and all other all furniture, fixtures, equipment, machinery, tools, vehicles, aircraft, supplies and other tangible personal property used or held for use by any Seller in connection with the Business as of Relevant Closing;

(j) all right, title and interest of any Seller in and to any Leased Real Property, including all rights of any Seller in, to and under any Real Property Leases in effect as of the Relevant Closing (the "Transferred Real Property Leases");

(k) all Contracts listed on Schedule 2.2(k) (collectively, "Other Assumed Contracts");

(l) all rights to any Actions of any nature available to or being pursued by any Seller to the extent related to the Business, Purchased Assets or the Assumed Liabilities, other than any Actions listed on Schedule 2.2(l), and subject to the terms of Section 2.3;

(m) originals, or where not available, copies, of all books and records of Sellers relating to the Purchased Assets listed above and/or the Assumed Liabilities, including books of account, ledgers and general, financial and accounting records, machinery and equipment maintenance files, customer lists, customer purchasing histories, price lists, distribution lists, supplier lists, customer complaints and inquiry files, research and development files, correspondence and filings with any Governmental Bodies, sales material and records (including pricing history, total sales, terms and conditions of sale, sales and pricing policies and practices), strategic plans, internal financial statements, marketing and promotional surveys,

material and research and other files and information relating to the Purchased Assets listed above ("Books and Records");

(n) all goodwill and the going concern value and other intangible assets of or related to the Business; and

(o) all rights, claims and causes of action of any Seller arising under chapter 5 of the Bankruptcy Code relating to the Business or the Purchased Assets or otherwise involving any counterparty to any Designated Contract, or any of Sellers' landlords or vendors, and such rights, claims and causes of action shall be deemed released by Buyer upon the Relevant Closing.

Section 2.3 Excluded Assets.

Buyer expressly understands and agrees that Sellers are not selling, conveying, transferring, assigning or delivering to Buyer, and Buyer is not purchasing, acquiring or accepting from any Seller, any assets of Sellers or their respective Affiliates other than the Purchased Assets described in Section 2.2 above, and all such other assets, including all Excluded Contracts, shall be excluded from the Purchased Assets (such excluded assets, the "Excluded Assets"). Without limiting the foregoing, and notwithstanding anything herein to the contrary, the Excluded Assets shall include (i) the equity interests in Negawatt and Ziphany owned by Gridway Energy Holdings, Inc., (ii) the assets set forth on Schedule 2.3 attached hereto, (iii) the Excluded Contracts, and (iv) any Actions released by the Sellers under and pursuant to that certain Settlement Term Sheet affixed as Exhibit A to the Sellers' motion filed at Docket Number 270 as and to the extent approved by the Bankruptcy Court.

Section 2.4 Assumption of Liabilities.

On the terms and subject to the conditions set forth in this Agreement and as additional consideration for the Purchased Assets, at the Relevant Closing, Buyer shall assume the Assumed Liabilities relating to the Purchased Assets to be transferred at such Relevant Closing and shall agree to pay, discharge, perform and otherwise satisfy such Assumed Liabilities in accordance with their respective terms after the Relevant Closing, subject to any defenses or claimed offsets asserted in good faith against the obligee to whom such Assumed Liabilities are owed. The term "Assumed Liabilities" shall mean only the following:

(a) all obligations of any Seller under the Assumed Contracts in each case to the extent arising from and relating solely to the period after the Relevant Closing and not to the extent arising out of any breach or default thereunder or out of any other activities (or inactivity) occurring prior to the Relevant Closing;

(b) subject to Sections 2.6 and 7.3 hereof, all of the Determined Cure Costs with respect to such Assumed Contracts; and

(c) all Transfer Taxes.

Section 2.5 Excluded Liabilities.

Notwithstanding anything to the contrary in this Agreement or any other Transaction Document, except as expressly set forth herein or in the Transition Services Agreement with respect to Fully Loaded Costs and Commodity Supply Payment Obligations, the Parties expressly acknowledge and agree that Buyer shall not assume or in any manner whatsoever be liable or responsible for any Liabilities of any Seller or any predecessor or Affiliate of any Seller of any nature whatsoever, whether presently in existence or arising hereafter, known or unknown, disputed or undisputed, contingent or non-contingent, liquidated or un-liquidated or otherwise, existing before or on the Relevant Closing Date or arising thereafter, other than the Assumed Liabilities. All of the Liabilities of any Seller or of any predecessor or Affiliate of any Seller not specifically and expressly assumed by Buyer pursuant to Section 2.4 shall be referred to herein collectively as the "Excluded Liabilities."

Section 2.6 Determined Cure Costs.

Prior to the date hereof, Sellers have provided to Platinum a true, correct and complete schedule listing each assignable Contract relating to the Business to which any Seller is a party and setting forth a good faith estimate of all Cure Costs for each such Contract in accordance with the Sale Procedures Order ("Cure Schedule"). Pursuant to Section 7.3(b), Platinum shall be entitled, in its sole discretion, by written notice to Sellers up to one (1) Business Day prior to the Relevant Closing Date, to elect not to purchase or assume (or designate a Designated Buyer to purchase or assume) one or more of such assignable Contracts, in which case, notwithstanding anything in this Agreement or any other Transaction Document to the contrary, such Contract shall be considered an Excluded Contract (and not included in the Purchased Assets) for all purposes of this Agreement and neither Platinum nor any Designated Buyer shall have any obligation to assume, satisfy or pay any Cure Costs or other Liabilities with respect to such Excluded Contract. Each assignable Contract listed by Sellers on the Cure Schedule that otherwise falls within the definition of Purchased Assets and that Platinum does not elect to identify as an Excluded Contract pursuant to the preceding sentence shall be an Assumed Contract. Buyer agrees to promptly satisfy (including by causing any Designated Buyers to promptly satisfy) all Determined Cure Costs in respect of each Assumed Contract as and when such Determined Cure Costs become due and payable under the Sale Order, subject to and in accordance with Section 7.3 hereof.

Section 2.7 Further Conveyances and Assumptions.

(a) From time to time following the Relevant Closing, Sellers and Buyer shall, and shall cause their respective controlled Affiliates to, execute, acknowledge and deliver all such further conveyances, notices, assumptions, releases and acquaintances and such other instruments, and shall take such further actions, as may be reasonably necessary or appropriate to assure fully to Buyer and its successors or assigns, all of the properties, rights, title, interests, estates, remedies, powers and privileges intended to be conveyed to Buyer under this Agreement and the Transactions Documents, and to otherwise make effective the Transactions.

(b) Nothing in this Agreement nor the consummation of the Transactions shall be construed as an attempt or agreement to transfer or assign any Purchased Asset, including any Contract, Permit or other right, which (i) is not capable of being assigned pursuant to section 365

of the Bankruptcy Code or transferred pursuant to section 363 of the Bankruptcy Code to Buyer, or (ii) the transfer or assignment of which would result in a violation of any applicable Law.

Section 2.8 Assignment of Contracts and Rights.

(a) To the extent that, as of the Asset Transfer Closing, any Contract, Permit, Intellectual Property License or other asset (a "Non-Transferred Asset") to be sold, transferred, conveyed or assigned (any sale, transfer, conveyance or assignment, a "Transfer") to Buyer pursuant to the terms of Section 2.2 is not capable of being Transferred to Buyer (after giving effect to the Sale Order) or if the Buyer is not then otherwise authorized or enabled to provide electric or natural gas service to the related Customer, in each case without the Consent of a third Person (including any state public utility commission or similar authority or any transmission or distribution service provider or independent system operator or similar body), or if such Transfer or attempted Transfer would constitute a breach thereof or a violation of any Law, nothing in this Agreement or in any document, agreement or instrument delivered pursuant to this Agreement will constitute a Transfer or an attempted Transfer thereof prior to the time at which all Consents necessary for such Transfer or provision of service (such Consents, "Required Consents") have been obtained unless a Final Order of the Bankruptcy Court effects such Transfer without any such Required Consents which may include the Sale Order.

(b) To the extent that any Required Consent with respect to any Designated Contract or other Non-Transferred Asset is not obtained by the Asset Transfer Closing, Sellers will use their reasonable best efforts, and Buyer shall use its commercially reasonable efforts to cooperate with Sellers, to obtain such Required Consent, and notwithstanding anything in this Agreement or the Transition Services Agreement to the contrary, the Transition Services Agreement will remain in full force and effect with respect to such Designated Contract, the Non-Transferred Assets and the other Purchased Assets related thereto and each Seller will, from and after the Asset Transfer Closing and until the date on which such Required Consent is obtained, provide the services set forth in the Transition Services Agreement with respect to such Contract, other Non-Transferred Asset and related Purchased Assets and, until the date on which such Required Consent is obtained, the applicable Seller will use commercially reasonable efforts to (i) provide to Buyer the benefits under such Contract, other Non-Transferred Asset and related Purchased Assets, (ii) cooperate in any reasonable and lawful arrangement (including holding such Contract, other Non-Transferred Asset and related Purchased Assets in trust for Buyer pending receipt of the Required Consent) designed to provide such benefits to Buyer, and (iii) enforce for the account of Buyer any rights of such Seller under such Contract, other Non-Transferred Asset and related Purchased Assets (including the right to elect to terminate such Contract in accordance with the terms thereof upon the direction of Buyer); provided, however, that in carrying out its obligations under this Section 2.8(b), no Party shall be obligated to provide any financial accommodation or other consideration of any nature to any Person to facilitate obtaining any Required Consent. Buyer will cooperate with the applicable Sellers in order to enable Sellers to provide to Buyer hereunder the benefits contemplated by this Section 2.8(b) and, provided that such benefits are conferred upon Buyer, Buyer will pay on behalf of Sellers, any amount Buyer would have been required to pay under any such Contract or other Non-Transferred Asset had the Contract or other Non-Transferred Asset been assigned (after obtaining all Required Consents) to Buyer at the Asset Transfer Closing, and subject to Section 7.3 hereof.

Section 2.9 Receivables.

If, following any Relevant Closing, any Seller shall receive payment in respect of any Accounts Receivable that are included in the Purchased Assets conveyed to Buyer at such Relevant Closing, then such Seller shall hold such amounts in trust for Buyer and shall promptly forward such payment to Buyer without offset or deduction.

Section 2.10 Relinquishment of Control.

Subject to Sections 2.7(b) and 2.8, at the each Relevant Closing, Sellers shall turn over actual possession and control of all of the Purchased Assets contemplated to be transferred to Buyer at such Relevant Closing (including, for the avoidance of doubt, the Books and Records related to such Purchased Assets) to Buyer by taking such action that may be required or reasonably requested by Buyer to effect such transfer of possession and control.

ARTICLE III

CONSIDERATION

Section 3.1 Consideration.

The aggregate consideration for the Transactions shall be (a) an amount (the "Purchase Price") equal to (i) \$32,789,000.00, *plus* (ii) the outstanding amount of all Eligible Accounts Receivable as of the Economic Transfer Time *multiplied by 95% plus* (iii) any amount by which the aggregate amount of Cash-Backed Collateral as of the Economic Transfer Time exceeds \$34,039,000.00 *minus* (iv) any amount by which the aggregate amount of the Cash-Backed Collateral as of the Economic Transfer Time is less than \$34,039,000.00, *plus* (b) the assumption of the Assumed Liabilities calculated in accordance with Schedule 3.1.

Section 3.2 Payment of Purchase Price.

The Purchase Price shall be payable in cash at the Economic Closing with credit for the Cash Deposit. Notwithstanding anything herein to the contrary, Platinum shall have the right to receive the Purchased Assets contemplated to be transferred at the Relevant Closing and/or to designate one or more Designated Buyers to receive some or all of such Purchased Assets pursuant to Sections 4.1(b) and 12.11. If Platinum designates one or more Designated Buyers to receive some or all of the Purchased Assets pursuant to Sections 4.1(b) and 12.11, such right to receive such Purchased Assets shall be assigned and transferred to such Designated Buyer prior to the Sellers' transfer of title to and possession of the same to Platinum, and effective as of the Relevant Closing, Sellers shall transfer directly to such Designated Buyer as transferee of record, and without Platinum taking title to or possession of the same, all of Sellers' right, title and interest in and to such Purchased Assets free and clear of all Liens.

Section 3.3 Purchase Price Allocation.

As promptly as reasonably practicable, but no later than ninety (90) days after the Closing Date, Buyer shall deliver to Sellers a schedule (the "Allocation Schedule") allocating the Purchase Price and all other capitalized costs of Buyer (including, for avoidance of doubt,

Assumed Liabilities, Determined Cure Costs and any other items that are treated as additional consideration for Tax purposes) among the Purchased Assets. The Allocation Schedule shall be reasonable and shall be prepared in accordance with Section 1060 of the Code and the Treasury Regulations promulgated thereunder. If, within fifteen (15) days after delivery of such Allocation Schedule, Sellers notify Buyer in writing that Sellers object to the allocation set forth on the Allocation Schedule, Sellers and Buyer shall use their respective good faith efforts to resolve such dispute. If Sellers and Buyer are unable to resolve such dispute, the Parties shall submit such dispute to the Bankruptcy Court for resolution. Upon final determination of the Allocation Schedule (whether by agreement or dispute resolution as set forth above), Sellers shall return an executed copy thereof to Buyer. Buyer, on the one hand, and Sellers, on the other hand, each agrees to file IRS Form 8594 (Asset Acquisition Statement Under Section 1060), and all U.S. federal, state, local and foreign Tax Returns, in accordance with the Allocation Schedule, and to take no position contrary thereto, unless (and then only to the extent) otherwise required by a Final Determination. Buyer, on the one hand, and Sellers, on the other hand, each agrees to provide the other promptly with any information required to complete IRS Form 8594. If the Allocation Schedule is questioned or disputed by any Governmental Body, the party receiving notice of such question or dispute will promptly notify the other parties hereto. The Sellers and the Buyer shall cooperate in good faith in responding to any such question or dispute.

Section 3.4 Deposit. Platinum has executed and delivered a deposit escrow agreement ("Escrow Agreement") to Sellers and escrow agent and also delivered to the escrow agent, pursuant to the terms of the Escrow Agreement, \$3,400,000.00 in immediately available funds (the "Cash Deposit"). The Cash Deposit shall be held and maintained by the escrow agent in an interest-bearing account reasonably acceptable to the Parties. For the avoidance of doubt, the Cash Deposit shall not be the property of the Sellers during such time that it is held by the escrow agent. The Cash Deposit shall be held by the escrow agent to serve as an earnest money deposit under this Agreement to be released as follows:

(a) If the Economic Closing Date occurs, Sellers and Buyer shall jointly instruct the escrow agent to, on the Economic Closing Date, apply the Cash Deposit together with any interest thereon toward the payment of the Purchase Price.

(b) If this Agreement is terminated prior to the Economic Closing Date, Sellers and Buyer shall jointly instruct the escrow agent to deliver the Cash Deposit and any interest thereon in accordance with Section 4.5 hereof.

Section 3.5 Purchase Price Adjustment. If, within thirty (30) days after the Economic Closing, Vantage or Buyer notifies the other in writing that, based on updated information regarding the Eligible Account Receivables or the Cash-Backed Collateral (the "Updated Information"), the Purchase Price shall be adjusted, Vantage and Buyer shall use their respective good faith efforts to calculate the appropriate adjustment. If the Purchase Price paid at the Economic Closing was less than the purchase price as calculated based on the Updated Information (the "Higher Purchase Price"), then Buyer shall, within five (5) days following such resolution or decision, pay to the Sellers an amount equal to the Higher Purchase Price less the Purchase Price. Alternatively, if, based upon the parties' resolution or independent accounting firm's decision, as the case may be, the Purchase Price paid at the Economic Closing was more than the purchase price as calculated based on the Updated Information (the "Lower

Purchase Price”), then within five (5) days following such determination, the Sellers shall pay to the Buyer, from Vantage’s Cash Collateral (as defined in the DIP Order), to the extent such cash is not necessary to meet administrative expenses in the amounts set forth in the Approved Budget (as defined in the DIP Order), an amount equal to the Purchase Price less the Lower Purchase Price (the “Overpayment Amount”). In the event that no such cash is available or if such cash is not sufficient to pay the Buyer the entire Overpayment Amount, then within five (5) days following such determination, Vantage shall pay to the Buyer an amount (the “Vantage Payment Amount”) equal to the Overpayment Amount less the amount paid by the Sellers to the Buyer, and the Sellers’ outstanding DIP Obligations (as defined in the DIP Order) shall be deemed adjusted to reflect that the outstanding DIP Obligations are increased by the amount of the Vantage Payment Amount. Until paid to Buyer in accordance with the terms hereof, Sellers shall maintain the Overpayment Amount in a segregated account to be held in trust for the benefit of the Buyer and hereby grant to Buyer a senior secured, first priority lien in and against the account and proceeds thereof under Sections 105 and 364(d) of the Bankruptcy Code.

ARTICLE IV

CLOSING AND TERMINATION

Section 4.1 Closing Date.

(a) Subject to the satisfaction of the conditions set forth in Section 10.1, Section 10.2 and Section 10.3 (or the waiver thereof by the applicable Parties entitled to waive that condition), the closing of the Transactions contemplated by Section 2.1 hereof (the “**Economic Closing**”) shall take place at the offices of Blank Rome LLP located at 405 Lexington Avenue, New York, NY 10174 (or at such other place as the Parties may designate in writing) at 10:00 a.m. (Eastern Time) on June 18, 2014, which shall be referred to as the “**Economic Closing Date**.”

(b) Subject to the satisfaction of the conditions set forth in Section 10.1, Section 10.2 and Section 10.3 (or the waiver thereof by the applicable Parties entitled to waive that condition), the closing of the purchase and sale of the Purchased Assets and the assumption of the Assumed Liabilities provided for in Section 2.2 hereof (the “**Asset Transfer Closing**”) shall take place at the offices of Blank Rome LLP located at 405 Lexington Avenue, New York, NY 10174 (or at such other place as the Parties may designate in writing) at 10:00 a.m. (Eastern Time) on the date that is the first Business Day following the satisfaction or waiver of the conditions set forth in Article X (other than conditions that by their nature are to be satisfied at the Asset Transfer Closing, but subject to the satisfaction or waiver of such conditions) (the date on which such conditions are satisfied, the “**Satisfaction Date**”), unless another time or date, or both, are agreed to in writing by the Parties; provided, however, if at any time prior to the Satisfaction Date, Platinum shall have designated a Qualified Designated Buyer to receive any Purchased Assets and to assume any related Assumed Liabilities pursuant to Section 12.11, the closing of the purchase and sale of such Purchased Assets and the assumption of the related Assumed Liabilities (each a “**Partial Asset Transfer Closing**”) shall take place at the offices of Blank Rome LLP located at 405 Lexington Avenue, New York, NY 10174 (or at such other place as the Parties may designate in writing) at 10:00 a.m. (Eastern Time) on the date that is the first Business Day following the satisfaction or waiver of the conditions relating to such Partial

Asset Transfer Closing set forth in Article X (other than conditions that by their nature are to be satisfied at such Partial Asset Transfer Closing, but subject to the satisfaction or waiver of such conditions), unless another time or date, or both, are agreed to in writing by the Parties. In the event of any such designation, for purposes of such Partial Asset Transfer Closing, the representations, warranties, covenants, agreements and conditions of this Agreement shall relate only to the Purchased Assets to be transferred to, and the Assumed Liabilities to be assumed by, such Qualified Designated Buyer at such Partial Asset Transfer Closing. The date on which the Asset Transfer Closing shall be held is referred to in this Agreement as the "Asset Transfer Closing Date" and the date on which any Partial Asset Transfer Closing shall be held is referred to in this Agreement as the "Partial Asset Transfer Closing Date." Unless otherwise agreed by the Parties in writing, the Asset Transfer Closing shall be deemed effective and all right, title and interest of Sellers in the Purchased Assets shall be considered to have passed to Buyer as of 12:01 a.m. (Eastern Time) on the Asset Transfer Closing Date and any Partial Asset Transfer Closing shall be deemed effective and all right, title and interest of Sellers to the relevant Purchased Assets shall be considered to have passed to the Qualified Designated Buyer as of 12:01 a.m. (Eastern Time) on the Partial Asset Transfer Closing Date.

Section 4.2 Deliveries by Sellers.

(a) At the Economic Closing, Sellers shall deliver to Buyer:

- (i) a duly executed copy of the Transition Services Agreement;
- (ii) the officer's certificate required to be delivered pursuant to Section 10.1(a)(i) and Section 10.1(a)(ii); and
- (iii) a certified copy of the Sale Order.

(b) At each Relevant Closing, Sellers shall deliver to Buyer:

- (i) a duly executed bill of sale and assignment agreement in the form attached hereto as Exhibit A (the "Bill of Sale") in favor of Buyer with respect to the Purchased Assets contemplated to be transferred at such Relevant Closing;
 - (ii) the officer's certificate required to be delivered pursuant to Section 10.1(b)(i) and Section 10.1(b)(ii);
- and
- (iii) all other agreements, certificates and instruments of conveyance and transfer, in form and substance reasonably acceptable to Buyer, as may be necessary to convey such Purchased Assets to Buyer or reasonably requested by Buyer.

Section 4.3 Deliveries by Buyer.

- (a) At the Economic Closing, Buyer shall deliver or cause to be delivered to Sellers:
- (i) a duly executed copy of the Transition Services Agreement; and
 - (ii) the officer's certificate required to be delivered pursuant to Section 10.2(a)(i) and Section 10.2(a)(ii).
- (b) At each Relevant Closing, Buyer shall deliver, or cause to be delivered, to Sellers:
- (i) a Bill of Sale duly executed by Buyer with respect to the Purchased Assets contemplated to be transferred at such Relevant Closing, and
 - (ii) the officer's certificate required to be delivered pursuant to Section 10.2(b)(i) and Section 10.2(b)(ii).

Section 4.4 Termination of Agreement.

This Agreement (and the Transition Services Agreement if it is then in effect) may be terminated at any time (by written notice from the terminating party to the other Party or Parties) as follows:

(a) by Platinum or Sellers if the Economic Closing shall not have occurred by 5:00 p.m. New York City time on June 18, 2014 (the "Economic Outside Time"); provided, however, that if the Economic Closing shall not have occurred on or before the Economic Outside Time due to a material breach of any representations, warranties, covenants or agreements contained in this Agreement by Platinum, on the one hand, or Sellers, on the other hand, then the breaching party may not terminate this Agreement pursuant to this Section 4.4(a);

(b) by mutual written consent of Sellers and Platinum;

(c) by Platinum prior to the Economic Outside Time if there shall be a material breach by Sellers of any representation or warranty, or any covenant or agreement contained in this Agreement which would result in a failure of a condition set forth in Section 10.1 or Section 10.3 and which breach cannot be cured or has not been cured by the earlier of (i) ten (10) Business Days after the giving of written notice by Platinum to Sellers of such breach and (ii) the Economic Outside Time;

(d) by Sellers prior to the Economic Outside Time if there shall be a material breach by Platinum of any representation or warranty, or any covenant or agreement contained in this Agreement which would result in a failure of a condition set forth in Section 10.2 or Section 10.3 and which breach cannot be cured or has not been cured by the earlier of (i) ten (10)

Business Days after the giving of written notice by Sellers to Platinum of such breach and (ii) the Economic Outside Time;

(e) by Platinum, at any time after the Economic Closing and prior to the Asset Transfer Closing if there shall be a material breach by Sellers of any representation or warranty or any covenant or agreement contained in this Agreement or the Transition Services Agreement;

(f) by Sellers or Platinum if there shall be in effect a final non-appealable Order of a Governmental Body of competent jurisdiction restraining, enjoining or otherwise prohibiting the consummation of the Transactions; or

(g) by Platinum if the Sale Order has not been entered by the Bankruptcy Court on or before June 17, 2014;

(h) by Platinum if any of the Chapter 11 Cases are dismissed or converted to a case under chapter 7 of the Bankruptcy Code for any reason;

(i) by Platinum if the Sale Order is modified in any manner that is adverse to Platinum without the consent of Platinum (which consent may be withheld or waived in Platinum's reasonable discretion);

(j) by Sellers if the Sale Order is modified in any manner that is adverse to the Sellers without the consent of the Sellers (which consent may be withheld or waived in the Sellers' reasonable discretion); or

(k) by Platinum or Sellers if the Bankruptcy Court shall enter an order approving a Competing Bid or any sale or other disposition of all or substantially all of the Purchased Assets to a Person other than Platinum (and any Designated Buyers) (an "Alternative Transaction") and Platinum is not the back-up bidder in accordance with the Sale Procedures; provided, however, that if Platinum is the successful bidder for all or substantially all of the Purchased Assets in the Auction, neither Party shall be entitled to terminate this Agreement solely on the basis of the Debtors' designation of a back-up bidder in accordance with the Sale Procedures.

provided, however, in each case the right to terminate this Agreement under this Section 4.4 will not be available to any Party to this Agreement whose breach of any of its obligations under this Agreement has been a principal cause of, or resulted in, the failure of a condition to the Closing pursuant to Article X.

Section 4.5 Return of Documents and Cash Deposit Upon Termination.

If this Agreement is terminated as provided herein, each Party shall redeliver all documents, work papers and other material of any other Party relating to the transactions contemplated hereby, whether so obtained before or after the execution hereof, to the Party furnishing the same, and, on the date of such termination, Sellers and Buyer shall jointly instruct the escrow agent to deliver the Cash Deposit and any interest thereon to Sellers; provided, however, that, in the event that this Agreement is terminated by any Party having the right to so

terminate pursuant to Sections 4.4(a), (b), (c), (f), (g), (h), (i), (j) or (k), Sellers and Buyer shall jointly instruct the escrow agent to deliver the Cash Deposit and any interest thereon to Platinum.

Section 4.6 Effect of Termination.

To the extent the Sale Procedures Order is entered and in the event that this Agreement is validly terminated as provided herein, this Agreement shall become wholly void and of no further force and effect and such termination shall be without liability to Platinum, any Designated Buyer or Sellers, or any of their respective Affiliates or Representatives, and each shall be fully released and discharged from any Liability arising under this Agreement after the date of such termination; provided, however, that the provisions of Article I, Section 4.5, this Section 4.6, Section 8.5, Article XI and Article XII of this Agreement shall survive any such termination and shall be enforceable hereunder.

ARTICLE V

REPRESENTATIONS AND WARRANTIES OF SELLERS

Except as set forth in the corresponding sections or subsections of Sellers' Disclosure Schedule, Sellers jointly and severally hereby represent and warrant to Buyer as follows:

Section 5.1 Organization and Good Standing.

Each Seller is a corporation, limited partnership or limited liability company, as the case may be, duly organized, validly existing and, except as a result of the commencement of the Chapter 11 Cases, in good standing under the Laws of the jurisdiction of its incorporation, formation or organization, and, subject to obtaining the approval of the Bankruptcy Court, has all necessary power and authority to enter into this Agreement and each of the other Transaction Documents, to carry out its obligations hereunder and thereunder and to consummate the Transactions. Each Seller has all necessary power and authority to own, lease, operate and conduct its respective businesses, properties and assets as now being conducted. Each Seller is duly licensed or qualified to do business and is in good standing in each jurisdiction in which the properties owned or leased by it or the operation of its respective business makes such licensing or qualification necessary, except to the extent that the failure to be so licensed, qualified or in good standing has resulted from the commencement or continuance of the Chapter 11 Cases.

Section 5.2 Authorization and Enforceability of Agreement.

Subject to the entry of the Sale Order from the Bankruptcy Court, and except as otherwise disclosed in Schedule 5.2, the execution and delivery of this Agreement and each of the other Transaction Documents to be executed by each Seller (the "Seller Documents"), the performance by each Seller of its obligations under this Agreement and each Seller Document, and the consummation by each Seller of the Transactions have been duly authorized by all requisite action on the part of such Seller and no other action or proceeding on the part of any Seller is necessary to authorize the execution and delivery of this Agreement and each of the other Seller Documents by each Seller, or the consummation of the Transactions. This Agreement has been, and upon their execution, the other Seller Documents will be at or prior to

Closing, duly executed and delivered by each Seller, and (assuming due authorization, execution and delivery by Buyer), subject to the approval of the Bankruptcy Court, this Agreement constitutes, and, upon their execution, the other Seller Documents shall constitute, legal, valid and binding obligations of such Seller, enforceable against such Seller in accordance with their respective terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium and similar laws affecting creditors' rights and remedies generally, and subject to general principles of equity, including principles of commercial reasonableness, good faith and fair dealing (regardless of whether enforcement is sought in a proceeding at law or in equity).

Section 5.3 Conflicts; Consents of Third Parties.

(a) Except as set forth on Schedule 5.3(a), none of the execution and delivery by Sellers of this Agreement or any of the other Seller Documents, the consummation of the transactions contemplated hereby or thereby, or compliance by any Seller with any of the provisions hereof or thereof will materially conflict with, or result in any material violation of or material default (with or without notice or lapse of time, or both) under, or give rise to a right of termination or cancellation under any provision of (i) the Organizational Documents of any Seller; (ii) subject to entry of the Sale Order, any Contract or Permit to which any Seller is a party or by which any of the properties or assets of any Seller are bound; (iii) subject to entry of the Sale Order, any Order of any Governmental Body applicable to any Seller or any of the properties or assets of any Seller as of the date hereof; or (iv) subject to entry of the Sale Order, any applicable Law.

(b) Except as set forth on Schedule 5.3(b), no material Consent, waiver, approval, Order, Permit or authorization of, or declaration or filing with, or notification to, any Person is required on the part of any Seller in connection with the execution and delivery of this Agreement or the other Seller Documents, the compliance by any Seller with any of the provisions hereof or thereof, the consummation of the Transactions or the taking by any Seller of any other action contemplated pursuant to the Transaction Documents, except for (i) the entry of the Sale Order and (ii) the entry of the Sale Procedures Order.

Section 5.4 Title to Purchased Assets.

Except as set forth in Schedule 5.4, and other than the Licensed Intellectual Property, Sellers own each of the Purchased Assets, and, subject to the entry of the Sale Order, Buyer will be vested to the fullest extent permissible under Section 363(f) of the Bankruptcy Code with good title to the Purchased Assets free and clear of all Liens.

Section 5.5 Litigation.

There are no Legal Proceedings or Actions pending or, to Sellers' Knowledge, threatened that relate to, or could otherwise affect, the Business or any of the Purchased Assets or Assumed Liabilities, before any Governmental Body that are not stayed under Section 362 of the Bankruptcy Code or that would affect the Purchased Assets after the entry of the Sale Order.

Section 5.6 Compliance with Laws.

Each Seller is, and has, during the past three years, been in material compliance with all Laws applicable to its respective operations or assets or the Business. No Seller has received any written notice of or been charged with the violation of any Laws.

Section 5.7 Taxes.

Except as set forth on Schedule 5.7:

(a) Sellers and each of their respective Affiliates, each affiliated group (within the meaning of Section 1504 of the Code) or consolidated, combined or unitary group (under state or local Law) of which a Seller, or any of their Affiliates is or has been a member (each, an "Affiliated Group") have (i) timely filed, or have caused to be timely filed, with the appropriate Tax Authorities all Tax Returns required to be filed by or with respect to such Seller, Affiliate or Affiliated Group or with respect to the Purchased Assets or the Business (taking into account any validly obtained extensions of time to file), and (ii) timely paid all amounts of Taxes owing, regardless of whether shown on a filed Tax Return. All such Tax Returns are true, correct and complete.

(b) No issues were raised by a Tax Authority in any audit, investigation or administrative or judicial proceeding of Sellers or any of their respective Affiliates or an Affiliated Group relating to Taxes that would reasonably expected to recur in a future Tax period with respect to the Purchased Assets.

(c) No Tax allocation, Tax sharing or Tax indemnity or similar agreement or arrangement is in effect, in each case, with respect to the Purchased Assets or the Business that would, in any manner, bind, obligate or otherwise restrict Buyer.

Section 5.8 Intellectual Property.

(a) Schedule 5.8(a) sets forth a true and complete list of (i) all registered Intellectual Property used or held for use in connection with the Business that is owned by any Seller (the "Owned Intellectual Property"); and (ii) all intellectual property used in connection with the Business that any Seller is licensed or otherwise permitted to use by other Persons (other than another Seller) (the "Licensed Intellectual Property").

(b) Schedule 5.8(b) sets forth a true and complete list of all material written Intellectual Property Licenses.

(c) Except as set forth on Schedule 5.8(c):

(i) A Seller owns all Owned Intellectual Property listed on Schedule 5.8(a) and has valid rights in and to, including rights to manufacture, use, offer to sell, sell, publish, perform or exploit, as applicable, all other Purchased Intellectual Property as such Intellectual Property is used in the Ordinary Course of Business, in each case, free and clear of all Liens (other than Released Liens).

(ii) No Owned Intellectual Property is the subject of any ownership, validity, use or enforceability challenge or subject to any outstanding order, judgment or decree restricting its use or adversely affecting any Seller's rights thereto.

(iii) To Sellers' Knowledge, no Seller is violating or has, in the past three (3) years, violated any third person's intellectual property rights and there are no Actions or Legal Proceedings, pending or threatened, concerning any claim that any Seller has infringed, diluted, misappropriated, or otherwise violated any intellectual property rights of any other Person.

(iv) No Seller has received any written notice of any default or any event that with notice or lapse of time, or both, would constitute a default under any Contract providing for Licensed Intellectual Property and to which any Seller is a party or by which it is bound. To Sellers' Knowledge, no Person is infringing, diluting, misappropriating or otherwise violating any Purchased Intellectual Property.

(v) No Person other than a Seller has any ownership interest in, or a right to receive a royalty or similar payment with respect to, any of the Owned Intellectual Property.

(vi) No Seller has entered into any Contract to indemnify any other Person against any charge of infringement of any third party intellectual property, including Licensed Intellectual Property, except for customary infringement indemnities agreed to in the Ordinary Course of Business and included as part of any Contracts for the license or sale of intellectual property, products or services, copies of which have been provided to Platinum. No Seller has entered into any Contract granting any third party the right to bring infringement actions or otherwise to enforce rights with respect to the Owned Intellectual Property or pursuant to which any Seller has agreed not to sue or otherwise enforce any legal rights with respect to Owned Intellectual Property.

(vii) Sellers have used commercially reasonable efforts to protect the confidentiality of any material trade secrets and other material confidential and proprietary information included in the Purchased Intellectual Property.

Section 5.9 Permits.

Schedule 5.9 lists all material Permits used or held for use by Sellers in connection with the Business. Sellers hold all of such Permits and each such Permit is in full force and effect and has not expired. There are no proceedings pending or, to Sellers' Knowledge, threatened, the object of which is to revoke, limit or otherwise affect any such Permit.

Section 5.10 No Other Representations or Warranties; AS IS WHERE IS.

EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THIS AGREEMENT, INCLUDING THIS ARTICLE V: (I) EACH SELLER EXPRESSLY DISCLAIMS ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND OR NATURE, EXPRESS OR IMPLIED, AS TO THE CONDITION, VALUE, QUALITY OR PROSPECTS OF THE PURCHASED ASSETS; (II) EACH SELLER SPECIFICALLY DISCLAIMS ANY REPRESENTATIONS OR WARRANTIES OF MERCHANTABILITY, USAGE, SUITABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE WITH RESPECT TO THE PURCHASED ASSETS, (III) IT IS UNDERSTOOD THAT THE PURCHASED ASSETS ARE BEING ACQUIRED "AS IS, WHERE IS" ON THE RELEVANT CLOSING DATE, AND IN THEIR PRESENT CONDITION, AND BUYER SHALL RELY ON ITS OWN EXAMINATION AND INVESTIGATION THEREOF, (IV) SELLERS EXPRESSLY DISCLAIM ALL LIABILITY AND RESPONSIBILITY FOR ANY REPRESENTATION, WARRANTY, PROJECTION, FORECAST, STATEMENT, OR INFORMATION MADE, COMMUNICATED, OR FURNISHED (ORALLY OR IN WRITING) TO BUYER OR ITS AFFILIATES OR REPRESENTATIVES (INCLUDING ANY OPINION, INFORMATION, PROJECTION, OR ADVICE THAT MAY HAVE BEEN OR MAY BE PROVIDED TO BUYER BY ANY DIRECTOR, OFFICER, EMPLOYEE, AGENT, CONSULTANT, OR REPRESENTATIVE OF SELLER OR ANY OF ITS AFFILIATES), AND (V) SELLERS MAKE NO REPRESENTATIONS OR WARRANTIES TO BUYER REGARDING THE PROBABLE SUCCESS OR PROFITABILITY OF THE BUSINESS. THE DISCLOSURE OF ANY MATTER OR ITEM IN ANY SCHEDULE HERETO SHALL NOT BE DEEMED TO CONSTITUTE AN ACKNOWLEDGMENT THAT ANY SUCH MATTER IS REQUIRED TO BE DISCLOSED OR IS MATERIAL OR THAT SUCH MATTER WOULD REASONABLY BE EXPECTED TO RESULT IN A MATERIAL ADVERSE EFFECT.

ARTICLE VI

REPRESENTATIONS AND WARRANTIES OF PLATINUM

Platinum hereby represents and warrants to Sellers as follows:

Section 6.1 Organization and Good Standing.

Platinum is a limited partnership duly organized, validly existing and in good standing under the laws of the Cayman Islands and has all requisite limited partnership power and authority to own, lease and operate its properties and to carry on its business as now conducted.

Section 6.2 Authorization of Agreement.

Platinum has, or at the time of execution will have, all requisite power, authority and legal capacity to execute and deliver this Agreement and each other Transaction Document to be executed by it in connection with the consummation of the Transactions (the "Platinum Documents") and to consummate the Transactions. The execution, delivery and performance by Platinum of this Agreement and the Platinum Documents have been duly authorized by all

necessary limited partnership action on behalf of Platinum. This Agreement has been, and, upon their execution, each Platinum Document will be at or prior to the Closing, duly executed and delivered by Platinum and (assuming the due authorization, execution and delivery by the other parties hereto and thereto) this Agreement constitutes, and, upon their execution, the Platinum Documents will, when so executed and delivered, constitute, the legal, valid and binding obligation of Platinum, enforceable against Platinum in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium and similar laws affecting creditors' rights and remedies generally, and subject, as to enforceability, to general principles of equity, including principles of commercial reasonableness, good faith and fair dealing (regardless of whether enforcement is sought in a proceeding at law or in equity).

Section 6.3 Conflicts; Consents of Third Parties.

(a) None of the execution and delivery by Platinum of this Agreement or the Platinum Documents, the consummation of the Transactions or the compliance by Platinum with any of the provisions hereof or thereof will materially conflict with, or result in any material violation of or material default (with or without notice or lapse of time, or both) under, or give rise to a right of payment, termination, modification, acceleration or cancellation under any provision of (i) the Organizational Documents of Platinum, (ii) any Contract or Permit to which Platinum is a party or by which Platinum or its properties or assets are bound or (iii) any Order of any Governmental Body applicable to Platinum or by which any of the properties or assets of Platinum are bound, (iv) any applicable Law, except in the case of each of clauses (i) through (iv) above, as would not reasonably be expected to have a material adverse effect on the ability of Platinum to perform its obligations under this Agreement or to consummate the Transactions.

(b) Except as set forth in Schedule 6.3(b), no consent, waiver, approval, Order, Permit or authorization of, or declaration or filing with, or notification to, any Person or Governmental Body is required on the part of Platinum in connection with the execution and delivery of this Agreement or the Platinum Documents, the compliance by Platinum with any of the provisions hereof or thereof, the consummation of the Transactions or the taking by Platinum of any other action contemplated hereby or thereby, or for Buyer to conduct the Business, except for the entry of the Sale Order.

Section 6.4 Litigation.

There are no Legal Proceedings pending or, to the knowledge of Platinum, threatened by or against Platinum, or to which Platinum is otherwise a party before any Governmental Body, which, if adversely determined, would reasonably be expected to have a material adverse effect on the ability of Platinum to perform its obligations under this Agreement or to consummate the Transactions. Platinum is not subject to any Order of any Governmental Body except to the extent the same would not reasonably be expected to have a material adverse effect on the ability of Platinum to perform its obligations under this Agreement or to consummate the Transactions.

Section 6.5 Brokers.

Platinum has not retained any broker, finder or investment banker in connection with the transactions contemplated by this Agreement or any other Transaction Document for which Sellers will be held responsible.

Section 6.6 No Other Representations and Warranties.

Except for the representations and warranties contained in this Article VI, neither Platinum nor any Affiliate thereof makes any other express or implied representation or warranty on behalf of Buyer.

ARTICLE VII

BANKRUPTCY COURT MATTERS

Section 7.1 Competing Transaction.

This Agreement is subject to approval by the Bankruptcy Court and the consideration by Sellers of higher or better competing bids in accordance with the terms of the Sale Procedures Order (each, a "Competing Bid").

Section 7.2 Bankruptcy Court Filings.

(a) Platinum agrees that it will promptly take such actions as are reasonably requested by Sellers to assist in obtaining the entry of the Sale Order, including furnishing affidavits or other documents or information for filing with the Bankruptcy Court for the purposes, among others, of providing necessary assurances of performance by Platinum under this Agreement and demonstrating that Platinum (or any Designated Buyer) is a "good faith" purchaser under section 363(m) of the Bankruptcy Code. Sellers shall use their respective commercially reasonable efforts to pursue the entry by the Bankruptcy Court of the Sale Order, which Sale Order shall provide for the transfer of the Purchased Assets and the Assumed Liabilities to Buyer free and clear of all Liens as well as from all successor or transferee liability to the extent permitted by Section 363 of the Bankruptcy Code. Sellers shall comply (or obtain an Order from the Bankruptcy Court waiving compliance) with all requirements under the applicable provisions of the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, and the Local Bankruptcy Rules for the District of Delaware in obtaining the entry by the Bankruptcy Court of Sale Order. Sellers shall use their respective commercially reasonable efforts to obtain entry by the Bankruptcy Court of the Sale Order by June 17, 2014. Sellers further covenant and agree that, after entry by the Bankruptcy Court of the Sale Order, the terms of any other proposed order submitted by Sellers to the Bankruptcy Court shall not conflict with, supersede, abrogate, nullify or restrict the terms of this Agreement, or in any way prevent or interfere with the consummation or performance of the transaction's contemplated by this Agreement. In the event that the Sale Order shall be appealed, subject to the Parties' respective rights to terminate this Agreement pursuant to Section 4.4, Sellers and Platinum shall use their respective reasonable efforts to defend such appeal.

(b) Notwithstanding the foregoing or anything to the contrary contained herein, in the event that Platinum is designated as the back-up bidder in accordance with the Sale Procedures Order and the Transactions are not consummated as of July 31, 2014, this Agreement shall automatically terminate and the escrow agent shall deliver the Cash Deposit and all interest thereon to Platinum in accordance with the terms of the Escrow Agreement.

Section 7.3 Assumption of Assigned Contracts.

(a) The Sellers have filed notices of assumption (the "Assumption Notices") with the Bankruptcy Court and served such notice on each counterparty to a Contract listed thereon (other than any Contract which has been rejected or which is the subject of a pending motion to reject pursuant to Section 365 of the Bankruptcy Code). The Assumption Notices identify all Contracts that the Sellers believe may be assumed and assigned in connection with the sale of the Purchased Assets and sets forth a good faith estimate of the amount of cure costs applicable to each such Contract (and if no cure cost is estimated to be applicable with respect to any particular Contract, the amount of such cure cost designated for such Contract is listed as "\$0.00"). In accordance with the Sale Procedures Order, the Sellers reserve the right to supplement such list of Contracts and provide additional notice of assumption, and to remove a Contract from the list of Contracts, up to five (5) Business Days prior to the Asset Transfer Closing Date, and any such supplements shall, contemporaneously with their filing with the Bankruptcy Court, be provided by Sellers to Platinum.

(b) On or before the date that is one (1) Business Days before the Relevant Closing Date (the "Designation Deadline"), Platinum shall provide to the Sellers a list of those Contracts that it elects to have assumed and assigned to Buyer on the Relevant Closing Date (the "Designated Contracts"). Platinum shall be entitled to remove certain Contracts from the list of Designated Contracts at any time prior to the Designation Deadline. In the event that Platinum removes any of such Contracts from such list, the Sellers will provide the relevant counterparty written notice that the applicable Contract is no longer identified as a Designated Contract. For the avoidance of doubt, only those executory Contracts that remain identified as Designated Contracts as of the Relevant Closing Date will constitute Assumed Contracts on such Relevant Closing Date and will be assumed by the applicable Seller and assigned to Buyer pursuant to the Sale Order. There shall be no adjustment to the Purchase Price as a result of Platinum's election to exclude any one or more of such Contracts from list of Designated Contracts pursuant to this Section 7.3(b) except that neither Platinum nor any Designated Buyer shall be required to make any payments for Determined Cure Costs or any other amounts for any such Excluded Contracts. Subject to the approval of the Bankruptcy Court pursuant to the Sale Order or other such Order of the Bankruptcy Court, Sellers shall assume and then assign to Buyer all Designated Contracts.

(c) Subject to the terms of Section 2.6 and Section 7.3(a) and (b), Buyer shall make provision for the payment of the Determined Cure Costs in cash in accordance with the Sale Order. Sellers shall use their respective commercially reasonable efforts, including the filing and prosecution of any and all appropriate proceedings in the Bankruptcy Court, to establish the Determined Cure Costs, if any, for each Designated Contract, in accordance with Section 7.3(a).

(d) On or before June 18, 2014, Sellers shall have delivered to Platinum true and complete copies of all Contracts identified on the Cure Schedule, or otherwise provided Platinum with access to such true and complete copies of such Contracts.

(e) Notwithstanding any provision in this Agreement to the contrary, neither Platinum nor any Designated Buyer shall have any obligation to purchase, acquire or assume any Contract (or any Liabilities thereunder) if a true and complete copy of such Contract has not been made available by Sellers to Platinum in accordance with Sections 2.6, Section 7.3(a), Section 7.3(c) and Section 7.3(d) above. Notwithstanding any provision in this Agreement to the contrary, from and after the date hereof through the Asset Transfer Closing Date, Sellers will not reject or take any action (or fail to take any action that would result in rejection by operation of Law) to reject, withdraw, repudiate or disclaim any Contract without the prior written consent of Platinum.

ARTICLE VIII

COVENANTS

Section 8.1 Access to Information.

Sellers agree that, prior to the Asset Transfer Closing Date, Platinum and any Designated Buyers shall be entitled, through their officers, employees and Representatives, to make such investigation of the Purchased Assets, the Assumed Liabilities and the Business, and make such examination (and copies) of the books and records of Sellers and their respective controlled Affiliates related thereto as Platinum, such Designated Buyers or their respective Representatives reasonably request. Any such investigation and examination shall be conducted during regular business hours upon reasonable advance notice and under reasonable circumstances and shall be subject to restrictions under applicable Law. Sellers shall cause their respective Representatives to cooperate with Platinum, such Designated Buyers and their respective Representatives and Platinum shall cooperate, and shall cause such Designated Buyers and Representatives to cooperate, with Sellers and their Representatives and to use their commercially reasonable efforts to minimize any disruption to the Business. Notwithstanding anything herein to the contrary, no such investigation or examination shall be permitted to the extent that it would require Sellers or any of their respective Subsidiaries to disclose information where such disclosure would jeopardize the protection of attorney-client privilege or conflict with any confidentiality obligations by which Sellers or any of their respective Subsidiaries are contractually bound; provided, however, that Sellers and any of their respective Subsidiaries shall use commercially reasonable efforts to obtain a waiver of any such confidentiality provisions and to otherwise cause such information to be provided in a manner that would not result in such jeopardy or conflict. No investigation by Platinum, any Designated Buyer or their respective Representatives prior to or after the date of this Agreement shall diminish or obviate any of the representations, warranties, covenants or agreements of Sellers contained in this Agreement or any of the other Transaction Documents.

Section 8.2 Conduct of the Business Pending the Closing. Between the date hereof and the Relevant Closing, Sellers shall:

(a) operate the Purchased Assets contemplated to be transferred at such Relevant Closing in the Ordinary Course of Business, in a manner consistent with past practices, and in accordance with Sellers' authorized use of cash collateral and any additional funds loaned to Seller pursuant to the DIP Order;

(b) use their commercially reasonable efforts to (A) preserve the present business operations, organization and goodwill of the Business relating to such Purchased Assets, and (B) preserve the present relationships with Persons having business dealings with Sellers (including Customers, transmission and distribution service providers, independent system operators, utilities, pipelines and Governmental Bodies) with respect to such Business;

(c) use their commercially reasonable efforts to (A) maintain the books, accounts and records of Sellers relating to such Purchased Assets in the Ordinary Course of Business, (B) continue to operate billing procedures and collect accounts receivable utilizing normal procedures and without discounting or accelerating payment of such accounts and (C) pay accounts payable and comply with all contractual and other obligations applicable to the operation of the Business relating to such Purchased Assets;

(d) use their commercially reasonable efforts to maintain such Purchased Assets in their current condition, ordinary wear and tear excepted;

(e) maintain in full force and effect the Permits and operate the Business relating to such Purchased Assets in compliance therewith; and

(f) comply with applicable Laws, other than any failure to comply as would not reasonably be expected to have, individually or in the aggregate with other failures, a Material Adverse Effect.

(g) comply with the provisions applicable to Sellers in Sections 6 and 7 of the Loan and Energy Services Agreement between Lead Seller, Vantage and EDFT dated as of January 11, 2013 (as amended or otherwise modified from time to time in accordance with its terms) as if such Agreement were in full force and effect during the term of this Agreement, except as otherwise specifically referenced in the Forbearance Agreement dated as of March 6, 2014 among the Selling Debtors, Mole, Vantage and EDFT, which provisions are hereby incorporated into this Agreement by reference *mutatis mutandis* as if fully set forth herein.

Section 8.3 Consents.

Each Seller shall use its commercially reasonable efforts, and Platinum shall use its commercially reasonable efforts to cooperate with Sellers, to obtain at the earliest practicable date all Required Consents, including the Consents referred to in Section 5.3(b), and any other Consents required to consummate the Transactions; provided, however, that no Party shall be obligated to (a) pay any consideration therefor to any third party from whom a Consent is requested (other than filing fees with any Governmental Body), (b) agree to any restrictions on their ability to operate the Business or the Purchased Assets or hold or exercise ownership over the Purchased Assets (other than as contemplated by this Agreement or the Transition Services Agreement), or (c) initiate any litigation or Legal Proceedings to obtain any such Consent.

Section 8.4 Regulatory Approvals.

(a) Sellers and Platinum shall cooperate with each other and use (and shall cause their respective controlled Affiliates to use) commercially reasonable efforts to take, or to cause to be taken, all actions, and to do, or to cause to be done, all things within their control that are reasonably necessary, proper or advisable to (i) comply with their respective obligations in this Agreement, (ii) obtain promptly from any Person any Required Consents or any other Orders or Permits required to be obtained by Sellers or Buyer or any of their respective controlled Affiliates in connection with the authorization, execution, delivery and performance of this Agreement and the consummation of the Transactions, (iii) promptly make all necessary filings and thereafter make any other required submissions with respect to this Agreement and the consummation of the Transactions required under applicable Laws, (iv) defend any and all Legal Proceedings by or before any Governmental Body challenging this Agreement or the consummation of the Transactions, (v) cause to be lifted or rescinded any injunction, decree, ruling, order or other action of any Governmental Body adversely affecting the ability of any of the Parties to consummate the Transactions, and (vi) provide prompt notification to the other Parties of any actions pursuant to clauses (i) through (v) of this Section 8.4(a); provided, however, that neither Buyer nor Sellers shall be obligated to pay any consideration or incur any costs (other than the expenses of their respective Representatives or filing fees with any Governmental Body) to obtain any Required Consents from third parties, and neither Buyer nor Sellers shall be obligated to incur any commercially unreasonable costs in taking any other actions described above, in each case whether or not they may be necessary, proper or advisable to consummate the Transactions (other than as contemplated by this Agreement or the Transition Services Agreement).

(b) In connection with seeking the foregoing approvals, neither Platinum (nor any Designated Buyer) nor Sellers, nor any of their respective Affiliates, shall be required to consent to, or offer or agree to, or otherwise take any action with respect to, any requirement, condition, limitation, understanding, agreement or order of any Governmental Body to (i) sell, license, assign, transfer, divest, hold separate or otherwise dispose of any of their assets, their business or portion of their business in any manner, (ii) conduct, restrict, operate, invest or otherwise change any of their assets, their business or portion of their business in any manner, or (iii) impose any restriction, requirement or limitation on the operation of their business or portion of their business in any manner.

Section 8.5 Confidentiality.

(a) For the period from the date hereof until Asset Transfer Closing, Platinum shall not directly or indirectly disclose to the public or to any third party (other than any Persons who may become Designated Buyers but subject to reasonable and customary confidentiality agreements) any material non-public information concerning or relating to Sellers, other than with the express prior written consent of Sellers, except as may be required by applicable Law or the Bankruptcy Court, in which event the Party seeking to make such disclosure shall provide prior written notice to Sellers of the content, form, timing and manner of any proposed disclosure. provided, however, that notwithstanding anything to the contrary contained in this Agreement, Platinum may disclose such information (a) to any of its stockholders, members, Affiliates, agents, Representatives and existing and potential financing sources who need to

know such information for the sole purpose of evaluating, negotiating or implementing the Transactions and who are bound by confidentiality and non-disclosure obligations to Platinum or (b) where such disclosure is required under any applicable Law. For the avoidance of doubt, as of any Relevant Closing, material non-public information with respect to the Purchased Assets and the Assumed Liabilities transferred at such Relevant Closing shall be deemed the confidential information of the relevant Buyer, and Sellers shall maintain the confidentiality thereof in accordance with the terms of this Section 8.5 from and after the Relevant Closing Date. In the case of any designation and assignment by Platinum to one or more Designated Buyers pursuant to Section 12.11 hereof, each such Designated Buyer shall agree to be bound by the terms of this Section 8.5.

(b) No Seller shall directly or indirectly disclose to the public or to any third party any material non-public information concerning or relating to Platinum, its Affiliates or any Designated Buyer, other than with the express prior written consent of Platinum or such Designated Buyer, except as may be required by applicable Law or the Bankruptcy Court, in which event the Party seeking to make such disclosure shall to the extent practical and permissible by Law, provide prior written notice to Platinum or such Designated Buyer of the content, form, timing and manner of any proposed disclosure; provided, however, that notwithstanding anything to the contrary contained in this Agreement, Sellers may disclose such information where such disclosure is required under any applicable Law or is required pursuant to the Sales Procedure Order.

Section 8.6 Preservation of Records.

From the date hereof through the later of the Asset Transfer Closing Date and the termination or expiration of the Transition Services Agreement (including as extended pursuant to Section 2.8(b)), Sellers shall (and shall cause their respective controlled Affiliates to), preserve and keep in their possession all records relating to the Purchased Assets or the Assumed Liabilities (other than any such records transferred to a Qualified Designated Buyer at any Partial Asset Transfer Closing). Sellers shall (and shall cause their respective controlled Affiliates to) make such records and personnel available to Buyer as may reasonably be requested by Buyer, including in connection with any insurance claims or Legal Proceedings involving the Purchased Assets or the Assumed Liabilities, or any governmental investigations related to the Purchased Assets or the Assumed Liabilities or in order to enable Buyer to comply its obligations hereunder.

Section 8.7 Transition Services Agreement; Further Assurances.

Sellers and Buyer shall execute at the Economic Closing a transition services agreement substantially in the form attached hereto as Exhibit B (the "Transition Services Agreement") pursuant to which Sellers and their Affiliates will provide certain services with respect to the Business and the Purchased Assets during the Transition Period.

Section 8.8 Notification of Certain Matters.

Prior to the Asset Transfer Closing, Sellers shall give prompt notice to Platinum, on the one hand, and Platinum shall give prompt notice to Sellers, on the other hand, of (i) the

occurrence or non-occurrence of any event which would cause any of the representations or warranties in this Agreement of Sellers or Platinum, respectively, to be untrue or inaccurate in any material respect at or prior to the Asset Transfer Closing Date and (ii) any material failure of Sellers or Platinum, respectively, to comply with or satisfy any covenant, condition or agreement to be complied with or satisfied by it under this Agreement; provided, however, the delivery of any notice pursuant to this Section 8.8 shall not limit or otherwise affect the remedies available to the Party receiving such notice under this Agreement.

ARTICLE IX

TAX MATTERS

Section 9.1 Tax Matters.

(a) Buyer shall be responsible for all sales, use, stamp, documentary stamp, filing, recording, transfer (including any real property transfer taxes), goods and services, value added, or similar Taxes payable in connection with the Transactions ("Transfer Taxes"), regardless of whether such Transfer Taxes are levied on Sellers, Buyer or the Purchased Assets. Except as otherwise required by applicable Law, Buyer shall prepare and file all Tax Returns with respect to Transfer Taxes; provided, however, that if Sellers are required under applicable Law to file any Tax Return with respect to Transfer Taxes, Sellers shall deliver a copy of such Tax Return to Buyer for Buyer's review and comment and shall reflect thereon any reasonable comments submitted by Buyer at least ten (10) days before the due date for filing such Tax Return, and shall file such Tax Return and provide a copy of such filing to Buyer. Buyer shall reimburse Sellers for any reasonable and documented costs and expenses associated with the filing of any such Tax Return. The Parties shall cooperate and consult with each other prior to filing any Tax Returns in respect of Transfer Taxes and cooperate and otherwise use commercially reasonable efforts to obtain any exemptions, exclusions or available refunds with respect to Transfer Taxes.

(b) Except for Transfer Taxes, all Taxes or similar ad valorem obligations levied for any Straddle Period with respect to the Purchased Assets shall be prorated between Sellers and Buyer based on the number of days for the portion of the Straddle Period ending on and including the Relevant Closing Date that the applicable Seller held such Purchased Assets, on the one hand, and the number of days for the portion of the Straddle Period beginning after the Relevant Closing Date that Buyer or its Affiliate held such Purchased Assets, on the other hand. Any Tax Return relating to the Purchased Assets for a Tax period that includes the Relevant Closing Date shall, to the extent permitted by applicable Law, be filed on the basis that the relevant Tax period ended as of the close of business on the Relevant Closing Date.

(c) Buyer and Sellers shall (i) provide each other with such assistance as may be reasonably requested in connection with the preparation of any Tax Return or any claim or request for a refund, rebate, abatement or other recovery for Taxes, or in resolving any Tax claim, action, suit, litigation, proceeding, arbitration, investigation, audit or controversy (a "Tax Contest") and (ii) retain (and provide the other party with reasonable access to) all records or information which may be relevant with respect to any such Tax matter. Any information obtained pursuant to this Section 9.1 shall be kept confidential, except as may be otherwise

necessary in connection with the filing of any Tax Return or claim or request for refund, rebate, abatement or other recovery for Taxes or in resolving any Tax Contest.

(d) The obligations of the Parties under this Section 9.1 shall survive the Asset Transfer Closing.

ARTICLE X

CONDITIONS TO CLOSING

Section 10.1 Conditions Precedent to Obligations of Buyer.

(a) The obligations of Buyer to consummate the Transactions contemplated hereby to be consummated at the Economic Closing (the "Economic Closing Transactions") or to take the other actions required to be taken by Buyer at the Economic Closing; are subject to the fulfillment, on or prior to the Economic Closing Date, of each of the following conditions (any or all of which may be waived in whole or in part, only if Platinum consents to such waiver in writing):

(i) the representations and warranties of Sellers set forth in this Agreement shall be true and correct at and as of the Economic Closing, except to the extent such representations and warranties expressly relate to an earlier date (in which case such representations and warranties shall be true and correct on and as of such earlier date); provided, however, that in the event of a breach of a representation or warranty, the condition in this Section 10.1(a)(i) shall be deemed satisfied unless the effect of all such breaches of representations and warranties taken together has resulted in, or would reasonably be expected to result in, a Material Adverse Effect, and Buyer shall have received a certificate signed by an authorized officer of each Seller (in form and substance reasonably satisfactory to Buyer), dated the Economic Closing Date, to such effect;

(ii) Sellers shall have performed and complied in all material respects with all obligations and agreements required in this Agreement to be performed or complied with by them prior to the Economic Closing Date, and Buyer shall have received a certificate signed by an authorized officer of each Seller, dated the Economic Closing Date, to the foregoing effect;

(iii) There shall have not been commenced any proceeding or investigation by a Governmental Body of competent jurisdiction for the purpose of restraining, enjoining, delaying or otherwise materially restricting the consummation of the Economic Closing Transactions or materially limiting or materially restricting the conduct of Buyer or any of its Affiliates or the operation of the Business following consummation of the Economic Closing Transactions or requiring Buyer or any of its Affiliates to divest or hold separate any assets or businesses;

(iv) Sellers shall have delivered, or caused to be delivered, to Buyer all of the items set forth in Section 4.2(a).

(b) The obligations of Buyer to consummate the Transactions contemplated hereby to be consummated at any Relevant Closing (the "Relevant Closing Transactions") or to take the other actions required to be taken by Buyer at any Relevant Closing, are subject to the fulfillment, on or prior to the Relevant Closing Date, of each of the following conditions (any or all of which may be waived in whole or in part, only if Platinum consents to such waiver in writing):

(i) the representations and warranties of Sellers set forth in this Agreement shall be true and correct at and as of the Relevant Closing, except to the extent such representations and warranties expressly relate to an earlier date (in which case such representations and warranties shall be true and correct on and as of such earlier date); provided, however, that in the event of a breach of a representation or warranty, the condition in this Section 10.1(b)(i) shall be deemed satisfied unless the effect of all such breaches of representations and warranties taken together has resulted in, or would reasonably be expected to result in, a Material Adverse Effect, and Buyer shall have received a certificate signed by an authorized officer of each Seller (in form and substance reasonably satisfactory to Buyer), dated the Relevant Closing Date, to such effect;

(ii) Sellers shall have performed and complied in all material respects with all obligations and agreements required in this Agreement to be performed or complied with by them prior to the Relevant Closing Date, and Buyer shall have received a certificate signed by an authorized officer of each Seller, dated the Relevant Closing Date, to the foregoing effect;

(iii) There shall have not been commenced any proceeding or investigation by a Governmental Body of competent jurisdiction for the purpose of restraining, enjoining, delaying or otherwise materially restricting the consummation of the Relevant Closing Transactions or materially limiting or materially restricting the conduct of Buyer or any of its Affiliates or the operation of the Business following consummation of the Relevant Transactions or requiring Buyer or any of its Affiliates to divest or hold separate any assets or businesses;

(iv) Sellers shall have delivered, or caused to be delivered, to Buyer all of the items set forth in Section 4.2(b);

(v) All Required Consents with respect to the Purchased Assets and Assumed Liabilities to be transferred at such Relevant Closing shall have been duly obtained or made.

Section 10.2 Conditions Precedent to Obligations of Sellers.

(a) The obligations of Sellers to consummate the Economic Closing Transactions are subject to the fulfillment, prior to or on the Economic Closing Date, of each of the following conditions (any or all of which may be waived by Sellers in whole or in part to the extent permitted by applicable Law):

(i) the representations and warranties of Platinum set forth in this Agreement shall be true and correct at and as of the Economic Closing, except to the extent such representations and warranties expressly relate to an earlier date (in which case such representations and warranties shall be true and correct on and as of such earlier date); provided, however, that in the event of a breach of a representation or warranty, the condition in this Section 10.2(a)(i) shall be deemed satisfied unless the effect of all such breaches of representations and warranties taken together result in a material adverse effect on the ability of Platinum to perform its obligations under this Agreement or to consummate the Economic Closing Transactions, and Sellers shall have received a certificate signed by an authorized officer of Platinum (in form and substance reasonably satisfactory to Sellers), dated the Economic Closing Date, to such effect;

(ii) Buyer shall have performed and complied in all material respects with all obligations and agreements required by this Agreement to be performed or complied with by it on or prior to the Economic Closing Date, and Sellers shall have received a certificate signed by an authorized officer of Platinum, dated the Economic Closing Date, to the foregoing effect; and

(iii) Platinum shall have delivered, or caused to be delivered, to Lead Seller all of the items set forth in Section 4.3(b).

(b) The obligations of Sellers to consummate the Relevant Closing Transactions or to take the other actions required to be taken by Buyer at any Relevant Closing, are subject to the fulfillment, on or prior to the Relevant Closing Date, of each of the following conditions (any or all of which may be waived in whole or in part, only if Sellers consent to such waiver in writing):

(i) the representations and warranties of Platinum set forth in this Agreement shall be true and correct at and as of the Relevant Closing, except to the extent such representations and warranties expressly relate to an earlier date (in which case such representations and warranties shall be true and correct on and as of such earlier date); provided, however, that in the event of a breach of a representation or warranty, the condition in this Section 10.2(b)(i) shall be deemed satisfied unless the effect of all such breaches of representations and warranties taken together result in a material adverse effect on the ability of Platinum to perform its obligations under this Agreement or to consummate the Relevant Closing Transactions, and Sellers shall have received a certificate signed by an

authorized officer of Platinum (in form and substance reasonably satisfactory to Sellers), dated the Relevant Closing Date, to such effect;

(ii) Buyer shall have performed and complied in all material respects with all obligations and agreements required by this Agreement to be performed or complied with by it on or prior to the Relevant Closing Date, and Sellers shall have received a certificate signed by an authorized officer of Platinum, dated the Relevant Closing Date, to the foregoing effect; and

(iii) Buyer shall have systems in place and safeguards required to treat all confidential customer information in any form received from Sellers in material compliance with applicable Law and the terms of any written Contracts with Transferred Customers.

(iv) Platinum shall have delivered, or caused to be delivered, to Lead Seller all of the items set forth in Section 4.3.

Section 10.3 Conditions Precedent to Obligations of Buyer and Sellers.

The respective obligations of Buyer and Sellers to consummate the Economic Closing Transactions or the Relevant Closing Transactions, as the case may be, are subject to the fulfillment, on or prior to the Economic Closing Date or the Relevant Closing Date, as applicable, of each of the following conditions (any or all of which may be waived by agreement of Platinum and Sellers in whole or in part to the extent permitted by applicable Law):

(a) there shall not be in effect any Order by a Governmental Body of competent jurisdiction restraining, enjoining, delaying or otherwise materially restricting the consummation of the Transactions; and

(b) the Bankruptcy Court shall have entered the Sale Order on or before June 17, 2014.

Section 10.4 Frustration of Closing Conditions.

None of Sellers, Buyer or Platinum may rely on the failure of any condition set forth in Section 10.1, Section 10.2, or Section 10.3 as the case may be, if such failure was primarily caused by such Party's failure to comply with any provision of this Agreement.

ARTICLE XI

NON-SURVIVAL OF REPRESENTATIONS AND WARRANTIES

Section 11.1 Non-Survival of Representations and Warranties.

The representations, warranties, covenants and agreements (other than covenants and agreements that, by their terms, survive the Relevant Closing or termination of this Agreement) in this Agreement shall terminate at the Relevant Closing, or upon termination of

this Agreement pursuant to Section 4.4, and, following the Relevant Closing or the termination of this Agreement, as the case may be, no Party shall make any claim whatsoever for any breach of any such representation, warranty or covenant hereunder, subject to Section 4.6. All covenants and agreements contained in this Agreement that, by their terms, survive the Relevant Closing or termination of this Agreement shall survive such Relevant Closing or termination in accordance with their respective terms; provided, that any covenant or agreement contained herein whose survival is not limited by its terms shall survive until fully performed in accordance with its terms.

ARTICLE XII

MISCELLANEOUS

Section 12.1 Remedies.

The Parties acknowledge and agree that, prior to the Asset Transfer Closing, (a) the sole and exclusive remedy available to Platinum shall be to terminate this Agreement pursuant to and in accordance with Section 4.4 and obtain return of the Cash Deposit and any interest thereon pursuant to and in accordance with Section 4.5; and (b) the sole and exclusive remedy available to Sellers in the event of a breach by Platinum of any representation, warranty, covenant or agreement by Platinum in this Agreement shall be to terminate this Agreement pursuant to and in accordance with Section 4.4. It is understood and agreed by the Parties that, from and after the Relevant Closing, money damages would not be a sufficient remedy for any breach of this Agreement by any Party and each non-breaching Party should be entitled to specific performance and injunctive or other equitable relief as a remedy of such a breach in addition to any other rights which such Party may have at law, in equity or pursuant to this Agreement.

Section 12.2 Non-Recourse.

The Parties acknowledge and agree that no past, present or future director, officer, employee, incorporator, member, partner, stockholder, agent, attorney, Representative or Affiliate of any of the Parties to this Agreement (other than any Designated Buyer) shall, in such capacity, have any liability or responsibility (in contract, tort or otherwise) for any Liabilities of Platinum or any Seller, as applicable, under this Agreement or for any claim based on, in respect of, or by reason of, the Transactions.

Section 12.3 Submission to Jurisdiction; Consent to Service of Process.

(a) Without limiting any Party's right to appeal any Order of the Bankruptcy Court, (i) the Bankruptcy Court shall retain exclusive jurisdiction to enforce the terms of this Agreement and to decide any claims or disputes which may arise or result from, or be connected with, this Agreement, any other Transaction Document, any breach or default hereunder or thereunder, or the Transactions, and (ii) any and all proceedings related to the foregoing shall be filed and maintained only in the Bankruptcy Court, and the Parties hereby consent to and submit to the jurisdiction and venue of the Bankruptcy Court and shall receive notices at such locations as indicated in Section 12.9 hereof; provided, however, that if the Chapter 11 Cases have closed,

the Parties agree to unconditionally and irrevocably submit to the exclusive jurisdiction of the United States District Court for the Southern District of New York sitting in New York County or the Commercial Division, Civil Branch of the Supreme Court of the State of New York sitting in New York County and any appellate court from any thereof, for the resolution of any such claim or dispute. The Parties hereby irrevocably waive, to the fullest extent permitted by applicable Law, any objection which they may now or hereafter have to the laying of venue of any such dispute brought in such court or any defense of inconvenient forum for the maintenance of such dispute. Each of the Parties agrees that a judgment in any such dispute may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by Law.

(b) Each of the Parties hereby consents to process being served by any Party to this Agreement in any suit, action or proceeding by delivery of a copy thereof by personal delivery, prepaid overnight courier or certified mail in accordance with the provisions of Section 12.9.

Section 12.4 Waiver of Right to Trial by Jury.

THE PARTIES HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVE, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT THAT THEY MAY HAVE TO TRIAL BY JURY OF ANY CLAIM OR CAUSE OF ACTION, OR IN ANY PROCEEDING, DIRECTLY OR INDIRECTLY BASED UPON OR ARISING OUT OF THIS AGREEMENT OR THE TRANSACTIONS (WHETHER BASED ON CONTRACT, TORT, OR ANY OTHER THEORY). EACH PARTY (A) CERTIFIES THAT 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 AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTY HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 12.4.

Section 12.5 Authorization of Representative of Sellers.

(a) By entering into and executing this Agreement, each Seller irrevocably makes, constitutes and appoints Lead Seller as its agent, effective as of the date hereof, and authorizes and empowers Lead Seller to fulfill the role of Sellers' representative hereunder, and each Seller appoints the Lead Seller as such Person's true and lawful attorney in fact and agent, for such Person and in such Person's name, place and stead for all purposes necessary or desirable in order for the Lead Seller to take all actions contemplated by this Agreement, with the ability to execute and deliver all instruments, certificates and other documents of every kind incident to the foregoing to all intents and purposes and with the same effect as such Lead Seller could do personally, including to give and receive notices and communications; to object to such deliveries, to agree to, negotiate, enter into settlements and compromises of, and comply with orders of courts with respect to such claims; and to take all actions necessary or appropriate in the judgment of the Lead Seller for the accomplishment of the foregoing. The dissolution, liquidation, insolvency or bankruptcy of any Seller shall not terminate the authority and agency of Lead Seller as each Seller's representative pursuant to this Section 12.5. The power of attorney granted in this Section 12.5 is coupled with an interest and is irrevocable.

(b) Buyer shall be entitled to rely exclusively upon any communication given or other action taken by the Lead Seller pursuant to this Agreement, and shall not be liable for any action taken or not taken in good faith reliance on a communication or other instruction from Lead Seller.

Section 12.6 Time of Essence.

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

Section 12.7 Entire Agreement; Amendments and Waivers.

This Agreement (including the Schedules and Exhibits hereto) and the other Transaction Documents represent the entire understanding and agreement between the Parties with respect to the subject matter hereof and supersede all prior discussions and agreements between the Parties with respect to the subject matter hereof. This Agreement can be amended, supplemented or changed only by written instrument making specific reference to this Agreement and executed by Platinum and the Lead Seller (on behalf of all Sellers). Any provision hereof can be waived only by written instrument making specific reference to this Agreement and signed by Platinum (if it is the waiving Party) or the Lead Seller (on behalf of Sellers if Sellers are the waiving Party). No action taken pursuant to this Agreement, including any investigation by or on behalf of any Party, shall be deemed to constitute a waiver by the Party taking such action of compliance with any representation, warranty, covenant or agreement contained herein. The waiver by any Party hereto of a breach of any provision of this Agreement shall not operate or be construed as a further or continuing waiver of such breach or as a waiver of any other or subsequent breach. No failure on the part of any Party to exercise, and no delay in exercising, any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of such right, power or remedy by such Party preclude any other or further exercise thereof or the exercise of any other right, power or remedy. All remedies hereunder are cumulative and are not exclusive of any other remedies provided by Law.

Section 12.8 Governing Law.

THIS AGREEMENT, THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER, AND ANY CLAIM OR CONTROVERSY (WHETHER BASED ON CONTRACT, TORT, OR ANY OTHER THEORY) DIRECTLY OR INDIRECTLY BASED UPON OR ARISING OUT OF THIS AGREEMENT OR THE NEGOTIATION, EXECUTION OR PERFORMANCE OF THIS AGREEMENT (INCLUDING ANY CLAIM OR CAUSE OF ACTION BASED UPON, ARISING OUT OF OR RELATED TO ANY REPRESENTATION OR WARRANTY MADE IN OR IN CONNECTION WITH THIS AGREEMENT OR AS AN INDUCEMENT TO ENTER INTO THIS AGREEMENT), INCLUDING ALL MATTERS OF CONSTRUCTION, VALIDITY AND PERFORMANCE, SHALL IN ALL RESPECTS BE GOVERNED BY AND INTERPRETED, CONSTRUED, AND DETERMINED IN ACCORDANCE WITH THE INTERNAL LAWS OF THE STATE OF NEW YORK (WITHOUT REGARD TO ANY CONFLICT OF LAWS PROVISION THAT WOULD REQUIRE THE APPLICATION OF THE LAW OF ANY OTHER JURISDICTION OTHER THAN THE PRINCIPLES SET FORTH IN SECTION 5-1401 OF THE GENERAL

OBLIGATIONS LAW OF THE STATE OF NEW YORK) AND, TO THE EXTENT APPLICABLE, THE BANKRUPTCY CODE.

Section 12.9 Notices.

All notices and other communications under this Agreement shall be in writing and shall be deemed duly given (i) when delivered personally or by prepaid overnight courier, with a record of receipt, (ii) the fourth day after mailing if mailed by certified mail, return receipt requested, or (iii) the day of transmission, if sent by email, facsimile or telecopy prior to 5:00 p.m. eastern prevailing time on any Business Day or the Business Day after transmission, if sent after such time (with a copy promptly sent by prepaid overnight courier with record of receipt or by certified mail, return receipt requested), to the Parties at the following addresses, email addresses or facsimile numbers (or to such other address, email address or facsimile number as a Party may have specified by notice given to the other Parties pursuant to this Section 12.9):

If to Sellers, to:

c/o Glacial Energy V.I.
5326 Yacht Haven Grande, Box 36
St. Thomas, V.I. 00802
Telephone: (340) 715-7053
Facsimile: (888) 767-6761
Attention: General Counsel and CFO

With copies (which shall not constitute notice) to:

Patton Boggs LLP
2550 M Street NW
Washington, DC 20037
Telephone: (202) 457-5331
Facsimile: (202) 457-6315
Attention: Alan Noskow, Esq.

If to Platinum or Buyer, to:

Platinum Partners Value Arbitrage Fund LP
152 West 57th Street, 4th Floor
New York, New York 10019
Telephone: (212) 582-2222
Facsimile: (212) 582-2424
Attention: Will Slota and Joe SanFilippo

With copies (which shall not constitute notice) to:

Blank Rome LLP
405 Lexington Avenue
New York, NY 10174
Telephone: (212) 885-5431

Facsimile: (212) 885-5001
Attention: Eliezer M. Helfgott, Esq.

Section 12.10 Severability.

If any term or provision of this Agreement is invalid, illegal, or incapable of being enforced by any law or public policy, all other terms or provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the Transactions is not affected in any manner materially adverse to any Party. 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 effect the original intent of the Parties as closely as possible in an acceptable manner in order that the Transactions are consummated as originally contemplated to the greatest extent possible.

Section 12.11 Binding Effect; Designated Buyer; Assignment.

(a) This Agreement shall be binding upon the parties and their respective successors (including any trustee, receiver, receiver-manager, interim receiver or monitor or similar officer appointed in respect of Sellers in the Chapter 11 Cases) and permitted assigns. Platinum may, at any time prior to 10:00 a.m. on the Business Day immediately preceding the Relevant Closing Date, by written notice to Sellers, (i) designate one or more Persons other than Platinum as Platinum's designee to receive some or all of the Purchased Assets (including any related rights pursuant to Section 2.1(b) if applicable) in accordance with the provisions of the Sale Order and to assume all Assumed Liabilities (including any related obligations pursuant to Section 2.1(a) if applicable) related to such Purchased Assets and (ii) assign any related rights and obligations of Platinum under this Agreement to such Designated Buyer, in which case such Designated Buyer shall be deemed to be the Buyer with respect to the Purchased Assets that it has been designated to purchase (including any related rights pursuant to Section 2.1(b) if applicable) and any related Assumed Liabilities (including any related obligations pursuant to Section 2.1(a) if applicable). Upon any such designation and assignment, the provisions of this Agreement relating to such Purchased Assets and Assumed Liabilities (including all rights and obligations relating thereto) shall be deemed to inure to the benefit of, and be binding on, such Designated Buyer (and not Platinum), and such Designated Buyer shall be entitled to enforce such provisions of this Agreement, as if such Designated Buyer were a Party to this Agreement on the date hereof. Notwithstanding the foregoing, no assignment of this Agreement or of any rights or obligations hereunder shall relieve Platinum from its payment obligations under Article III.

(b) Except for any designation and assignment referred to in Section 12.11(a), no assignment of this Agreement or of any rights or obligations hereunder may be made by any Seller or Platinum (other than by operation of law) without the prior written consent of the other Parties and any attempted assignment without the required consents shall be void; provided, however, that after the Relevant Closing or the Economic Closing, Buyer shall have the right to assign its rights and/or delegate its obligations hereunder (A) to any Affiliates (B) to any financing sources for collateral purposes or (C) to any subsequent purchaser of all or any portion of the stock or assets of Buyer or the Business. Upon any such permitted assignment, the

references in this Agreement to Buyer shall also apply to any such assignee unless the context requires otherwise.

Section 12.12 No Third Party Beneficiaries.

This Agreement shall inure solely to the benefit of the Parties and their respective successors and permitted assigns (including any Designated Buyers) and nothing herein, express or implied, is intended to or shall confer upon any Person that is not a Party (or a successor or permitted assign (including a Designated Buyer) of any such Party) any legal or equitable right, benefit or remedy of any nature whatsoever, including any rights of employment for any specified period, under or by reason of this Agreement.

Section 12.13 Counterparts.

This Agreement may be executed and delivered (including by electronic transmission) in one or more counterparts, each of which will be deemed to be an original copy of this Agreement and all of which, when taken together, will be deemed to constitute one and the same agreement.

Section 12.14 Waiver of Bulk Sale Laws.

To the greatest extent permitted by applicable Law, the Parties hereby waive compliance with the terms of any bulk sales or similar Laws in any applicable jurisdiction in respect of the transactions contemplated by this Agreement.

Section 12.15 Release.

Except for the rights and obligations of the Parties specifically set forth in this Agreement, effective as of Asset Transfer Closing, each Seller, on its own behalf and on behalf of its Affiliates, to the extent permitted by Law, hereby irrevocably and unconditionally releases, remises and forever discharges Platinum, Buyer and its Affiliates and all such parties' past, present and future shareholders, partners, members, board of directors and/or supervisors, managers, officers, employees, agents, representatives and advisors from any and all suits, legal or administrative proceedings, claims, demands, damages, losses, costs, Liabilities, interest or causes of action whatsoever, at Law or in equity, known or unknown, which such Seller or its Affiliates might now or subsequently may have, based on, relating to or arising out of this Agreement, the transactions contemplated hereby, the ownership, use or operation of the Purchased Assets or the condition, quality, status or nature of the Purchased Assets, including rights to contribution under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, breaches of statutory or implied warranties, nuisance or other tort actions, rights to punitive damages, common law rights of contribution and rights under insurance maintained by Platinum, Buyer or any of its Affiliates, and all claims based on any theory of successor liability.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

IN WITNESS WHEREOF, each of the Parties has caused this Agreement to be executed by its respective officers thereunto duly authorized, as of the date first written above.

GLACIAL ENERGY HOLDINGS

By: _____
Name:
Title:

GLACIAL ENERGY, INC.

By: _____
Name:
Title:

GLACIAL VI, LLC.

By: _____
Name:
Title:

GLACIAL ENERGY OF NEW YORK

By: _____
Name:
Title:

**GLACIAL ENERGY OF NEW ENGLAND,
INC.**

By: _____
Name:
Title:

[Signature Page to Asset Purchase Agreement]

GLACIAL ENERGY OF MARYLAND, INC.

By: _____
Name:
Title:

GLACIAL ENERGY OF CALIFORNIA, INC.

By: _____
Name:
Title:

GLACIAL ENERGY OF ILLINOIS, INC.

By: _____
Name:
Title:

GLACIAL ENERGY OF NEW JERSEY, INC.

By: _____
Name:
Title:

GLACIAL ENERGY OF PENNSYLVANIA, INC.

By: _____
Name:
Title:

[Signature Page to Asset Purchase Agreement]

GLACIAL ENERGY OF TEXAS

By: _____
Name:
Title:

**GLACIAL ENERGY OF WASHINGTON
DC, INC.**

By: _____
Name:
Title:

GLACIAL ENERGY OF OHIO, INC.

By: _____
Name:
Title:

GLACIAL ENERGY OF MICHIGAN, INC.

By: _____
Name:
Title:

GLACIAL NATURAL GAS, INC.

By: _____
Name:
Title:

NEGAWATT BUSINESS SOLUTIONS

By: _____
Name:
Title:

[Signature Page to Asset Purchase Agreement]

GRIDWAY ENERGY HOLDINGS, INC.

By: _____
Name:
Title:

[Signature Page to Asset Purchase Agreement]

**PLATINUM PARTNERS VALUE
ARBITRAGE FUND LP**

By: _____
Name:
Title:

[Signature Page to Asset Purchase Agreement]

EXHIBIT A
FORM OF BILL OF SALE

EXHIBIT B
FORM OF TRANSITION SERVICES AGREEMENT
[ATTACHED]

B-1

TRANSITION SERVICES AGREEMENT

This Transition Services Agreement is dated as of June __, 2014 (this "Agreement"), by and among Glacial Energy VI, LLC, a U.S. Virgin Islands limited liability company ("Glacial VI"), Glacial Energy Holdings, a Nevada corporation ("Lead Seller") having an address at 24 Route 6A Sandwich, MA 02563, each of the Selling Debtors (as defined below, and together with Glacial VI and Lead Seller, "Sellers," and each individually a "Seller") and Platinum Partners Value Arbitrage Fund LP, a Cayman Islands limited partnership ("Platinum") having an address at 152 West 57th Street, 4th Floor, New York, New York 10019.

RECITALS:

WHEREAS, on May __, 2014 (the "Petition Date"), the Sellers commenced voluntary cases under chapter 11 of title 11 of the United States Code, 11 U.S.C. § 101 et seq. (the "Bankruptcy Code") in the United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Court") (collectively, the "Chapter 11 Cases");

WHEREAS, Sellers are debtors-in-possession under the Bankruptcy Code and manage their respective properties pursuant to sections 1107(a) and 1108 of the Bankruptcy Code;

WHEREAS, Sellers are currently engaged in the Business;

WHEREAS, pursuant to the terms and subject to the conditions of the Asset Purchase and Sale Agreement ("Purchase Agreement"), at the Economic Closing, Buyer shall become responsible for certain costs of the business and be entitled to certain benefits of the Business in consideration of payment of the Purchase Price.

WHEREAS, pursuant to the terms and subject to the conditions of the Purchase Agreement, at each Relevant Closing, Sellers shall sell and transfer to Buyer, and Buyer shall purchase and acquire from Sellers, the Purchased Assets contemplated by the Purchase Agreement to be transferred at such Relevant Closing, and Buyer shall assume from Sellers and thereafter pay, discharge and perform the Assumed Liabilities relating to such Purchased Assets; and

WHEREAS, the Purchase Agreement provides that concurrently with the consummation of Economic Closing, the Parties will enter into this Agreement whereby Sellers will provide to Buyer the Services (as defined herein) during the Transition Period (as defined herein).

NOW, THEREFORE, in consideration of the foregoing premises and the mutual covenants, representations, warranties and agreements hereinafter set forth, the Parties, intending to be legally bound, hereby agree as follows:

SECTION 1 DEFINITIONS

For the purposes of this Agreement, the following terms will have the definitions hereinafter specified:

1.1 "Party" shall mean a signatory to this Agreement, subject to Section 6.4 hereof.

1.2 "Service" or "Services" shall mean those services listed and described on Schedule A attached to this Agreement (as such schedule may be amended or supplemented pursuant to the terms of this Agreement) and any follow-up or ancillary services that are within the reasonable scope of such services; and

1.3 "Transition Period" shall mean the term of this Agreement as further described in Section 4.

All capitalized terms used and not otherwise defined herein will have the meanings ascribed to them in the Purchase Agreement.

SECTION 2 SERVICES

2.1 Transition Services. During the Transition Period, unless this Agreement is earlier terminated in accordance with the terms of this Agreement, Sellers shall provide the Services and otherwise comply with the terms of this Agreement. The Services will be provided in accordance with the terms, limitations and conditions set forth herein and on Schedule A to this Agreement. It is the intention of the Parties that the Services to be provided hereunder shall be provided at cost as determined in accordance with Section 3 hereof. Notwithstanding the contents of Schedule A, Sellers agree to respond in good faith to any reasonable request by the Buyer for access to any additional services that are necessary or desirable in connection with transition of the Business to Buyer and which are not currently contemplated in Schedule A at a price to be agreed upon after good faith negotiations between the Parties. Any such additional services so provided by Sellers shall constitute Services under this Agreement and be subject in all respects to the provisions of this Agreement as if fully set forth on Schedule A as of the date hereof.

2.2 Quality and Quantity of Services. Sellers shall provide or cause to be provided each Service as reasonably required in the ordinary course of business of the Business consistent, in all material respects, with the operations, practices and standards used by Sellers in connection with the conduct of the Business during the twelve-month period prior to the Economic Transfer Time; provided, however, that Sellers shall perform the Services (or cause the Services to be performed) in a commercially reasonable manner consistent with and subject to the terms of this Agreement and Schedule A and in no event shall Sellers use less than a reasonable degree of care and attention in providing such Services. Nothing herein shall be deemed to require provision of any of the Services to the extent it would violate any law or any agreement to which any Seller is bound, or to the extent such Services are not, immediately prior to the date hereof, being performed by Sellers and are not capable of being carried out by Sellers based on their current systems and capabilities.

2.3 Services Manager/Governance. Each Party will designate a services account manager (each a "Services Manager") who will be directly responsible for coordinating the delivery or receipt of the Services and who will have the authority to act on such Party's behalf with respect to matters relating to this Agreement. Each Party's designated Services Manager

shall possess sufficient knowledge, experience and expertise to qualify him or her to manage the delivery or receipt of the Services. The Services Managers will work with each other to address any issues relating to the services to be performed under this Agreement. Each Party shall have the right, upon prior written notice to the other Party, to replace its respective Services Manager from time to time with a substitute manager with comparable job scope, knowledge, expertise, and decision-making authority. The initial Services Manager for the Sellers is Randy Lennan and the initial Services Manager for Buyer is [Michael Nordlicht].

SECTION 3
PAYMENTS; COMMODITY SUPPLY ARRANGEMENT

3.1 Payments.

(a) No later than 10:00 a.m. New York City time on the date hereof, Sellers shall provide written notice to Buyer of the amount of all Cash Receipts held by Sellers as of such time (the "Initial Cash Balance") and of the Commodity Supply Payment Obligation due on the date hereof (such amount, the "Initial Commodity Supply Payment Obligation"). No later than 12:00 p.m. New York City time on the date hereof, Buyer will advance to Sellers an amount equal to the Initial Commodity Supply Payment Obligation less the Initial Cash Balance. No later than 5:00 p.m. New York City time on the date hereof, the Initial Cash Balance and any amount required to be advanced by Buyer to Sellers pursuant to this Section 3.1(a) shall be paid by Sellers to EDFT. To the extent that the Initial Cash Balance exceeds the Initial Commodity Supply Payment Obligation, such excess shall be carried over and applied to payment of the Daily Commodity Supply Payment Obligation for the next Business Day pursuant to Section 3.1(b).

(b) No later than 10:00 a.m. New York City time on each Business Day (after the date hereof) during the Transition Period (each a "Commodity Settlement Date"), Sellers shall provide written notice to Buyer of the amount of all Cash Receipts held by Sellers as of such time (each such amount, a "Daily Cash Balance") and of the Commodity Supply Payment Obligation due on such date (such amount, the "Daily Commodity Supply Payment Obligation"). No later than 12:00 a.m. New York City time on each Commodity Settlement Date, Buyer will advance to Sellers an amount equal to the Daily Commodity Supply Payment Obligation applicable to such Commodity Settlement Date less the Daily Cash Balance applicable to such Commodity Settlement Date. No later than 5:00 p.m. New York City time on each Commodity Settlement Date, the Daily Cash Balance applicable to such date and any amount required to be advanced by Buyer to Sellers pursuant to this Section 3.1(b) shall be paid by Sellers to EDFT. To the extent that the Daily Cash Balance with respect to any Commodity Settlement Date exceeds the Daily Commodity Supply Payment Obligation with respect to such Commodity Settlement Date, such excess shall be carried over and applied to payment of the next succeeding Daily Commodity Supply Payment Obligation pursuant to this Section 3.1(b).

(c) On the date hereof and on the fifteenth (15) day of each calendar month thereafter (each a "Fee Estimate Advance Date"), Buyer will advance to Sellers an amount equal to the estimated Fully Loaded Costs of performing the Services to be provided by Sellers during the following calendar month (or in the case of the initial advance, an amount equal to the estimated Fully Loaded Costs of performing the Services to be provided by Sellers during the

period from the date hereof until the end of the current month), in each case without the addition of any profit factor (such estimated Fully Loaded Costs for any given period, a "Monthly Expense Estimate") in each case as set forth in a written notice delivered by Sellers to Buyer on the date of this Agreement, in the case of the payment required to be made on the date hereof, or in a written notice delivered by Sellers to Buyer at least two (2) Business Days prior to the relevant Fee Estimate Advance Date, in the case of subsequent payments required to be made during the Transition Period; provided, however, any costs or expenses for Services provided by a third party shall be billed directly to Buyer by such third party on a cost pass-through basis without mark-up by Sellers and shall not be included in any Monthly Expense Estimate or Actual Monthly Expense Amount (as defined below). The Monthly Expense Estimate for Services provided for only a portion of a calendar month shall be prorated for the number of days that Services are expected to be provided in such period (based on a thirty (30)-day month). Within five (5) Business Days following the end of each calendar month during the Transition Period, Sellers shall prepare and deliver to Buyer a statement (each a "Monthly Statement") describing in reasonable detail the Services actually provided by Sellers during the previous calendar month (or portion thereof) and an accounting of (i) the Fully Loaded Costs actually incurred by Sellers during such calendar month (or portion thereof) in providing such Services (the "Actual Monthly Expense Amount") (ii) all Cash Receipts received during such calendar month (or portion thereof), (iii) all payments made by Sellers to EDFT during such calendar month (or portion thereof) on account of the Initial Commodity Supply Payment Obligation and the Daily Commodity Supply Payment Obligations, and (iv) the Initial Cash Balance applied to the Initial Commodity Supply Payment Obligation and Daily Cash Balances applied to Daily Commodity Supply Payment Obligations during such calendar month (or portion thereof).

(d) In the event that the Actual Monthly Expense Amount for any given month (or portion thereof) exceeds the Monthly Expense Estimate for such month (or portion thereof), Buyer shall pay to Sellers the difference between the Actual Monthly Expense Amount and the Monthly Expense Estimate for such month (or portion thereof) within five (5) Business Days after delivery of the relevant Monthly Statement. In the event that the Monthly Expense Estimate for any given month (or portion thereof) exceeds the Actual Monthly Expense Amount for such month (or portion thereof), Sellers shall refund to Buyer the difference between the Monthly Expense Estimate and the Actual Monthly Expense Amount for such month (or portion thereof) within five (5) Business Days after delivery of the relevant Monthly Statement.

(e) Each Monthly Statement will be substantiated by supporting information and will itemize in reasonable detail the basis for such Monthly Statement.

(f) Notwithstanding anything in this Agreement or the Purchase Agreement to the contrary, all Cash Receipts received by Sellers during the Transition Period shall belong to, and be held by Sellers for the account and benefit of, Buyer (other than any Cash Receipts received by Sellers after any Partial Asset Transfer Closing that relate to Purchased Assets transferred to a Qualified Designated Buyer at such Partial Asset Transfer Closing, which shall belong to, and be held by Sellers for the account and benefit of, such Qualified Designated Buyer). Any Cash Receipts (other than those belonging to any Qualified Designated Buyer) received by Sellers in any given calendar month that are not applied to the payment of the Daily Commodity Supply Payment Obligations during such month shall be transferred by Sellers to

Buyer within five (5) Business Days after delivery of the Monthly Statement for the month in which such amounts are received.

(g) Any amounts due and payable from Buyer to Sellers at any given time pursuant to this Agreement may be offset against amounts then due and payable from Sellers to Buyer pursuant to this Agreement.

(h) Any amounts due and payable from Sellers to Buyer at any given time pursuant to this Agreement may be offset against amounts then due and payable from Buyer to Sellers pursuant to this Agreement.

(i) If, during the Transition Period, any Governmental Body shall impose a Tax on the provision of the Services (other than income tax, franchise taxes, business occupation taxes, gross receipts taxes or any other business privilege Taxes of any kind or type applicable to the income of Sellers or any of their Affiliates for the privilege of doing business in the jurisdiction of the Governmental Body imposing the Tax), Buyer agrees to promptly pay, or remit to Sellers so that Sellers may pay, or procure the payment of, the amount of such Tax imposed on the provision of the Services rendered to Buyer under this Agreement.

(j) If at any time during a month additional costs arise in connection with the performance of the Services which, if known at the beginning of such month would have been included in the Monthly Expense Estimate, Buyer shall fund such costs promptly upon receipt of notice thereof from Sellers and such costs shall be deemed to have been included in the relevant Monthly Expense Estimate. In the event Buyer does not timely fund such costs, Sellers shall have no liability to Buyer for any losses arising from the failure to pay such amounts.

SECTION 4 TERM

4.1 Term. The term of this Agreement (the "Term") will commence as of the Economic Transfer Time and will continue (unless sooner terminated pursuant to the terms hereof) until the Asset Transfer Closing; *provided*, that, to the extent that Schedule A indicates that a Service shall be provided for a different period, then the "Term" with respect to such Service will commence as of the Economic Transfer Time and will continue (unless sooner terminated pursuant to the terms hereof) for such period.

4.2 Extension of Term. No less than fifteen (15) days before the final day of the Term applicable to a particular Service, Buyer may request that Sellers continue to provide such Service beyond the expiration of such Term by delivering to Sellers a written notice specifying such Service and the extended period of time for which such Service is requested (the "Extension Term") (which Extension Term may not exceed sixty (60) days from the expiration date of the Term). Upon such request, the term of this Agreement applicable to such Service will be extended so as to continue for such Extension Term.

4.3 Early Termination. Any Party may terminate this Agreement at any time, upon written notice to the other Party, in the event of a material breach of this Agreement by the other Party, and such termination will become effective fifteen (15) days from the date of the other

Party's receipt of such notice unless the breach is cured within such fifteen (15) day period. In addition, Buyer may terminate this Agreement (i) as regards to a particular Service on not less than (5) Business Days' written notice to Sellers and (ii) as regards to all of the Services on not less than ten (10) Business Days' written notice to Sellers. Notwithstanding anything in this Agreement to the contrary, the Term relating to any Services provided by Sellers with respect to Purchased Assets and Assumed Liabilities transferred to any Qualified Designated Buyer at a Partial Asset Transfer Closing shall automatically expire as of such Partial Asset Transfer Closing unless otherwise agreed by the Parties hereto.

4.4 Amounts Due. In the event of a termination of this Agreement, all outstanding amounts due hereunder from Buyer to Sellers up through and including the effective date of termination shall be paid by Buyer to Sellers, and all outstanding amounts due hereunder from Sellers to Buyer up through and including the effective date of termination shall be paid by Sellers to Buyer, in each case within five (5) Business Days after such termination. For avoidance of doubt, such payments shall include all amounts required to be paid to enable the provision of Services through and including the effective date of termination regardless of whether such costs or expenses also relate to periods following such effective date of termination.

4.5 Survival. Sections 3.1 and 4.4, this Section 4.5, Sections 5.1 through and including 5.4, and Sections 6.2 through and including 6.14 hereof shall survive the expiration or other termination of this Agreement.

SECTION 5 LIABILITIES; INDEMNIFICATION

5.1 EXCEPT AS OTHERWISE SET FORTH IN THIS AGREEMENT, THE SERVICES ARE PROVIDED ON AN "AS IS" BASIS, WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR OTHER WARRANTIES, CONDITIONS, GUARANTEES OR REPRESENTATIONS, WHETHER EXPRESS OR IMPLIED.

5.2 Consequential and Other Damages. The Parties will not be liable, whether in contract, in tort or otherwise, for any punitive, special, non-proximate, incidental or consequential damages whatsoever, which in any way arise out of, relate to, or are a consequence of, their performance or nonperformance hereunder.

5.3 LIMITATION OF LIABILITY. EXCEPT AS OTHERWISE PROVIDED IN THIS AGREEMENT, THE PARTIES WILL NOT BE LIABLE WITH RESPECT TO THIS AGREEMENT OR ANYTHING DONE IN CONNECTION HERewith, INCLUDING BUT NOT LIMITED TO THE PERFORMANCE OR BREACH HEREOF, OR FROM THE SALE, DELIVERY, PROVISION OR USE OF ANY SERVICE OR DOCUMENTATION OR DATA PROVIDED UNDER OR COVERED BY THIS AGREEMENT EXCEPT IN THE EVENT OF SUCH PARTY'S OR ANY OF ITS AFFILIATES', AS THE CASE MAY BE, GROSS NEGLIGENCE OR WILLFUL MISCONDUCT IN CONNECTION WITH THIS AGREEMENT.

5.4 Indemnification. Buyer will indemnify and hold harmless Sellers and their respective directors, officers, employees, Affiliates and Representatives for any breach or failure by Buyer to perform or satisfy any covenant or obligation set forth in this Agreement. Sellers will, jointly and severally, indemnify and hold harmless Buyer and its directors, officers, employees, Affiliates and Representatives for any breach or failure by Sellers to perform or satisfy any covenant or obligation set forth in this Agreement. Any claim by Buyer against a Seller under this Section 5.4 shall be treated as an expense of administration of Sellers' Chapter 11 Cases and shall be paid when the claim is determined and liquidated rather than on the effective date of any plan of reorganization or liquidation of Sellers.

SECTION 6 GENERAL PROVISIONS

6.1 Confidentiality. Neither Party shall, and each Party shall cause its respective Representatives and Affiliates not to, at any time, directly or indirectly, (i) make use of any confidential or proprietary information provided to such Party by the other Party in connection with this Agreement or (ii) disclose or otherwise disseminate such confidential or proprietary information to any third party, whether orally or in writing, at any time. Each Party will be liable and responsible for any breach of the previous sentence by any of its Representatives or Affiliates. Notwithstanding the foregoing, a Party's confidential and proprietary information shall not include (i) information that is or becomes publicly available other than as a result of any act or omission by the other Party, its Representatives or its Affiliates or (ii) information that becomes available to the other Party and its Representatives on a non-confidential basis from a source that is not, to the other Party's knowledge, subject to a confidentiality agreement with respect to such information. Not more than fifteen (15) days after the expiration or termination of this Agreement, the Parties shall return or destroy and confirm the destruction of all confidential or proprietary information of the other Party provided in connection with this Agreement, including all copies and extracts thereof, in whatever form, in their respective possession or under their respective control.

6.2 Notices. All notices, requests, demands and other communications under this Agreement shall be in writing and shall be deemed to have been duly given (a) when received, if delivered by hand or transmitted by facsimile or electronic mail (with acknowledgement received), (b) three (3) Business Days after the same are sent by certified or registered mail, postage prepaid, return receipt requested, and (c) one (1) Business Day after the same are sent by a reliable overnight courier service, with acknowledgement of receipt, to the Parties at the following addresses (or at such other address for a Party as shall be specified by like notice):

If to Platinum or Buyer, to:

Platinum Partners Value Arbitrage Fund LP
152 West 57th Street, 4th Floor
New York, New York 10019
Phone: 212-582-2222
Facsimile: 212-582-2424

with a copy to:

Blank Rome LLP
405 Lexington Avenue
New York, NY 10174
Attn: Eliezer M. Helfgott, Esq.
Phone: 212-885-5431
Facsimile: 212-885-5001

If to Sellers, to:

Glacial VI, LLC
5326 Yacht Haven Grande, Box 36
St. Thomas, V.I. 00802
Attention: General Counsel and CFO
Telephone: 340-715-7053
Facsimile: 888-767-6761

with a copy to:

Patton Boggs LLP
2550 M Street, NW
Washington, D.C. 20037
Attn: Alan Noskow
Telephone: 202-457-5331
Facsimile: 202-457-6315

6.3 Relationship between Parties. Nothing contained in this Agreement shall be construed as creating a partnership, joint venture, agency, trust or other association of any kind, each Party being individually responsible only for its obligations as set forth in this Agreement. Sellers shall provide the Services hereunder in the capacity of an independent contractor and not as an employee or agent of Buyer or its Affiliates.

6.4 Assignment; Binding Effect. Neither this Agreement nor any of the rights, interests or obligations hereunder shall be assigned by any Party, other than by operation of law, without the prior written consent of the other Party and, subject to the preceding clause, this Agreement and all the provisions hereof shall be binding upon and shall inure solely to the benefit of the Parties and their respective successors and permitted assigns; *provided, however*, that Platinum may assign its rights and obligations under this Agreement to an Affiliate of

Platinum and/or to one or more Designated Buyers under the Purchase Agreement without the consent of (but with prior written notice to) Sellers.

6.5 Governing Law; Jurisdiction.

(a) This Agreement, the rights and obligations of the parties hereunder, and any claim or controversy (whether based on contract, tort, or any other theory) directly or indirectly based upon or arising out of this Agreement or the negotiation, execution or performance of this Agreement (including any claim or cause of action based upon, arising out of or related to any representation or warranty made in or in connection with this Agreement or as an inducement to enter into this Agreement), including all matters of construction, validity and performance, shall in all respects be governed by and interpreted, construed, and determined in accordance with the internal laws of the State of New York (without regard to any conflict of laws provision that would require the application of the law of any other jurisdiction other than the principles set forth in section 5-1401 of the General Obligations Law of the State of New York) and, to the extent applicable, the Bankruptcy Code.

(b) THE PARTIES HERETO HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY RIGHTS THEY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER, OR IN CONNECTION WITH, THIS AGREEMENT OR ANY OTHER DOCUMENT DELIVERED IN CONNECTION HERewith, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER ORAL OR WRITTEN) OR ACTIONS OF THE PARTIES HERETO WITH RESPECT TO THE SUBJECT MATTER HEREOF.

(c) The Bankruptcy Court shall retain jurisdiction to resolve any disputes that may arise out of this Agreement or the provision of services hereunder, and each party submits to the exclusive jurisdiction of the Bankruptcy Court to resolve any such disputes.

6.6 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together will constitute one and the same instrument.

6.7 Headings. The insertion of headings is for convenience of reference only and does not affect, and will not be utilized in construing or interpreting, this Agreement.

6.8 Entire Agreement. The Purchase Agreement, this Agreement and Schedule A hereto embody the entire agreement and understanding of the Parties with respect to the subject matter hereof and supersede all prior agreements and understandings between the Parties with respect to such subject matter.

6.9 Purchase Agreement Controls. To the extent that any of the terms of this Agreement, including Schedule A hereto, conflict with the terms of the Purchase Agreement, the terms of the Purchase Agreement shall prevail. Nothing herein shall be construed as an amendment or waiver of the rights and obligations of the Parties under the Purchase Agreement.

6.10 Interpretation.

(a) When a reference is made in this Agreement to a Section or Schedule, such reference shall be to a Section or Schedule of or to this Agreement unless otherwise indicated.

(b) The word "including" or any variation thereof means "including, without limitation" and does not limit any general statement that it follows to the specific or similar items or matters immediately following it.

(c) The words "herein," "hereinafter," "hereof," and "hereunder" refer to this Agreement (including Schedule A to this Agreement) as a whole and not merely to a subdivision in which such words appear unless the context otherwise requires.

(d) The meaning of defined terms in this Agreement applies to both the singular and the plural of those terms.

(e) This Agreement was prepared jointly by the Parties and no rule that it be construed against the drafter will have any application in its construction or interpretation.

6.11 Amendment and Waiver. This Agreement may be amended, modified or supplemented only by written agreement of the Parties. Except as otherwise provided in this Agreement, any failure of any Party to comply with any obligation, covenant, agreement or condition herein may be waived by the Party entitled to the benefits thereof only by a written instrument signed by the Party granting such waiver, but such waiver or failure to insist upon strict compliance with such obligation, covenant, agreement or condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure.

6.12 No Third-Party Beneficiaries. This Agreement is not intended to confer on any Person except the Parties any rights or remedies hereunder; *provided, however,* that the provisions of Section 5 will inure to the benefit of the Persons identified therein. Without limiting the generality of the foregoing, except as otherwise provided in Section 5, no provision of this Agreement will create any third-party beneficiary rights in any Person.

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

6.14 Severability. If any provision of this Agreement or the application of any such provision to any Person or circumstance shall be held invalid, illegal or unenforceable in any respect by a court of competent jurisdiction, such invalidity, illegality or unenforceability shall not affect any other provision hereof.

[The remainder of this page is intentionally left blank.]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first set forth above.

GLACIAL ENERGY HOLDINGS

By: _____
Name: _____
Title: _____

GLACIAL ENERGY, INC.

By: _____
Name: _____
Title: _____

GLACIAL VI, LLC.

By: _____
Name: _____
Title: _____

GLACIAL ENERGY OF NEW YORK

By: _____
Name: _____
Title: _____

**GLACIAL ENERGY OF NEW ENGLAND,
INC.**

By: _____
Name: _____
Title: _____

**GLACIAL ENERGY OF MARYLAND,
INC.**

By: _____
Name:
Title:

**GLACIAL ENERGY OF CALIFORNIA,
INC.**

By: _____
Name:
Title:

GLACIAL ENERGY OF ILLINOIS, INC.

By: _____
Name:
Title:

**GLACIAL ENERGY OF NEW JERSEY,
INC.**

By: _____
Name:
Title:

**GLACIAL ENERGY OF PENNSYLVANIA,
INC.**

By: _____
Name:
Title:

GLACIAL ENERGY OF TEXAS

By: _____
Name: _____
Title: _____

**GLACIAL ENERGY OF WASHINGTON
DC, INC.**

By: _____
Name: _____
Title: _____

GLACIAL ENERGY OF OHIO, INC.

By: _____
Name: _____
Title: _____

GLACIAL ENERGY OF MICHIGAN, INC.

By: _____
Name: _____
Title: _____

GLACIAL NATURAL GAS, INC.

By: _____
Name: _____
Title: _____

NEGAWATT BUSINESS SOLUTIONS

By: _____
Name:
Title:

GRIDWAY ENERGY HOLDINGS, INC.

By: _____
Name:
Title:

**PLATINUM PARTNERS VALUE
ARBITRAGE FUND LP**

By: _____
Name:
Title:

SCHEDULE A

SERVICES

This Schedule A sets forth the details of the Services to be provided during the Transition Period, pursuant to the terms and conditions of the Transition Services Agreement to which this Schedule A is attached. The Services consist solely of the services set forth herein, except as otherwise provided in the Transition Services Agreement.

The Services shall include:

1. INFORMATION TECHNOLOGY

Sellers agree to provide service and support to maintain all information technology equipment and software that is included in the Purchased Assets or was owned or leased by Sellers, or used or held for used by Sellers prior to the Economic Transfer Time in connection with the Business. Such Services shall include:

- 1.1. Configuration, maintenance, troubleshooting, training and support for desktops, laptops, printers, and multi-functional devices.
- 1.2. Application support, database support, website support and training for the transferred software and websites.
- 1.3. Coordination of any required vendor application support for the Software. Vendor services may include software support, database support and assistance with migration of Software and/or Software data to an application to be specified by Buyer.
- 1.4. Technical support as appropriate to assist Buyer with the migration of the configuration of the current Software to an application to be specified by Buyer.
- 1.5. Definition of and assistance in transition of all data interfaces related to all transmission and distribution service providers ("TDSP"), natural gas local distribution companies ("LDC"), interstate and intrastate natural gas pipelines, independent system operators ("ISO"), regional transmission operators ("RTO"), FTP sites, third-party vendors or other sources associated with customer, pipeline and/or LDC related data sources used in connection with management of customer nomination and usage activities.
- 1.6. Provide digital certificates for power related transactions as required and ensure that digital certificates do not expire.
- 1.7. Provide storage of, and access to, historic data of customer billings, account adjustments, customer inquiries, third party verifications, and other customer communications as may be required by the regulations of any regulatory bodies that may have purview.
- 1.8. Provide historic data (including documents stored on file shares, but specifically excluding any underlying physical equipment) related to customer administration,

schedule and delivery of supply, interface or coordination with TDSPs, RTOs, LDCs and Pipelines in a format/source as mutually agreed upon by the Parties.

1.9. To the extent software is contemplated to be transferred to Buyer at the Asset Transfer Closing and to the extent available, provide all associated source code, required software updates, list of software functions and applications that require update or correction, and any associated issues identified by Sellers in connection with the existing use of said software.

1.10. Sellers agree to provide certain employees of Buyer that may be identified from time to time, with access to Sellers' network via a virtual private network (VPN) connection. Such access will be provided following execution of Sellers' network access agreement by Buyer.

2. RETAIL SALES – DATA MANAGEMENT SYSTEMS TRANSITION

Sellers shall provide Buyer with an electronic version of retail sales contract information (in a format requested by Buyer, subject to accommodation by Sellers' system) and as requested, with electronic copies of all signed customer contracts and related exhibits in a manner that will allow Buyer to track and oversee all customer contracts entered into by Sellers during the period in which this Agreement is in effect.

3. FINANCIAL AND OPERATIONAL ACCOUNTING SERVICES

3.1. General

3.1.1. Preparation and booking of monthly close journal entries, including, to the extent reasonably practicable

3.1.1.1. mark to market (MTM) accounting for derivatives

3.1.1.2. Preparation of gross margin analyses

3.1.1.3. Preparation of monthly balance sheet account reconciliations

3.1.1.4. Preparation of monthly balance sheet and income statement

3.2. Tax

3.2.1. Provide information to be used in filing state and local transaction taxes (e.g., sales, use, GRT, property, etc.) for periods or portions thereof after the Economic Transfer Time and promptly file and pay all state and local taxes based on the same

3.2.2. Provide Buyer with evidence of payment of taxes by submitting payment receipts or other information upon request of Buyer

3.2.3. Maintain and validate historical tax exemption certificates

- 3.2.4. Maintain appropriate tax rates in billing system
- 3.2.5. Maintain and validate resale certificates where applicable
- 3.2.6. Support transition of efforts to mitigate transfer and sales tax implications associated with the sale transaction.
- 3.2.7. Provide property tax support associated with current year payment status, subsequent year valuation, transfer abatement and/or exemption filings made, and relationship/primary contacts at the related taxing authorities

3.3. Financial Planning and Analysis

- 3.3.1. Provide position report detailing expected roll off of financial and physical transactions.
- 3.3.2. Provide the foregoing reports showing a volumetric presentation of expected roll off and a financial presentation of expected roll off.
- 3.3.3. Monthly/annual gross margin forecasting and forecasting.
- 3.3.4. Provide explanations as requested by Buyer for variations in actual financial results as compared to projected results and plan.

4. HR AND PAYROLL TRANSITION SERVICES:

- 4.1. Continue to administer payroll and benefits arrangements for employees of Sellers in substantially the same manner as was provided by Sellers prior to the Economic Transfer Time.
- 4.2. Advise Buyer of any breaches of employment agreements, departures of key employees and other changes in status of Sellers' workforce.

5. CONTRACT ADMINISTRATION SERVICES

- 5.1. Continue processing customer setup, contracting, confirmations, amendments, etc. in the normal course of business.
- 5.2. Facilitate paper and electronic records and data transfer to other systems/locations as needed.
- 5.3. Maintain web presence and on-line functionality with applicable current rates and retail sales offerings.
- 5.4. Continue process of Sales, winbacks, and affinity marketing.
- 5.5. Continue processing and negotiating all contract types (e.g., customer, broker, supply, utilities, etc.) and associated paperwork in the normal course of business.

5.6. Maintain and organize contract files and related transactional documentation.

6. **OPERATIONAL SERVICES**

- 6.1. Determine the "Glacial Index" for purposes of contract pricing, settlement and related administrative matters.
- 6.2. Create and execute appropriate day-ahead and term hedges consistent with risk management protocols approved by Buyer.
- 6.3. Provide pricing for all customer contracts consistent with past practice .
- 6.4. Provide information requested by Buyer pertaining to the aggregation of Seller's gas and power portfolios.
- 6.5. Procure, report and file Renewable Portfolio Standard (RPS) requirements for each jurisdiction for which such reports are required.
- 6.6. Ensure that filings pertaining to electric capacity are filed monthly and annually as applicable to ensure compliance with Seller's capacity related requirements.
- 6.7. In addition to financial forecasting, create daily and term load forecasts broken down by, to the extent applicable, utility, load or delivery zone.
- 6.8. Provide appropriate staffing and maintenance for call centers and continue to maintain call centers in accordance with past practice and applicable regulations.
- 6.9. Enter into brokerage agreements to support the business as approved by Buyer.
- 6.10. Procurement and/or maintenance of all licenses, consents, permits and authorizations needed by the Sellers to undertake or support the business.

7. **SCHEDULING AND SUPPLY SERVICES**

- 7.1. Perform all functions necessary to procure natural gas consistent with the past business processes and practices for day-ahead, month-ahead, and intra-day requirements or as otherwise approved by Buyer.
- 7.2. Coordinate supply fulfillment functions in accordance with Volume Management provided customer nominations, pool requirements, and LDC/Pipeline balancing tolerance limits consistent with past business processes or practices or as otherwise approved by Buyer.
- 7.3. Coordinate supply acquisition functions in accordance with associated transportation and storage contract services.
- 7.4. Provide day-ahead demand bids in each jurisdiction in which Seller serves electric load consistent with past business processes or practices or as otherwise approved by Buyer.

8. TRANSACTION SERVICES

- 8.1. Provide reconciliation and other services to retained assets and liabilities.
- 8.2. Continue to determine credit validation and related information for prospective customers.
- 8.3. Reconcile all incoming cash received from customers including the daily posting of customer payments to individual customer accounts.
- 8.4. Reconcile for payment all ISO, RTO, TDSP, LDC, pipeline, transaction taxes, broker fees, and customer owned transport invoices, including pass through charges.
- 8.5. Receipt and matching of invoices for payment of operating expenses.
- 8.6. Administer customer default scenarios, send default notices and administer termination and settlement of customer contracts consistent with past business processes or practices or as otherwise approved by Buyer.
- 8.7. Reconcile trades against terms and conditions of contracts and the actual physical delivery of the commodity.
- 8.8. Review payment data to confirm accuracy and initiate invoices or payments with pipelines, brokers, third parties (physical and financial).
- 8.9. Research and resolve invoice issues and disputes consistent with past business processes or practices or as otherwise approved by Buyer.
- 8.10. Special handling of critical payments/ rush request handling consistent with past business processes or practices or as otherwise approved by Buyer.

9. BILLING SERVICES

- 9.1. Complete daily and monthly processes required to ensure the completion of accurate and timely customer invoices consistent with past billing practices.
- 9.2. Pay and administer obligations incurred with current third party brokers under existing brokerage agreements.
- 9.3. Provide reports reflecting accounts receivable (with 30 day aging), accounts payable, and other similar reports as reasonably requested by Buyer.
- 9.4. Answer and resolve customer inquiries regarding invoices and customer payments consistent with past business processes or practices or as otherwise approved by Buyer.
- 9.5. Generate all adjustments to invoice data using processes and procedures consistent with past practice.

9.6. Research and resolve invoice issues consistent with past invoice resolution processes and procedures or as otherwise as approved by Buyer.

9.7. Perform and maintain all volumetric reconciliations as required consistent with past processes and procedures.

* * *

EXHIBIT B

Cure Amounts

CREDITOR	Contract/Agreement	Debtor	Cure Amount
Northern Utilities, INC (NH)	Supplier Service Agreement	Glacial Natural Gas, INC	\$ 130,649.43
ENERGY SERVICES GROUP, INC	UTILITIES SERVICE AGREEMENT	GLACIAL ENERGY VI, LLC	\$ 54,502.34
PACIFIC GAS AND ELECTRIC COMPANY	Gas Transmission Service Agreement	Glacial Natural Gas, INC	\$ 10,839.08
(EFAX CORPORATE) J2 GLOBAL COMMUNICATIONS, INC	EFAX	GLACIAL ENERGY HOLDINGS	\$ 10,562.69
ROSE BUSINESS SOLUTIONS, INC	IT SERVICES LEASE	GLACIAL ENERGY VI, LLC	\$ 9,753.00
DATA EXCHANGE, INC (QUICK RESPONSE OUTSOURCING)	IT SERVICES LEASE	GLACIAL ENERGY VI, LLC	\$ 9,026.63
YACHT HAVEN USVI, LLC	UTILITIES SERVICE AGREEMENT	GLACIAL ENERGY VI, LLC	\$ 7,880.89
NIELIN COMMUNICATIONS	IT SERVICES LEASE	GLACIAL ENERGY VI, LLC	\$ 7,437.50
DANIEL M. MAISLER D/B/A LETTERSMITHS, LLC	ACCOUNTING SERVICES AGREEMENT	GLACIAL ENERGY VI, LLC	\$ 7,200.00
NETAPP, INC	IT EQUIPMENT LEASE	GLACIAL ENERGY VI, LLC	\$ 5,015.39
INNOVATIVE TELEPHONE	IT SERVICES LEASE	GLACIAL ENERGY HOLDINGS	\$ 4,800.00
SPENCELEY OFFICE EQUIPMENT, INC	IT SERVICES LEASE	GLACIAL ENERGY VI, LLC	\$ 4,305.27
RYAN MICHAEL BOOTH	OFFICE SUPPLIES	GLACIAL ENERGY VI, LLC	\$ 3,297.00
EQUIFAX INFO SERVICES PUERTO RICO	INDEPENDENT CONSULTING AGREEMENT	GLACIAL ENERGY VI, LLC	\$ 2,583.44
HAEMIN HONG	IT SERVICES LEASE	GLACIAL ENERGY VI, LLC	\$ 2,443.55
FOLEY, BARON, METZGER & JUIP, PLLC	INDEPENDENT CONSULTING AGREEMENT	GLACIAL ENERGY VI, LLC	\$ 2,125.00
ECKERT SEAMANS CHERIN & MELLOTT, LLC	LEGAL SERVICES AGREEMENT	GLACIAL ENERGY HOLDINGS	\$ 1,365.08
INTERACTIVE DATA	LEGAL SERVICES AGREEMENT	GLACIAL ENERGY HOLDINGS	\$ 1,282.00
ABC SALES & SERVICES	IT SERVICES LEASE	GLACIAL ENERGY VI, LLC	\$ 972.00
CONCUR TECHNOLOGIES, INC	OFFICE CLEANING AGREEMENT	GLACIAL ENERGY VI, LLC	\$ 839.33
JOHN W. DOROZYNSKI, JR	IT SERVICES LEASE	GLACIAL ENERGY VI, LLC	\$ 686.67
PREMIUM LEASING	INDEPENDENT CONSULTING AGREEMENT	GLACIAL ENERGY VI, LLC	\$ 630.00
DAYTON POWER & LIGHT, INC	IT EQUIPMENT LEASE	GLACIAL ENERGY VI, LLC	\$ 405.33
STITCH STORES, INC	UTILITIES SERVICE AGREEMENT	GLACIAL ENERGY VI, LLC	\$ 286.02
NSTAR	UNIFORM SUPPLIES	GLACIAL ENERGY VI, LLC	\$ 262.78
NATIONAL GRID	IT SERVICES LEASE	GLACIAL ENERGY VI, LLC	\$ 110.12
Metropolitan Edison Company, Pennsylvania Electric Company	UTILITIES SERVICE AGREEMENT	GLACIAL ENERGY HOLDINGS	\$ 52.52
Ohio Edison Company	Electric Utilities	Glacial Energy of Pennsylvania, INC	\$ 17.67
The Toledo Edison Company	Electric Utilities/ Coordination Agreement	Glacial Energy of Ohio, INC	\$ 15.00
	Electric Utilities/ Coordination Agreement	Glacial Energy of Ohio, INC	\$ 10.00

All executory contracts and unexpired leases for which Assumption and Assignment Notices (as defined in the Bid Procedures Order (D.I. 191) were served (see D.I. 221, 227, 258 and 267) that are not delineated above have \$0.00 cure amounts.