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ASSET PURCHASE AGREEMENT

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by and between

NFE Power PR LLC

as Seller,

The Puerto Rico Electric Power Authority

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as Buyer

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and

New Fortress Energy Inc. (solely for the purposes of Section 9.5)

Dated as of **March 15, 2024**

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[THE FOLLOWING IS FOR DISCUSSION PURPOSES ONLY AND IS NOT BINDING ON THE PARTIES. NO TRANSACTION OR AGREEMENT TO ENTER INTO A TRANSACTION WILL EXIST OR BE DEEMED TO EXIST UNTIL A DEFINITIVE AGREEMENT IS EXECUTED BY ALL PARTIES INVOLVED.]

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Exhibit A	Form of Regasification System Lease
Exhibit B	Form of Sworn Statement
Exhibit C	Federal Funding Requirements
<u>Exhibit D</u>	<u>COR3 Letter Agreement</u>

ASSET PURCHASE AGREEMENT

This ASSET PURCHASE AGREEMENT (this “Agreement”), dated as of March 15, 2024, is made by and between NFE Power PR LLC, a Puerto Rico limited liability company (“Seller”), The Puerto Rico Electric Power Authority, a public corporation and governmental instrumentality of the Commonwealth of Puerto Rico, created by Act No. 83 of the Legislative Assembly of Puerto Rico, enacted on May 2, 1941, as amended (“Buyer”) and New Fortress Energy Inc., a Delaware corporation (solely for the purposes of Section 9.5).

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RECITALS

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1. **WHEREAS**, Seller is the owner of Power Generation Equipment as listed on Schedule 2.1(a) that has been installed and is operating at the Palo Seco Power Plant (the “Palo Seco PP”) in Toa Baja, Puerto Rico, and the San Juan Power Plant (the “San Juan PP”) located in San Juan, Puerto Rico.

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2. **WHEREAS**, Seller is operating the Power Generation Equipment located at the Palo Seco PP pursuant to that certain Energy Services Agreement for Power Generation Services, dated as of March 3, 2023, entered into by and among Seller, as energy service provider, and Weston Solutions, Inc., as customer (the “Palo Seco Energy Services Agreement”) and, in turn, Weston Solutions, Inc. has entered into an agreement with the United States Army Corps of Engineers (“USACE”) on February 24, 2023, as part of an initiative by the Federal Emergency Management Agency (“FEMA”) to provide additional power to secure and stabilize the electrical grid while the Puerto Rico power system is being updated and repaired.

3. **WHEREAS**, Seller is operating the Power Generation Equipment located at the San Juan PP pursuant to that certain Energy Services Agreement for Power Generation Services, dated as of April 19, 2023, entered into by and among Seller, as energy service provider, and Weston Solutions, Inc., as customer (the “San Juan Energy Services Agreement”) and, together with the Palo Seco Energy Services Agreement, the “Energy Services Agreements for Power Generation Services”) and, in turn, Weston Solutions, Inc. has contracted with the USACE on April 10, 2023, as part of an initiative by FEMA to provide additional power to secure and stabilize the electrical grid while the Puerto Rico power system is being updated and repaired.

4. **WHEREAS**, the four gas turbines comprising the Power Generation Equipment installed and operating at the Palo Seco PP, and the ten gas turbines comprising the Power Generation Equipment installed and operating at the San Juan PP, in each case with the applicable ISO Rating set forth in Schedule 2.1(a).

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5. **WHEREAS**, Seller has operated the Power Generation Equipment, under its contract with Weston Solutions, Inc., to produce electricity that has been delivered both to the Palo Seco PP and the San Juan PP owned by Buyer.

6. **WHEREAS**, on the terms and subject to the conditions of this Agreement, Seller desires to sell to Buyer all of the Acquired Assets, and Buyer desires to purchase from Seller all of the Acquired Assets and assume all of the Assumed Liabilities.

AGREEMENT

NOW, THEREFORE, in consideration of the representations, warranties, covenants and agreements contained in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, the Parties agree as follows:

ARTICLE I DEFINITIONS

1.1 Definitions. As used herein, the following terms have the following meanings:

~~“Acquired Additional Units” has the meaning set forth in Section 7.11.~~

“Acquired Assets” has the meaning set forth in Section 2.1.

“Acquired Assets Purchase Contract” means any Contract that relates to the acquisition by Seller or any of its Affiliates of the Acquired Assets.

~~“Additional Units” means the assets listed on Schedule 1.1(b).~~

“Affiliate” means, with respect to any Person, any other Person that, directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, such Person. For purposes of this definition, “control” means, when used with respect to any Person, the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, by contract or otherwise.

“Agreement” has the meaning set forth in the introductory paragraph to this Agreement.

~~“Anti-Corruption Laws” mean applicable Laws relating to combating domestic or foreign bribery or corruption, whether governmental or commercial, including the U.S. Foreign Corrupt Practices Act of 1977, as amended, and all other applicable national and international laws addressing the principles contained in the OECD Convention on Combating Bribery of Foreign Officials in International Business Transactions.~~

“Anti-Money Laundering Laws” mean applicable Laws or guidelines by Governmental Authorities relating to money laundering, including financial recordkeeping and reporting requirements, such as the U.S. Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Public Law 107-56; the U.S. Currency and Foreign Transactions Reporting Act of 1970, as amended; and the U.S. Money Laundering Control Act of 1986, as amended.

~~“Asset Expenses” has the meaning set forth in Section 7.5.~~

“Asset Taxes” means ad valorem, property, excise, sales, use, and similar Taxes based upon, arising out of or relating to the ownership or operation of the Acquired Assets, but excluding,

Deleted: “Accounting Firm” means [•]; provided, however, that if [•] shall decline such appointment or otherwise be unable to serve, “Accounting Firm” shall mean such other independent public accounting firm that will accept such appointment and that is mutually agreed to by Buyer and Seller.¶

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Deleted: “Applicable Regulatory Programs” means New Source Performance Standards, codified at 40 C.F.R. part 60, specifically, 40 C.F.R. part 60, subparts KKKK and TTTT; National Emission Standards for Hazardous Air Pollutants, codified at 40 C.F.R. Part 63, specifically, 40 C.F.R. part 63, subpart YYYY; the PSD regulations, codified at 40 C.F.R. § 52.21; and the Puerto Rico air regulations.¶

for the avoidance of doubt, Income Taxes, gross receipts or municipal license Taxes, PRPP Taxes and Transfer Taxes.

“Assumed Liabilities” has the meaning set forth in Section 2.3.

“Business Day” means a day other than Saturday, Sunday or a day observed as a holiday by either the Commonwealth or the United States federal government.

“Buyer” has the meaning set forth in the introductory paragraph of this Agreement.

“Buyer Fundamental Representations” has the meaning set forth in Section 8.1(b).

“Buyer Indemnified Parties” has the meaning set forth in Section 8.2.

“Buyer Transaction Approvals” has the meaning set forth in Section 6.2(a).

“Buyer’s Knowledge” means, as to a particular matter, the knowledge of Fermin E. Fontanés Gómez, Manuel A. Laboy Rivera and Josué A. Colón-Ortiz, and the knowledge such individuals would have acquired in the exercise of due inquiry.

“Charter Documents” means, with respect to any entity, the certificate of incorporation, certificate of formation, certificate of partnership, bylaws, limited liability company agreement, partnership agreement or other similar organizational or governance document.

“Claim” means any demand, claim, suit, charge, complaint, request for information, audit, grievance, action, investigation, legal proceeding or arbitration.

“Claim Notice” has the meaning set forth in Section 8.5(b).

“Closing” has the meaning set forth in Section 4.1.

“Closing Date” has the meaning set forth in Section 4.1.

“Closing Date Payment” has the meaning set forth in Section 4.2(a)(i).

“Code” means the United States Internal Revenue Code of 1986, as amended.

“Commonwealth” means the Commonwealth of Puerto Rico.

“Confidentiality Agreement” means that certain confidentiality agreement, dated as of January 17, 2024 by and among Seller, the Puerto Rico Public-Private Partnerships Authority and the Central office for Recovery, Reconstruction and Resiliency.

“Consent” means any consent, approval, authorization, qualification, waiver or notification of, or filing with, a Governmental Authority or other Person.

“Contract” means any legally binding note, bond, mortgage, indenture, contract, subcontract, agreement, option, purchase order, lease, license, franchise, plan, concession, order or commitment or other instrument, but excludes Permits.

Deleted: “Buyer Closing Certificate” has the meaning set forth in Section 8.3(d).

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Deleted: “Consent Decree” means an enforceable consent decree to be entered into by [Buyer and the United States of America (through the United States Department of Justice and the EPA)] that provides for the continued operation of the Power Generation Equipment to operate on a baseload capacity, as may be further modified in the future, including any successor consent decree thereto, on terms that are satisfactory to Buyer, in its reasonable discretion.

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“COR3” means the Central Office for Recovery, Reconstruction and Resiliency of the Commonwealth.

“CRIM” has the meaning set forth in Section 5.15(a).

“De Minimis” has the meaning set forth in Section 8.4(a)(i).

“Deductible” has the meaning set forth in Section 8.4(a)(ii).

“Deferred Payment” means the amount equal to the Purchase Price minus the Closing Date Payment.

“Direct Claim” has the meaning set forth in Section 8.5(b).

“Encumbrance” means any mortgage, pledge, lien (statutory or other), security interest, collateral, assignment, encumbrance, easement, encroachment, license, sublicense, right of first refusal, restriction on transfer, transfer to a security trust, option, warrant, convertible right, conditional sale or other title retention device or other similar arrangement (including a capital lease), or transfer for security for the payment of any indebtedness.

“Energy Services Agreements for Power Generation Services” has the meaning set forth in the recitals.

“Environmental Condition” means any condition existing with respect to the Acquired Assets that results in Liability under any Environmental Law or any Environmental Permit.

“Environmental Laws” means all Laws pertaining to or otherwise relating to pollution, preservation, remediation or the protection or restoration of human health and safety or the environment, including those relating to occupational health and safety, Releases or threatened Releases of Hazardous Materials or relating to the manufacture, processing, distribution, use, generation, labeling, testing, treatment, storage, Release, transport, disposal, Remediation, or handling of Hazardous Materials and all similar Laws of any Governmental Authority having jurisdiction over the Acquired Assets, and all amendments to such Laws and all regulations promulgated thereunder.

“Environmental Permit” means a Permit granted or issued by the appropriate Governmental Authority pursuant to Environmental Law to allow the operation of the Power Generation Equipment to produce a base load, multifuel-fired electric generating unit (EGU).

“Excluded Assets” has the meaning set forth in Section 2.2.

“Excluded Claims” has the meaning set forth in Section 2.2(c).

“Excluded Equipment” has the meaning set forth in Section 2.2(a).

“Excluded Liabilities” has the meaning set forth in Section 2.4.

Deleted: “Diesel Fuel” means fuels meeting the ASTM D975-22 Standard Specification for Diesel Fuel and the characteristics in Schedule 1.1(a), Part III.

Deleted: “Dispute” has the meaning set forth in Section 11.8(a).

Deleted: “Event of Loss” has the meaning set forth in Section 7.12.

“Export Control and Economic Sanctions Laws” shall mean the Arms Export Control Act (22 U.S.C. Chapter 39), the International Traffic in Arms Regulations (22 C.F.R. Parts 120-130), the Export Control Reform Act of 2018 (50 U.S.C. Chapter 58), the Export Administration Act of 1979 (50 U.S.C. Chapter 56), the Export Administration Regulations (15 C.F.R. Parts 730-774), regulations promulgated by the Office of Foreign Assets Control (31 C.F.R. Parts 500-599) and corresponding enabling statutes, including but not limited to the International Emergency Economic Powers Act (50 U.S.C. Chapter 35) and the Trading With the Enemy Act (50 U.S.C. Chapter 53), antiboycott laws, rules, and regulations administered by the U.S. Department of Commerce’s Bureau of Industry and Security and U.S. Department of the Treasury’s Internal Revenue Service, customs and import Laws administered by U.S. Customs and Border Protection and all national and supranational laws, regulations, decrees, orders, or other acts with the force of law of the United States, the United Kingdom, the European Union or any of its members states, or the United Nations Security Council concerning trade and economic sanctions, including embargoes; the freezing or blocking of assets of targeted Persons; or other restrictions on exports, imports, investment, payments, or other transactions targeted at particular Persons or countries, including any Laws threatening to impose such trade and economic sanctions on any Person for engaging in proscribed or targeted behavior.

“Federal Facilities Compliance Agreement” means that certain Federal Facilities Compliance Agreement, by and between the United States Environmental Protection Agency, Region 2 and FEMA, dated January 20, 2023.

“FEMA” has the meaning set forth in the recitals of this Agreement.

“FEMA Funding” has the meaning set forth in Section 6.7.

“FOMB” means Financial Oversight and Management Board for Puerto Rico.

“Form 8594” has the meaning set forth in Section 3.2.

“Fraud” of a party means ~~a knowing and intentional misrepresentation of a representation or warranty set forth in ARTICLE V, ARTICLE VI or Section 9.5(b) with the intent to deceive or mislead another Person.~~

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“Fuel” means Natural Gas or LNG and Diesel Fuel

“Fuel Regasification Equipment” means the Excluded Equipment under the headings “Regasification Equipment” on Schedule 2.2(a).

“Fuel Sale and Purchase Agreement” has the meaning set forth in Section 5.12.

“Funding Commitments” has the meaning set forth in Section 7.9(a).

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“Genera” means Genera PR LLC, a Puerto Rico limited liability company.

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“Governmental Authority” means any federal, state, Puerto Rico, municipal, local or foreign government or any court, arbitral tribunal, administrative, competition or regulatory agency, bureau or commission or other governmental, judicial or regulatory authority, whether domestic, international or established by treaty, including any quasi-governmental or non-

Deleted: “Funding Trigger Date” means the date on which [.]

governmental body administering, regulating, having jurisdiction or adopting decisions over the applicable Person or assets.

“Guaranteed Obligations” has the meaning set forth in Section 9.5(a)(i).

“Hazardous Material” means any pollutants or contaminants prohibited, limited or regulated under Environmental Laws, including any substances, materials or wastes for which liability or standards of care or a requirement for investigation or remediation are imposed under Environmental Law or that are otherwise hazardous, toxic, infectious or radioactive and any petroleum or petroleum products or derivatives, asbestos and asbestos-containing materials, urea formaldehyde foam insulation and transformers or other equipment that contain dielectric fluid which may contain levels of polychlorinated biphenyls, per- and polyfluoroalkyl substances or radon gas.

“Income Taxes” means any Taxes imposed on, or determined by reference to, income, capital gains, franchise, and similar Taxes.

“Indemnified Party” means a Party seeking indemnification pursuant to the provisions of Article VIII.

“Indemnifying Party” a Party that is obligated to provide indemnification pursuant to the provisions of Article VIII.

“Insurance Policies” has the meaning set forth in Section 5.14(a).

“IRS” means the United States Internal Revenue Service.

“ISO Conditions” means standard International Standards Organization conditions for combustion turbines, which are defined as 59 degrees Fahrenheit ambient temperature, 60 percent relative humidity, and an atmospheric pressure of 14.7 pounds per square inch.

“ISO Rating” means the generator capacity referenced by the manufacturer of the gas turbines at ISO Conditions.

“Laws” means any applicable federal, national, regional, state, Puerto Rico, municipal or local law, constitution, statute, treaty, rule, regulation, ordinance, order, code, judgment, decree, directive, injunction, writ or similar action or decision duly implementing any of the foregoing by any Governmental Authority.

“Leased Real Property” means the parcel lots in which Seller has an interest pursuant to that certain Logistics and Marine Terminal Services Agreement, dated as of June 14, 2023, by and between Seller and Luis A. Ayala Colon & Sucres, Inc., as amended.

“Liability” means all indebtedness, obligations, liabilities and commitments of any nature, whether accrued or fixed, known or unknown, matured or unmatured, express or implied, primary or secondary, direct or indirect, liquidated or unliquidated, determined or determinable, on or off-balance sheet, absolute, accrued, contingent or otherwise and whether due or to become due, and including those arising under any Contract, Claim or Order.

Deleted: “Independent Valuation Firm” has the meaning set forth in Section 7.12.

“Losses” means all demands, claims, suits, fines, Encumbrances, judgments, obligations, settlements, awards, fines, Liabilities, payments, costs, losses, damages, assessments, offsets, penalties and expenses, including reasonable expenses of investigation and reasonable attorneys’ and accountants’ fees and expenses, costs of investigation and costs of enforcing any right to indemnification hereunder or pursuing any insurance providers, *provided, however*, that Loss shall exclude punitive, ~~exemplary, incidental, consequential, special or indirect damages, including lost profits, loss of revenue, diminution in value, or loss of goodwill~~ (except as it relates to any Losses that are payable to a third party with respect to a Third Party Claim for which any Person is seeking indemnification pursuant to Article VIII).

“Material Adverse Effect” means any state of facts, circumstance, condition, event, change, development, occurrence, result or effect (each, an “Effect”) that, individually or in combination with any other Effect, is or could reasonably be expected to have a materially adverse effect on the (i) value, operation or condition of each General Electric TM2500 gas turbine unit listed in Schedule 2.1(a) (on an individual basis) together with the balance of plant listed in Schedule 2.1(a) and other Acquired Assets required for such unit to operate, or (ii) ability of Seller to perform its obligations under, and consummate the transactions contemplated by this Agreement on a timely basis.

“Material Contracts” means any of the following Contracts to which Seller is party or is bound in connection with the Acquired Assets: (i) Contracts that relate to the acquisition by Seller or any of its Affiliates of the Power Generation Equipment, including Acquired Assets Purchase Contracts, (ii) field service reports and compliance certificates from ~~Siemens Energy Inc.~~ and relating to the maintenance of the Power Generation Equipment, and (iii) any Contract relating to the creation, incurrence, assumption or guarantee of any Indebtedness in connection with the Acquired Assets, or Lien over the Acquired Assets.

“Net Electrical Output” means for a specified period of time, all of the net electrical energy output of the Facility (expressed in kWh) during such period.

“Non-Acquired Units On Site” means the assets described in Schedule 1.1(c).

“Operation and Maintenance Agreement” has the meaning set forth in Section 5.12.

“Order” means any judgment, order, injunction, decision, determination, award, ruling, writ, stipulation, restriction, assessment or decree of, or entered by, with or under the supervision of, any Governmental Body.

“Palo Seco Energy Services Agreement” has the meaning set forth in the recitals of this Agreement.

“Palo Seco PP” has the meaning set forth in the recitals of this Agreement.

“Parent” has the meaning set forth in the introductory paragraph to this Agreement.

“Party” means Buyer or Seller, and “Parties” means both of them.

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Deleted: “Material Adverse Effect” means any state of facts, circumstance, condition, event, change, development, occurrence, result or effect (each, an “Effect”) that, individually or in combination with any other Effect, is or could reasonably be expected to have a materially adverse effect on the (i) value, operation or condition of the Acquired Assets [(which, in the case of the Power Generation Equipment, shall be considered on an individual basis for each unit of equipment listed in Schedule 2.1(a), including for each General Electric TM2500 gas turbine)]¹¹, or (ii) ability of Seller to perform its obligations under, and consummate the transactions contemplated by, this Agreement on a timely basis;¹² *provided, however*, that, in the case of clause (i) above, no Effect shall, either alone or in combination, constitute, contribute to or be taken into account in determining whether there is a Material Adverse Effect to the extent that such Effect arises out of or results from or in connection with any of the following matters (a) any failure to meet any projections, forecasts, estimates, plans, predictions, performance metrics or operating statistics (but not the underlying causes of such failure unless such underlying causes would otherwise be excepted from this definition), (b) any action taken (or omitted to be taken) by Seller of any of its Affiliates at the written request or written consent of Buyer, (c) any action taken (or not taken) by Seller of any of its Affiliates that is required, expressly contemplated or permitted to be taken (or not taken) pursuant to this Agreement, (d) any change in general economic or business conditions in the United States or foreign ... [2]

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Deleted: , (iv) any Contract that requires a Consent in connection with the transactions contemplated by this Agreement or that contains a provision relating to a change of control, assignment by operation of law or other sim ... [3]

Deleted: “Natural Gas” means any hydrocarbon or mixture of hydrocarbons consisting principally of methane, and other combustible and non-combustible gases, all of which are substantially in gaseous phase under basic conditions.

Deleted: “No-Action Assurance Letter” means a letter that is issued by the Office of Enforcement and Compliance Assurance of the United States Environmental Protection Agency and that allows for the continued operation of ... [4]

Deleted: “Outside Date” has the meaning set forth in Section 10.1(e).

“P3A” means the Puerto Rico Public-Private Partnerships Authority.

Deleted: “Parent Closing Certificate” has the meaning set forth in Section 8.2(c).

“Permits” means all licenses, permits, authorizations, approvals, registrations, certificates, variances, exemptions, concessions, franchises and similar consents granted, or issued by any Governmental Authority.

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“Permitted Encumbrances” means: (i) Encumbrances for Taxes, which either are not yet delinquent, or being contested in good faith and by appropriate proceedings; (ii) Encumbrances of carriers, warehousemen, mechanics, materialmen, workmen, repairmen or other similar Encumbrances or any similar common law or statutory lien for amounts not yet due and payable or that are being contested in good faith by appropriate proceedings; (iii) Encumbrances that will be removed prior to or in connection with the Closing; (iv) Encumbrances related to Assumed Liabilities; and (v) any Encumbrances that individually or in the aggregate would not reasonably be expected to interfere in any material respect with the use of the Acquired Assets in the conduct of normal business operations consistent with past practice.

“Person” means an individual, partnership (general or limited), corporation, limited liability company, proprietorship, association or other form of business organization, trust, estate, union, Governmental Authority (or any department, agency, or political subdivision thereof) or any other entity.

“Post-Closing Expenses” has the meaning set forth in Section 7.5.

“Power Generation Equipment” has the meaning set forth in Section 2.1(a).

“Power Generation Equipment Operations Employee” means each current or former employee of Seller or its Affiliates who is employed at the San Juan PP and the Palo Seco PP in connection with the operation and maintenance of the Power Generation Equipment.

“PR Code” means the Puerto Rico Internal Revenue Code of 2011, as amended.

“PREB” means the Puerto Rico Energy Bureau.

“Pre-Closing Expenses” has the meaning set forth in Section 7.5.

“Pre-Closing Tax Period” means any Tax period ending on or before the Closing Date, and, in the case of a Straddle Period, the portion of such period up to and including the Closing Date.

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“Pre-Closing Taxes” means (i) any PRPP Taxes allocable to Seller pursuant to Section 7.6(a), (ii) any Asset Taxes allocable to Seller pursuant to Section 7.6(b), (iii) any Taxes imposed on or with respect to or relating to the ownership of the Excluded Assets for any taxable period, (iv) any Transfer Taxes allocated to Seller in accordance with Section 7.7(a) and (v) Income Taxes imposed by any applicable Laws on Seller (or any direct or indirect owners of Seller) or its Affiliates for any taxable period.

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“Price Per Additional Unit” means an amount equal to \$21,899,911.18 unless otherwise mutually agreed by Buyer and Seller.

“PROMESA” means the Puerto Rico Oversight, Management and Economic Stability Act enacted on June 30, 2016 (P.L. 114-187).

“PRPP Taxes” means the Personal Property Taxes imposed by the Puerto Rico Act No. 107-2020 (also known as the “Puerto Rico Municipal Code”) or the Puerto Rico Act No. 83-1991 (also known as the “Municipal Property Tax Act of 1991”) that are based upon, arising out of or relating to the ownership or operation of the Acquired Assets, but excluding, for the avoidance of doubt, Asset Taxes, Income Taxes, gross receipts or municipal license Taxes, and Transfer Taxes.

“Purchase Price” has the meaning set forth in Section 3.1(a).

“Purchase Option” has the meaning set forth in Section 7.11.

“Purchase Option Closing Date” has the meaning set forth in Section 7.11.

“Purchase Option Expiration Date” means the date that is ninety (90) days following the Closing Date.

“Purchase Option Purchase Price” means an aggregate amount equal to the Price Per Additional Unit multiplied by the number of Acquired Additional Units.

“Regasification System Lease” means the Regasification System Lease, by and between General and Buyer, in the form attached hereto as Exhibit A.

“Release” means any actual or threatened release, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, migrating, leaching, dumping or disposing into the environment (including ambient air (indoor or outdoor), surface water, groundwater, land surface or subsurface strata).

“Remediation” means actions required under Environmental Laws or by Order from a Governmental Authority to clean up or to contain or otherwise to ameliorate or remedy any Environmental Condition, including preventing a Release or threatened Release and performing studies, investigations and monitoring.

“Retained Books and Records” means: all books, files and records, to the extent that such books, files and records (i) contain information related to Seller or any of its Affiliates concerning public utility or other regulatory matters; (ii) contain information, the disclosure of which would violate applicable Law or any other legal constraints; (iii) disclose information about Seller or any of its Affiliates that is unrelated to the Acquired Assets; (iv) disclose information about Seller or any of its Affiliates pertaining to energy or project evaluation, energy or natural gas price curves or projections or other economic predictive models that is unrelated to the Acquired Assets; or (v) were prepared in connection with the Transactions (and were not prepared or intended for Buyer’s review or use).

“San Juan Energy Services Agreement” has the meaning set forth in the recitals of this Agreement.

“San Juan PP” has the meaning set forth in the recitals of this Agreement.

Deleted: “PRPA Access Agreement” has the meaning set forth in Section 8.2(g).

Deleted: “Post-Closing Tax Period” means any Tax period ending after the Closing Date, and, in the case of any Straddle Period, the portion of such period following, but not including, the Closing Date.

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Deleted: [“Required Repair” means, with respect to the Unit Under Repair, the hot path section maintenance required at the hour of service interval for such Unit Under Repair in accordance with the manufacturer’s recommended maintenance program or otherwise required to make such Unit Under Repair operable and capable of producing power consistent with past practice for such Unit Under Repair in connection with service under the applicable Energy Service Agreement for Power Generation Services. Such Required Repair shall be made in accordance with manufacturers guidelines for similar repairs and consistent with reasonable and prudent industry practices for similar repairs of similar units at the same service interval which shall not require any steps beyond those reasonably necessary to comply with such standards.]¹⁹

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“Sanctioned Country” shall mean at any time a country, region or territory which is itself the subject or target of any comprehensive economic or trade restrictions amounting to embargo, which may change from time to time (as of the date of this Agreement, Cuba, Iran, North Korea, Syria, the Donetsk, Luhansk and Crimea regions of the Ukraine, and the non-Ukrainian government controlled areas of Kherson and Zaporizhzhia of Ukraine).

“Sanctioned Person” shall mean at any time any Person that is: (a) listed on any sanctions-related list of designated or blocked persons administered by a Governmental Entity (including the U.S. Department of Treasury’s Office of Foreign Assets Control’s Specially Designated Nationals (“SDN”) List, Sectoral Sanctions Identifications List, Non-SDN Menu-Based Sanctions List, Non-SDN Chinese Military-Industrial Complex Companies List, and Foreign Sanctions Evaders List; the Denied Persons, Entity, or Unverified Lists of the U.S. Department of Commerce’s Bureau of Industry and Security; the Debarred List of the U.S. Department of State’s Directorate of Defense Trade Controls; any list of sanctioned persons administered and maintained by the U.S. Department of State relating to nonproliferation, terrorism, Cuba, Iran, or Russia; the EU Consolidated Financial Sanctions List; and any similar lists of other jurisdictions); (b) the government of or located in, resident in, or organized under the laws of a Sanctioned Country; (c) the Government of Venezuela, as defined in Executive Order 13884 of August 5, 2019; (d) otherwise the subject or target of sanctions or blocking measures under applicable Export Control and Economic Sanctions Laws; or (e) 50% or more owned or controlled by a Person or Persons described in clauses (a) through (d).

“Schedules” has the meaning set forth in Section 1.3.

“Seller” has the meaning set forth in the introductory paragraph to this Agreement.

“Seller Indemnified Group” has the meaning set forth in Section 8.3.

“Seller Transaction Approvals” has the meaning set forth in Section 5.2(a).

“Seller’s Knowledge” means, as to a particular matter, the actual knowledge of any of the following individuals: Daniel McGuire and Luis Basalo, and the knowledge such individuals would have acquired in the exercise of due inquiry.

“Selling Parties Fundamental Representations” means representations and warranties of (i) Seller set forth in Sections 5.1(a) (Formation and Existence), 5.2 (Authority; Binding Effect), 5.4 (Brokers) and 5.6 (Condition, Ownership and Sufficiency of Assets) and (ii) Parent set forth in Section 9.5.

“Software” means any and all computer software, applications or programs, whether in source code or object code form, embedded in the Power Generation Equipment.

“Straddle Period” means any Tax period that begins on or before, and ends after the Closing Date.

“Sworn Statement” means a sworn statement in the form set forth as Exhibit B (Form of Sworn Statement) required under Act No. 2-2018, as amended.

Deleted: “Seller Closing Certificate” has the meaning set forth in Section 8.2(c).

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Deleted: , including (i) any and all software implementations of algorithms, models and methodologies, (ii) databases and compilations, including any and all data and collections of data, whether machine readable or otherwise, (iii) descriptions, specifications, flow-charts and other work product used to design, plan, organize and develop any of the foregoing, screens, user interfaces, report formats, firmware, development tools, templates, menus, buttons and icons, and (iv) all documentation, including user manuals and other training documentation, related to any of the foregoing

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“Tax” or “Taxes” means all taxes, assessments, charges, duties, fees, levies, imposts or other similar governmental charges in the nature of a tax imposed by a Taxing Authority, including (i) all federal, state, Puerto Rico, local and foreign income, profits, franchise, business license, withholding, ad valorem, real and personal property (tangible and intangible), employment, unemployment, payroll, sales and use, goods and services, inventory, social security, disability, occupation, business and occupation, property, unclaimed property, escheat, severance, excise, gross receipts, capital gains, capital stock, transfer, registration, windfall profits, environmental, value-added, add-on minimum, alternative, estimated, stamp and license taxes and charges (whether payable directly or by withholding and whether or not requiring the filing of a Tax Return), and all other obligations of the same or of a similar nature to any of the foregoing, whether disputed or not and including any obligations to indemnify or otherwise assume or succeed to the Tax Liability of any other Person, (ii) all deficiency assessments, additions to tax, surcharges, penalties, fines and interest related to the items described in clause (i), and (iii) any liability in respect of any item described in clause (i) and (ii), above, that arises by reason of a contract, assumption, transferee, or successor liability, operation of Law (including by reason of being a member of a consolidated, combined, or unitary group) or otherwise.

“Tax Contest” has the meaning set forth in Section 7.6(d).

“Taxing Authority” means any Governmental Authority having jurisdiction over the assessment, determination, collection, or imposition of any Tax.

“Tax Returns” means any report, return, information return, claim for refund, document, estimated tax filing, declaration, statement or other filing relating to Taxes provided, or required to be provided, to any Taxing Authority including any schedule or attachment thereto or amendments thereof.

“Third Party Claim” has the meaning set forth in Section 8.5(b).

“Title III Case” means Buyer’s case under Title III of PROMESA in the United States District Court for the District of Puerto Rico.

“Title III Court” means the United States District Court for the District of Puerto Rico presiding over the Title III Case.

“Transactions” means the transactions contemplated by this Agreement and the other Transaction Documents.

“Transaction Documents” means this Agreement ~~and~~ the Regasification System Lease.

“Transfer Taxes” means sales, purchase, use, transfer, stamp, documentary, registration, conveyance, filing, recording or similar fees or Taxes or governmental charges.

“Treasury Regulations” means the final or temporary regulations promulgated by the U.S. Department of the Treasury under the Code.

“USACE” has the meaning set forth in the recitals of this Agreement.

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1.2 Certain Interpretive Matters. In construing this Agreement, together with the Schedules, and in addition to the definitions referred to in Article I, the following principles shall be followed, except when the context requires otherwise:

Deleted: "USEPA" means the United States Environmental Protection Agency.

(a) All Article, Section, Subsection, Schedule and Exhibit references used in this Agreement are to Articles, Sections, Subsections, Schedules and Exhibits to this Agreement unless otherwise specified. The Exhibits and Schedules attached to this Agreement constitute a part of this Agreement and are incorporated herein for all purposes.

(b) If a term is defined as one part of speech (such as a noun), it shall have a corresponding meaning when used as another part of speech (such as a verb). Unless the context of this Agreement clearly requires otherwise, words importing the masculine gender shall include the feminine and neutral genders and vice versa. The words "includes" or "including" shall mean "includes without limitation" or "including without limitation," the words "hereof," "hereby," "herein," "hereunder" and similar terms in this Agreement shall refer to this Agreement as a whole and not any particular Section or Article in which such words appear and any reference to a Law shall include any amendment thereof or any successor thereto and any rules and regulations promulgated thereunder. Currency amounts referenced herein are in U.S. Dollars.

(c) Whenever this Agreement refers to a number of days, such number shall refer to calendar days unless Business Days are specified. Whenever any action must be taken hereunder on or by a day that is not a Business Day, then such action may be validly taken on or by the next day that is a Business Day.

(d) The Parties have participated jointly in the negotiation and drafting of this Agreement with the benefit of competent legal representation, and the language used in this Agreement shall be deemed to be the language chosen by the Parties to express their mutual intent. In the event that an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the Parties, and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any provisions hereof.

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1.3 Schedules. On or prior to the date of this Agreement, Seller has delivered to Buyer disclosure schedules relating to this Agreement (the "Schedules") setting forth, among other things, items the disclosure of which is necessary or appropriate either in response to (i) an express disclosure requirement contained in a provision of this Agreement, or (ii) as an exception to one or more representations or warranties contained in Article V, and Section 9.5(b). The Schedules to this Agreement constitute integral parts of this Agreement and are hereby incorporated into this Agreement by this reference. The matters disclosed in any particular Schedule shall be deemed to have been disclosed in all other Schedules, but only to the extent that a cross-reference to the other Schedules has been included or it is reasonably clear from the face of the disclosure that such disclosure is responsive to the representations to which such other Schedule or Schedules relate.

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ARTICLE II PURCHASE AND SALE OF ASSETS

2.1 Purchase and Sale. Subject to the terms and conditions set forth in this Agreement, and in exchange for the consideration as set forth in Section 3.1, Seller agrees to sell and deliver to Buyer,

and Buyer agrees to purchase and accept from Seller, all of Seller's right, title and interest in, the following assets, properties and rights, wherever located and whether now existing or hereinafter acquired (collectively, the "Acquired Assets"), free and clear of Encumbrances, claims and other interests (except for Permitted Encumbrances):

(a) Equipment. All assets described on Schedule 2.1(a) (~~collectively, the "Power Generation Equipment"~~) and any ~~rights~~ of Seller with respect to any Software embedded in such Power Generation Equipment.

(b) Inventory. All consumables and inventory listed on Schedule 2.1(b);

(c) Books and Records. Except for the Retained Books and Records, electronic copies of all books and records (or, if electronic copies are not available, in written or other form) of any kind ~~in the possession of Seller~~ relating to the use, operation and maintenance of the Acquired Assets, including all material information received from the sellers of the Acquired Assets including the machinery and equipment maintenance files, production data, quality control records, and procedures, any correspondence with Governmental Bodies, and all environmental reports, inspections/assessments, environmental audits, documents and property files, and all environmental reports, inspections/assessments, environmental audits, industrial hygiene monitoring, documents and property files, in each case ~~to the extent~~ related to the Acquired Assets, ~~and in the possession of Seller~~.

(d) Claims. ~~Other than the Excluded Claims, all~~ rights (i) in connection with any Claims of any nature available to or being pursued by Seller, in connection with the Material Contracts or the Power Generation Equipment, whether arising by way of counterclaim or otherwise, and (ii) under warranties, indemnities and all similar rights of Seller against third parties in connection with the Material Contracts or the Power Generation Equipment; and

(e) Insurance Proceeds. All insurance claims and proceeds payable to Seller or any of its Affiliates in respect of any casualty event related to the Power Generation Equipment or any Acquired Asset relating to the ~~period prior to the Closing Date~~ net of any amounts incurred by Seller or any of its Affiliates to settle or resolve the underlying claim (including through reduction in Purchase Price under this Agreement) or to repair or restore the affected assets as a result of the applicable loss event.

~~Notwithstanding the foregoing, assignment of any contractual rights or Claims under Section 2.1(d) shall be subject to the consents to assignment of such rights and claims listed in Schedule (d) having been obtained. Following signing, Seller will request consent for such assignments and will use its commercially reasonable efforts and cooperate with Buyer to obtain such consents but shall have no obligation to make any payments or other accommodations to obtain such consents.~~

2.2 Excluded Assets. Notwithstanding anything to the contrary in this Agreement, the following assets of Seller are expressly excluded from the Acquired Assets (collectively, the "Excluded Assets"):

(a) Excluded Equipment. All assets described on Schedule 2.2(a) (collectively, the "Excluded Equipment");

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(b) Leased Real Property. The Leased Real Property;▼

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(c) Excluded Claims. All rights in connection with any Claims of any nature available to or being pursued by Seller or any of its Affiliates, now or in the future, in connection with the Energy Services Agreements for Power Generation Services or the Transaction Documents or matters set forth on Schedule 2.2(c) (the “Excluded Claims”).

(d) Retained Books and Records. The Retained Books and Records.▼

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2.3 Assumed Liabilities. At the Closing, Buyer shall assume, and Buyer shall thereafter pay, perform and discharge when due, all Liabilities arising from the ownership or operation of the Acquired Assets on or after the Closing Date, including Taxes imposed on or with respect to the Acquired Assets after the Closing Date (collectively, the “Assumed Liabilities”).

2.4 Excluded Liabilities. Notwithstanding anything to the contrary in this Agreement, Buyer shall not assume, and shall not be deemed to have assumed, any Liability of Seller other than as specifically set forth in Section 2.3 (with all such unassumed Liabilities, the “Excluded Liabilities”). Without limiting the generality of the foregoing, the Excluded Liabilities shall include the following:

(a) all Liabilities arising from, or in connection with, or otherwise relating to, the employment (or termination thereof) or compensation or benefits of any and all employees of Seller and its Affiliates, including the Power Generation Equipment Operations Employees; and

(b) any Liabilities relating to or arising out of any Excluded Equipment.▼

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ARTICLE III PURCHASE PRICE; ALLOCATION

Deleted: <#>[all liabilities set forth on Schedule 2.4.]³³

3.1 Purchase Price.

(a) The aggregate purchase price payable by Buyer to Seller for the Acquired Assets shall be an amount equal to Three Hundred ~~Six~~ Million, ~~Five~~ Hundred Ninety Eight Thousand, ~~Seven~~ Hundred and ~~Fifty Six~~ Dollars and ~~47/100 Dollars (\$306,598,756.47)~~ (the “Purchase Price”).

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(b) The Purchase Price will be paid by Buyer as follows:

(i) the Closing Date Payment shall be paid at Closing in accordance with Section 4.2(a)(i); and

(ii) the Deferred Payment shall be paid no later than ten (10) Business Days following the Closing Date by wire transfer in immediately available funds to the same account designated by Seller for payment of the Closing Date Payment in accordance with Section 4.2(a)(i).

3.2 Allocation of Purchase Price. Within ~~ninety (90)~~ days following the Closing Date, Seller shall deliver to Buyer a draft of IRS Form 8594 (Asset Acquisition Statement Under Section 1060)

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("Form 8594") setting forth Seller's proposed allocation of the purchase consideration among the Acquired Assets. Within thirty (30) days of receipt of such draft Form 8594, Buyer shall provide Seller in writing any comments to such draft Form 8594. Seller shall consider in good faith any such comments and shall prepare a final Form 8594 allocating the Purchase Price among the Acquired Assets and shall provide a copy of such final Form 8594 to Buyer. In the case of any adjustments to the purchase consideration for Tax purposes pursuant to this Agreement, Seller shall prepare any required supplemental Form 8594 taking into account such adjustments to the purchase consideration and shall provide a copy of such supplemental Form 8594 to Buyer and shall consider in good faith any comments received by Buyer within thirty (30) days of Buyer's receipt of such supplemental Form 8594. Seller, Buyer and their respective Affiliates, shall report and timely file all Tax Returns by attaching thereto such original or supplemental Form 8594, in each case to the extent applicable, unless otherwise required by a change in applicable Law. To the extent applicable, the Parties shall timely and properly prepare, execute, file and deliver all such documents, forms, returns and other information as may be reasonably requested by either of the Parties. Neither Buyer nor Seller shall take any position (whether in audit, Tax Returns, or otherwise or with any Governmental Authority) that is inconsistent with the allocations set forth on such original or supplemental Form 8594, in each case to the extent applicable, unless required to do so by applicable Law.

3.3 Withholding. Buyer and its Affiliates shall be entitled to deduct and withhold from any amounts payable pursuant to this Agreement such amounts as Buyer reasonably determines are required to be deducted or withheld therefrom or in connection therewith under the Code, Puerto Rico Law or any other applicable Law; *provided* that Buyer will, prior to any deduction or withholding, notify Seller five (5) days prior to any applicable deduction withholding (unless Buyer learns of the requirement for such deduction or withholding fewer than five (5) days before the relevant payment is due, in which case Buyer will notify Seller as promptly as reasonably practicable) and reasonably cooperate with Seller to minimize the amount of any applicable withholding to such affected Person. To the extent such amounts are so deducted or withheld and paid to the appropriate Taxing Authority, such amounts shall be treated for all purposes under this Agreement as having been paid to the person to whom such amounts would otherwise have been paid. Buyer hereby confirms that under currently applicable Law as of the date hereof and at the Closing, no deduction or withholding shall apply to any Purchase Price payments hereunder.

ARTICLE IV CLOSING

4.1 Time and Place. The consummation of the Transactions (the "Closing") shall take place electronically (by the electronic exchange of documents by the Parties), at 1:00 p.m. local time, on the date hereof, or at such other time, place and date as Seller and Buyer may mutually agree, (the "Closing Date"). The Closing will be deemed to be effective for purposes of this Agreement as of 12:01:01 a.m. local time in Puerto Rico on the Closing Date.

4.2 Closing Deliverables. At the Closing:

- (a) Buyer shall deliver to Seller:

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(i) ~~an aggregate amount equal to Ninety Nine Million, Six Hundred Forty Four Thousand, Five Hundred Ninety Five and 85/100 Dollars (\$99,644,595.85) (the "Closing Date Payment")~~, by wire transfer ~~in immediately available funds~~ to an account of Seller that has been designated in writing for such purpose by Seller;

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(ii) ~~the Regasification System Lease, duly executed by Buyer and Genera;~~

(iii) ~~a certificate, dated as of the Closing Date and signed by an authorized officer of Buyer, with respect to (A) Buyer's Charter Documents, (B) the Buyer Transaction Approvals, and (C) the name, title, incumbency and signatures of the officers authorized to execute this Agreement and the Transaction Documents to which Buyer is a party;~~

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(iv) ~~documentation reasonably acceptable to Seller showing that Buyer has received the appropriate approvals from the PREB and the FOMB to proceed with the Transaction;~~

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(v) ~~the letter agreement in the form attached hereto as Exhibit D, duly executed by COR3 and Buyer.~~

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(b) Seller shall deliver to Buyer:

(i) such duly executed bills of sale, certificates of title and other instruments of transfer with respect to the Acquired Assets as Buyer may reasonably request and as may be necessary to vest in Buyer or its nominee(s) valid title to all of the Acquired Assets, in each case subject to no Encumbrance except for Permitted Encumbrances;

(ii) ~~the Sworn Statement duly notarized as of the Closing Date;~~

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(iii) ~~evidence of termination of the Energy Services Agreements for Power Generation Services that permits the Acquired Assets to be sold by Seller to Buyer;~~

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(iv) ~~a certificate, dated as of the Closing Date and signed by an authorized officer of Seller, with respect to (A) Seller's Charter Documents, (B) the Seller Transaction Approvals, and (C) the name, title, incumbency and signatures of the officers authorized to execute this Agreement and the Transaction Documents to which Seller is a party;~~

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(v) ~~a certificate, dated as of the Closing Date and signed by an authorized officer of Parent, with respect to (A) Parent's Charter Documents, (B) Parent Transaction Approvals and (C) the name, title, incumbency and signatures of the officers authorized to execute this Agreement; and~~

(vi) ~~a counterpart signature page to the letter agreement in the form attached hereto as Exhibit D, duly executed by Buyer.~~

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4.3 Delivery of Books and Records. No later than ten (10) Business Days following the Closing Date, Seller shall deliver to Buyer the books and records identified in Section 2.1(c).

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ARTICLE V REPRESENTATIONS AND WARRANTIES OF SELLER

Except as set forth in the Schedules, Seller represents and warrants to Buyer that the statements contained in this ARTICLE V are true and correct as of the date hereof, ~~(except for representations and warranties that speak as of a specific date, in which case such representations and warranties are true and correct as of such date)~~ that:

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5.1 Formation and Existence.

(a) Seller is a limited liability company duly formed, validly existing and in good standing under the Laws of the Commonwealth.

5.2 Authority; Binding Effect.

(a) Seller has all requisite power and authority to (i) enter into this Agreement and the Transaction Documents to which it is or will be a party, (ii) carry out its obligations hereunder or thereunder and (iii) consummate the Transactions (including all power and authority to sell, assign, transfer and convey the Acquired Assets as provided by this Agreement). The foregoing has been duly authorized by all necessary action of Seller's members, as evidenced in the resolutions adopted by such members (the "Seller Transaction Approvals"), a certified copy of which Seller has delivered to Buyer. The Seller Transaction Approvals constitute all requisite action for the authorization, execution and delivery of this Agreement and the Transaction Documents by Seller and the performance by Seller of the Transactions, and such approvals have not been revoked, rescinded or amended.

(b) This Agreement and each of the Transaction Documents to which Seller is a party, ~~has been~~ duly executed and delivered by Seller and, assuming the due authorization, execution and delivery by Buyer and any other parties hereto and thereto, this Agreement and ~~each~~ of the Transaction Documents, ~~to which Seller is a party~~ constitute, valid and binding obligations of Seller, enforceable against Seller in accordance with their respective terms, except as such enforceability may be subject to applicable bankruptcy, reorganization, insolvency, moratorium and similar Laws affecting the enforcement of creditors' rights generally.

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5.3 Non-Contravention; Consents.

(a) Except as set forth on Schedule 5.3(a), neither the execution and delivery by Seller of this Agreement and the Transaction Documents to which Seller is a party, nor the consummation by Seller of the Transactions will constitute a violation of, or be in conflict with, or constitute or create a default or accelerate or adversely affect any obligations under, or require the consent of any other Person under (i) any Contract to which Seller is a party or by which Seller or any of the Acquired Assets is bound or subject, (ii) Seller's Charter Documents, (iii) any Law or Order to which Seller or any of the Acquired Assets is subject, and (iv) any Permit ~~held by Seller in connection with~~ the Acquired Assets.

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(b) ~~Neither~~ the execution and delivery by Seller of this Agreement and the Transaction Documents to which Seller is a party, nor the consummation by Seller of the Transactions will result in the creation or imposition of any Encumbrance on any of the Acquired Assets.

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(c) ~~No~~ consent, declaration or filing with, or notice to, any Governmental Authority is required by, or with respect to, Seller in connection with the execution and delivery of this Agreement and the Transaction Documents to which Seller is a party, the performance by Seller of its obligations hereunder and thereunder.

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5.4 Brokers. No finder, broker, agent, or other intermediary has acted for or on behalf of Seller in connection with the negotiation, preparation, execution, or delivery of this Agreement or the consummation of the Transactions.

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5.5 Solvency. Seller is not insolvent, is able to pay its debts as they come due, and will not be rendered insolvent by any of the Transactions.

5.6 Condition, Ownership and Sufficiency of Assets.

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(a) Except as otherwise set forth on Schedule 5.6(a), (i) the Acquired Assets are adequate and sufficient to operate consistent with past practice, ~~immediately following the Closing,~~ and (ii) each item of the Power Generation Equipment has the ISO Rating set out in Schedule 2.1(a).

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(b) ~~Seller has good and valid title to each of the Acquired Assets, free and clear of all Encumbrances (other than Permitted Encumbrances).~~ At the Closing, Seller will transfer to Buyer valid title to each of the Acquired Assets, in each case free of any Encumbrances other than Permitted Encumbrances. ~~Notwithstanding anything to the contrary set forth in this Agreement, Seller is not providing any representation or warranty of any kind (including as to title) with respect to any Software or other intellectual property embedded in the Acquired Assets.~~

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(c) The Acquired Assets are (i) structurally sound and in good operating condition, subject to normal or routine maintenance, replacement, repairs, including those contemplated by the Energy Services Agreements for Power Generation Services, and normal wear and tear and (ii) have been maintained in the same manner as a prudent operator would maintain such assets.

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5.7 Environmental Matters.

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(a) Seller has not received any notice from any Person, or demand or written request for information from any Governmental Authority, and there are no Claims pending or, to Seller's Knowledge, threatened alleging or indicating that (i) the operation of the Acquired Assets (including the Power Generation Equipment) was or is in noncompliance with or violation of any applicable Environmental Law, or (ii) there is any Liability under any applicable Environmental Law with respect to the use, ownership or operation of the Acquired Assets (including the Power Generation Equipment), including the Release or presence or exposure of any Hazardous Materials arising therefrom.

(b) Except as set forth on Schedule 5.7(b), or as would not otherwise be expected to result in a Material Adverse Effect, Seller has used and operated the Acquired Assets (including the Power Generation Equipment), in compliance with the Federal Facilities Compliance Agreement.

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(c) With respect to the Acquired Assets, there has been no Release or exposure to any Hazardous Materials arising from operation of the Power Generation Equipment that would reasonably be expected to result in material liability or a requirement for material Remediation under Environmental Laws.

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(d) With respect to the Acquired Assets, Seller has delivered to, or has otherwise made available for inspection by the Buyer, all material written assessments, audits, investigation reports, studies, test results or similar documents in the possession, control or custody of Seller related to environmental, health or safety matters or Hazardous Materials.

These provisions of Section 5.7 are the sole and exclusive representations and warranties relating to Environmental Laws and Hazardous Materials.

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5.8 Compliance with Laws. Seller is in compliance with all Laws applicable to the ownership, operation and use of the Acquired Assets, (ii) since the date that is three years prior to the date hereof, Seller has not received any notice from any Governmental Body alleging any noncompliance by Seller or any of its Affiliates with respect to any such Law, and (iii) no investigation by any Governmental Body regarding a violation of any such Law is pending or, to Seller's Knowledge, threatened against Seller. Seller does not hold any Permits in connection with the Acquired Assets. This Section 5.8 does not include any matters with respect to Tax Laws or Environmental Laws (such matters being exclusively addressed in Section 5.11 and Section 5.7, respectively).

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Schedule 5.8 lists each Permit that is held by Seller in connection with the Acquired Assets. All Permits required for Seller to operate the Acquired Assets as currently conducted have been obtained by Seller, and all such Permits are valid and in full force and effect, and Seller is in compliance with all such Permits. To Seller's Knowledge, no event has occurred that, with or without notice or lapse of time or both, would reasonably be expected to result in the revocation, suspension or limitation of any of such Permits.⁵⁶ This Section 5.8

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5.9 Litigation. There is no written Order in effect and there are no Claims pending or, to Seller's Knowledge, threatened: (i) against or by Seller or any of its Affiliates affecting or relating to the Acquired Assets; (ii) that challenge or seek to prevent, enjoin or otherwise impair or delay Seller's ability to perform its obligations under this Agreement or any other Transaction Document to which it is a party or complete the Transactions; or (iii) that question the validity of this Agreement or any other Transaction Document or of any action taken or to be taken by Seller pursuant to or in connection with the provisions of this Agreement or the Transaction Documents.

5.10 Material Contracts.

(a) Schedule 5.10(a) sets forth a correct and complete list of the Material Contracts.

(b) Each Material Contract constitutes a legal, valid and binding obligation of Seller and, to Seller's Knowledge, any other Person party thereto and is enforceable against Seller and, to Seller's Knowledge, any other Person party thereto in accordance with its terms. None of Seller or, to Seller's Knowledge, any other Person party thereto, is in material breach or default under any Material Contract.

5.11 Taxes.

(a) All Asset Taxes and PRPP Taxes that have become due and payable have been paid in full, and all Tax Returns with respect to Asset Taxes and PRPP Taxes required to be filed have been duly and timely filed (taking into account valid applicable filing extensions), and such Tax Returns are true, correct and complete in all respects;

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(b) there are no Encumbrances on any of the Acquired Assets attributable to Taxes other than Permitted Encumbrances;

(c) no audit, examination, litigation or other proceeding with respect to Asset Taxes has been commenced or is presently pending, and Seller has not received written notice of any pending claim against it from any applicable Taxing Authority for assessment of Asset Taxes and no such claim has been threatened in writing;

(d) no outstanding agreements, waivers or arrangements extending the statutory period of limitation applicable to any claim for, or the period for the collection or assessment of, material Taxes due with respect to the Acquired Assets or the Assumed Liabilities for any Tax period exist;

(e) to Seller's knowledge, no written claim has been made by a Taxing Authority in a jurisdiction where Seller does not file Tax Returns of a particular type with respect to or relating to the Acquired Assets or the Assumed Liabilities that Seller is or may be subject to Tax of such type or required to file Tax Returns of such type in such jurisdiction with respect to or relating to the Acquired Assets or the Assumed Liabilities;

(f) no material deficiencies, claims, issues or adjustments have been asserted, assessed, proposed or threatened in writing by a Taxing Authority in connection with any Taxes or Tax Returns with respect to the Acquired Assets and the Assumed Liabilities that remain unresolved;

(g) the Acquired Assets are located in Puerto Rico; and

(h) other than Seller and any direct or indirect owners thereof, none of the Acquired Assets are subject to any tax partnership agreement or are otherwise treated as held in an arrangement requiring a partnership income Tax Return to be filed under Subchapter K of Chapter 1 of Subtitle A of the Code or Chapter 7 of Subtitle A of the PR Code.

5.12 Acknowledgement. Seller acknowledges that Seller is (i) an Affiliate of NFEnergia LLC, which is a party to the Fuel Sale and Purchase Agreement dated March 5, 2019 with Buyer (the "Fuel Sale and Purchase Agreement") and (ii) an Affiliate of Genera that is party to the Puerto Rico Thermal Generation Facilities Operation and Maintenance Agreement dated as of January 24, 2023 with Buyer and The Puerto Rico Public-Private Partnerships Authority (the "Operation and Maintenance Agreement") including the Organizational Conflict of Interest Policy.

5.13 Anticorruption; Sanctions; Export Controls.

(a) Solely with respect to the Acquired Assets, including with respect to the acquisition thereof, neither Seller, its Affiliates, nor, to Seller's Knowledge, any other Person have, since the date that is five years prior to the date hereof, violated, conspired to violate or aided and abetted the violation of any Anti-Corruption Laws or Anti-Money Laundering Laws.

(b) Since the date that is five years prior to the date hereof, neither Seller nor, to Seller's Knowledge, any of its directors, officers or employees is or has been (i) a Sanctioned Person, (ii) controlled by a Sanctioned Person, (iii) located in, organized under the laws of, or resident in a Sanctioned Country, (iv) operating, conducting business, or participating in any direct or indirect transaction in, with, or involving any Sanctioned Country or with, involving, or benefitting any

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Sanctioned Person in any manner that would cause a material violation of any Export Control and Economic Sanctions Laws, or (v) otherwise in material violation of applicable Export Control and Economic Sanctions Laws.

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5.14 Insurance.

(a) Schedule 5.14(a) sets forth a correct and complete list, as of the date hereof, of all insurance policies and coverage (including self-insurance programs) relating to the Acquired Assets (the "Insurance Policies"), and there are no Claims pending under any such Insurance Policies with respect to the Acquired Assets.

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(b) Until the date hereof, the Insurance Policies have remained, (i) in full force and effect, and (ii) valid, outstanding, and enforceable. All premiums due and payable thereunder have been paid in full, and neither Seller nor any of its Affiliates is in default with respect to the obligations under any Insurance Policy or has otherwise failed to comply in all respects with the terms and conditions of the Insurance Policies. Neither Seller nor any of its Affiliates has received any written notice of cancellation or non-renewal with respect to any Insurance Policy or disclaiming coverage or reserving rights with respect to a particular claim with respect to any Insurance Policy.

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5.15 Government Certifications.

(a) Seller represents, for itself and the Parent (if Seller is a conduit entity under the PR Code), that as of the date of this Agreement (i) neither it nor the Parent has any outstanding debts for unemployment insurance, temporary disability (workmen's compensation), chauffeur's social security with the Puerto Rico Department of Labor and Human Resources, income taxes with the Puerto Rico Department of Treasury, or real or personal property taxes with the Municipal Revenues Collection Center (the "CRIM") or (ii) it or the Parent has a payment plan in place with respect to any outstanding debt for the foregoing items, and is in compliance with such plan.

(b) Seller acknowledges and agrees that it shall obtain and deliver to Buyer, in each case dated not earlier than sixty (60) days prior to the Closing Date, the following:

(i) A copy of Seller's Merchant's Registration Certificate;

(ii) Certifications of filing of income and sales and use tax returns, issued by the Internal Revenue Division of the Puerto Rico Department of Treasury, or a certification by Seller and Parent Company (if Seller is a conduit entity under the PR Code) that as of the date of this Agreement it does not have and was not required to submit income or sales and use tax returns and pay taxes in the Commonwealth of Puerto Rico during the past five (5) years;

(iii) A certificate issued by the Internal Revenue Division of the Puerto Rico Department of Treasury certifying that there are no taxes debt due, or payment plan and compliance therewith; and

(iv) A certificate of no debt, or payment plan and compliance therewith, with respect to real and personal property taxes issued by the CRIM.

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(v) A certificate of no debt, or payment plan and compliance therewith, for unemployment insurance, temporary disability (workmen's compensation) and chauffeur's social security issued by the Puerto Rico Department of Labor and Human Resources; and

(vi) A certification issued by the Puerto Rico Child Support Administration reflecting that Seller is in compliance with the withholdings required to be made by employers under applicable Law.

(c) Seller warrants and certifies that as of the date of this Agreement none of Seller or its subsidiaries and Affiliates or, when acting on behalf of Seller or its subsidiaries and Affiliates, any director, officer, manager, administrator or employee of Seller or its subsidiaries and Affiliates, has: (i) violated, conspired to violate, aided and abetted the violation of or committed any felonies or misdemeanors under Articles 4.2, 4.3 or 5.7 of Act No. 1-2012, as amended, known as the Organic Act of the Office of Government Ethics of Puerto Rico, any of the crimes listed in Articles 250 through 266 of Act No. 146-2012, as amended, known as the Puerto Rico Penal Code, any of the crimes typified in Act No. 2-2018, as amended, known as the Puerto Rico Anti-Corruption Code, or any other felony that involves misuse of public funds or property, including the crimes mentioned in Article 6.8 of Act No. 8-2017, as amended, known as the Act for the Administration and Transformation of Human Resources in the Government of Puerto Rico; (ii) failed to comply at any time with any Applicable Law that prohibits corruption and regulates criminal acts involving public functions or public funds applicable to Seller under state, Commonwealth of Puerto Rico or federal law; or (iii) been convicted of offenses against public integrity, as defined in the Puerto Rico Penal Code, or of embezzlement of public funds, or has been found guilty of any such type of offense in the courts of the Commonwealth of Puerto Rico, the courts of the United States or any court of any jurisdiction.

(d) Seller represents and warrants that the information included in the Contractor Certification Requirement, as included in Appendix C of the FOMB's Contract Submission Questionnaire, is complete, accurate and correct, and that any misrepresentation, inaccuracy of falseness in such certification will render this Agreement null and void and Seller will have the obligation to reimburse immediately to Buyer any amounts, payments or benefits received from Buyer under this Agreement.

5.16 Exclusive Representations and Warranties. Except for the representations and warranties contained in this Article V and Section 9.5(b) (as modified by the Schedules), neither Seller nor any other Person on its behalf makes any express or implied representation or warranty including any representation or warranty as to the accuracy or completeness of any information regarding Seller or the Acquired Assets furnished or made available to Buyer in expectation of the transactions contemplated hereby, and Seller disclaims any other representations or warranties, express or implied, whether made by Seller or any other Person, with respect thereto.

ARTICLE VI REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer hereby represents and warrants to Seller that that the statements contained in this ARTICLE VI are true and correct as of the date hereof (except for representations and warranties

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that speak as of a specific date, in which case such representations and warranties are true and correct as of such date) that:

6.1 Organization. Buyer is a public corporation and governmental instrumentality of the Commonwealth, created by Act No. 83 of the Legislative Assembly of Puerto Rico, enacted on May 2, 1941, as amended.

6.2 Authority; Binding Effect.

(a) Buyer has all requisite power and authority to (i) enter into this Agreement and the Transaction Documents to which it is or will be a party, (ii) carry out its obligations hereunder or thereunder, and (iii) consummate the Transactions. The foregoing has been duly authorized by all necessary action by Buyer, as evidenced in the resolutions adopted by Buyer's governing board (collectively, the "Buyer Transaction Approvals"), a certified copy of which Buyer has delivered to Seller. The Buyer Transaction Approvals constitute all requisite action for the authorization, execution and delivery of this Agreement and the Transaction Documents by Buyer and the performance by Buyer of the Transactions, and such approvals have not been revoked, rescinded or amended.

(b) This Agreement and each of the Transaction Documents to which Buyer is a party has been duly executed and delivered by Buyer, valid and, assuming the due authorization, execution and delivery by Seller and any other parties hereto and thereto, this Agreement and the Transaction Documents, constitute valid and binding obligations of Buyer, enforceable against Buyer in accordance with their respective terms, except as such enforceability may be subject to applicable bankruptcy, reorganization, insolvency, moratorium and similar Laws affecting the enforcement of creditors' rights generally.

(c) No approval of the Title III Court is required for Buyer to enter into the Transaction Documents.

6.3 Non-Contravention; Consents.

(a) Except as set forth on Schedule 6.3(a), neither the execution and delivery by Buyer of this Agreement and the Transaction Documents to which Buyer is a party, nor the consummation by Buyer of the Transactions will constitute a violation of, or be in conflict with, or constitute or create a default or accelerate or adversely affect any obligations under, or require the consent of any other Person under (i) any Contract to which Buyer is a party or by which Buyer is bound or subject; (ii) Buyer's Charter Documents; or (iii) any Law or Order to which Buyer is subject.

(b) Except as set forth on Schedule 6.3(b), no consent, declaration or filing with, or notice to, any Governmental Authority is required by, or with respect to, Buyer in connection with the execution and delivery of this Agreement and the Transaction Documents to which Buyer is a party, the performance by Buyer of its obligations hereunder and thereunder or the purchase of the Acquired Assets by Buyer.

6.4 Litigation. There are no Claims pending or, to Buyer's Knowledge, threatened that (i) challenge or seek to prevent, enjoin or otherwise impair or delay Buyer's ability to perform its obligations under this Agreement or any other Transaction Document to which it is a party or

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complete the Transactions; or (ii) that question the validity of this Agreement or any other Transaction Document or of any action taken or to be taken by Buyer pursuant to or in connection with the provisions of this Agreement or the Transaction Documents.

6.5 Brokers. No finder, broker, agent, or other intermediary has acted for or on behalf of Buyer in connection with the negotiation, preparation, execution, or delivery of this Agreement or the consummation of the Transactions.

6.6 Acknowledgement. Buyer acknowledges that Seller is (i) an Affiliate of NFEnergia LLC that is a party to the Fuel Sale and Purchase Agreement, and (ii) an Affiliate of Genera that is a party to the Operation and Maintenance Agreement.

6.7 Sufficiency of Funds. As of the date of this Agreement, Buyer has received a commitment from the Federal Emergency Management Agency to provide funding to Buyer in an amount equal to 90% of the Purchase Price (the “FEMA Funding”). As of the date of this Agreement, Buyer has available cash and other sources of immediately available funds sufficient to make the Closing Date Payment to Seller pursuant to Section 4.2(a)(i).

6.8 Opportunity for Independent Investigation. Buyer (i) agrees and acknowledges that it has been afforded an opportunity to access the San Juan PP and the Palo Alto PP and observe the Acquired Assets and to conduct an independent due diligence investigation of such Acquired Assets and the Closing is not conditioned on it conducting further due diligence, and (ii) hereby acknowledges that it has reached its own independent conclusions regarding the Acquired Assets, the merits and risks of the Acquired Assets, ownership and operation thereof and its obligations hereunder, and that it has relied solely upon its own investigation, review and analysis and has not relied on and is not relying on any representation, warranty or other statement made by Seller in entering into this Agreement, except for the representations and warranties expressly set forth in Article V and Section 9.5(b) of this Agreement.

6.9 Exclusive Representations and Warranties. Except for the representations and warranties contained in this ARTICLE VI, Buyer has not made and does not make any other express or implied representation or warranty, including any representation or warranty as to the accuracy or completeness of any information regarding Buyer furnished or made available to Seller in expectation of the transactions contemplated hereby, and Buyer disclaims any other representations or warranties, expressed or implied whether made by Buyer or any other Person, with respect thereto.

ARTICLE VII CERTAIN COVENANTS

7.1 Books and Records. Buyer agrees that, for a period of six years following the Closing Date, it will use commercially reasonable efforts to cooperate with and make available to Seller and its representatives for reviewing and making copies or taking extracts, upon reasonable notice and during normal business hours, books and records and information of or relating to the Acquired Assets or Assumed Liabilities which are necessary or useful in connection with any Claim by a Governmental Authority, or any claim by or against a third party involving the Acquired Assets or Assumed Liabilities; *provided, that*, Buyer shall not be required to make available any

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During the period from the date of this Agreement and continuing until the earlier of the termination of this Agreement or the Closing Date (the “Pre-Closing Period”), with respect to the Acquired Assets only, Seller shall use its commercially reasonable efforts (except to the extent that Buyer shall otherwise consent in writing) to:⁷⁴ operate the Power Generation Equipment in the usual and ordinary course consistent with past practices;⁷⁵ maintain books, accounts and records relating to the Acquired Assets in accordance with past custom and practice in all material respects; and⁷⁶ promptly notify Buyer of any Material Adverse Effect with respect to the Acquired Assets.⁷⁷ During the Pre-Closing Period, with respect to the Acquired Assets only, Seller will not (except to the extent that Buyer shall otherwise consent in writing):⁷⁸ sell, lease, pledge, abandon, assign or otherwise dispose of any Acquired Assets, except (x) sales or other dispositions of inventory and supplies in the ordinary course of business consistent with past practice, or (y) if any of the Acquired Assets is worn and obsolete, provided that such asset shall be replaced with a similar asset that is new prior to Closing;⁷⁹ commence, settle or propose to settle any Claim related to an Acquired Asset or that would result in an Assumed Liability, or otherwise negatively impact or materially diminish the value of the Acquired Assets or impair title thereto, or would impose any restrictions or limitations upon the operation of the Acquired Assets following the Closing;⁸⁰ terminate, let lapse or materially amend or modify any insurance policy maintained by Seller in connection with the Acquired Assets unless such policy is replaced by a reasonably comparable policy;⁸¹

⁷⁵ accelerate, terminate, cancel, renew, amend, grant a waiver under or otherwise modify any Material Contract;⁸² make any commitment with respect to capital expenditures that would constitute an Assumed Liability;⁸³ grant or suffer to exist any Encumbrance, other than any Permitted Encumbrances, on any of the Acquired Assets;⁸⁴ incur, assume or guarantee any indebtedness for borrowed money in connection with the Acquired Assets that would constitute an Assumed Liability;⁸⁵

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information, books or records, the disclosure of which would cause a waiver of any applicable privilege or breach of an obligation of confidentiality to a third party, and Buyer may make access to such information, books and records conditioned upon execution and delivery of a confidentiality agreement reasonably satisfactory to Seller. Further, after the Closing, Buyer shall grant to Seller the access and right to make copies or take extracts as described in the preceding sentence for such other purpose as may be reasonably requested by Seller. Seller shall bear all out of pocket costs and expenses of Buyer reasonably incurred in connection therewith.

7.2 Confidentiality. During the period from the date of this Agreement and continuing until two years ~~thereafter~~, each Party agrees to (and to cause its Affiliates and direct its representatives to) maintain in confidence any non-public information received from the other Party (or any of its Affiliates or representatives), and to use such non-public information only for purposes of consummating the Transaction. Such confidentiality obligations will not apply to: (i) information which was known to one Party or its Affiliates or representatives prior to receipt from the Buyer, on the one hand, or Seller on the other hand, as applicable; (ii) information which is or becomes generally known to the public without breach of this Agreement or an existing obligation of confidentiality; (iii) information acquired by a Party or its Affiliates or representatives from a third party who was not bound to an obligation of confidentiality; (iv) information developed by such Party independently without any reliance on the non-public information received from any other Party; or (v) disclosure required by applicable Law or Order, including applicable rules of any securities exchange. In the event that Seller or any of its Affiliates are required by any applicable Law or Order to disclose any such non-public information, Seller shall, ~~(A)~~ to the extent permissible by such applicable Law or Order, provide Buyer with prompt written notice of such requirement, ~~(B)~~ disclose only that information that Seller determines (with the advice of counsel) is required by such applicable Law or Order to be disclosed, and ~~(C)~~ use reasonable efforts to preserve the confidentiality of such non-public information, including by, at Buyer's request, reasonably cooperating with Buyer to obtain an appropriate protective order or other reliable assurance that confidential treatment will be accorded such non-public information.

7.3 Public Announcements. At all times, neither Party shall make any press release or otherwise make any public statements, directly or indirectly, with respect to any terms, conditions or other aspect of this Agreement and the Transactions without the other Party's prior written consent, which consent may not be unreasonably withheld, delayed or conditioned. To the extent disclosure is required by applicable Law or the rules of any stock exchange, the Party seeking to make such disclosure shall provide prompt notice to the other Party, and shall provide an opportunity for the other Party to review and comment on any such public statement.

7.4 Further Assurances. Following the Closing, each Party, at the request of the other Party, will promptly execute and deliver, or cause to be so executed and delivered, such documents to the other Party and take such further action as the other Party may deem reasonably necessary or desirable to facilitate or better evidence the completion of the Transactions.

7.5 Asset Expense Proration. Other than with respect to Taxes, which shall be governed by Section 7.6, Buyer and Seller shall prorate the expenses or other payment obligations related to the ownership and maintenance of the Acquired Assets such that (a) Seller shall be liable for all such expenses and other payment obligations (the "Pre-Closing Expenses"), with respect to all periods on or prior to the Closing, and Buyer shall be liable for all such expenses and other payment

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Deleted: <#>Efforts to Complete. Subject to the terms and conditions of this Agreement, each Party shall use all commercially reasonable efforts to take, or to cause to be taken, all action and to do, or to cause to be done, all things necessary, proper or advisable to complete, as promptly as practicable, the Transactions, including the satisfaction of the conditions listed in Article VIII that are within the control of such Party and, in the case of Buyer, satisfaction of the Funding Trigger Date. Each Party shall cooperate fully with the other Party in assisting such Party to comply with this Section. Notwithstanding anything herein to the contrary, no Party shall be required to initiate any litigation, to make any commercially unreasonable payment or to incur any commercially unreasonable burden (economic or otherwise), in connection with the satisfaction of the conditions listed in Article VIII, provided that Buyer shall be required to comply with Section 7.14.

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The Parties will, in order to consummate the Transactions, proceed diligently and in good faith and use their commercially reasonable efforts, as promptly as practicable, to (i) obtain all necessary or appropriate Consents and Permits required in order to consummate the Transactions, including the No-Action Assurance Letter, and with respect to Buyer, the appropriate approvals from the PREB and the FOMB for Buyer to proceed with the Transactions and (ii) provide such information and communications to the relevant Governmental Authorities or other Persons as such Governmental Authorities or other Persons may reasonably request in connection therewith.

The Parties will provide prompt notification to each other when any such Consent or Permit referred to in this Section 7.8 is obtained, taken, made, given or denied, as applicable, and will advise each other of any material communications with any Governmental Authority or other Person regarding any of the Transactions.

In furtherance of the foregoing:

Each Party shall prepare (or finalize), as soon as is practical following the execution of this Agreement, all necessary filings in connection with the Transactions that may be required by any relevant Governmental Authority or under any applicable federal, state or local Laws.

The Parties shall, to the extent permitted by applicable Law, request expedited treatment of any such filings, shall promptly furnish each other with copies of any notices, correspondence or other written communication from the relevant Governmental Authority related to such filings or the Transactions, shall promptly make any appropriate or necessary subsequent or supplemental filings and shall

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obligations (the “Post-Closing Expenses” and together with the Pre-Closing Expenses, the “Asset Expenses”) with respect to all periods after the Closing, and (b) Seller shall make all applicable payments and filings for Asset Expenses due on or before the Closing, and Buyer shall make all applicable payments and filings for Asset Expenses due after the Closing. After the Closing, Buyer shall reimburse Seller for any Post-Closing Expenses paid by Seller and Seller shall reimburse Buyer for any Pre-Closing Expenses paid by Buyer. In the event either Party pays any Asset Expenses which are a Liability of the other Party pursuant to this Agreement, the obligated Party shall reimburse the paying Party within thirty (30) days of demand by the paying Party. Buyer and Seller shall cooperate and shall furnish each other with such documents and other records as may be reasonably requested in order to confirm all proration calculations made pursuant to this Section 7.5. Nothing in this Section 7.5 shall modify any rights or obligations under the Energy Services Agreement for Power Generation Services, the Operation and Maintenance Agreement or the Fuel Sale and Purchase Agreement of the Persons (or their affiliates) party thereto, nor shall any payments thereunder constitute Asset Expenses.

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7.6 Tax Matters.

(a) PRPP Taxes. Seller shall be allocated, bear and pay those certain PRPP Taxes that (absent extensions) become due and payable on May 15, in the year in which the Closing occurs and any PRPP Taxes that are due and payable prior to the Closing.

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(b) Asset Taxes. Seller shall be allocated, bear and pay any Asset Taxes attributable to a Pre-Closing Tax Period. For all purposes of this Agreement, in the case of any Straddle Period, (i) Asset Taxes attributable to the Pre-Closing Tax Period that are ad valorem, property or similar Asset Taxes imposed on a periodic basis shall be equal to the amount of such Asset Tax for the entire Straddle Period multiplied by a fraction, the numerator of which is the number of days during the Straddle Period that are in the Pre-Closing Tax Period and the denominator of which is the number of days in the entire Straddle Period and (ii) Asset Taxes that are based upon or related to sales or receipts, imposed on a transactional basis or are otherwise not described in clause (i) above) shall be allocated to the period in which the transaction giving rise to such Asset Tax occurred.

(c) Tax Returns. Seller shall (i) prepare and timely file, or cause to be prepared and timely filed, all Tax Returns required to be filed by Seller with respect to Asset Taxes and PRPP Taxes, and (ii) timely pay, or cause to be timely paid, in full all such Taxes due and payable on such Tax Returns, in each case, under or pursuant to the law of the applicable taxing jurisdiction. To the extent applicable, Buyer shall (x) prepare and timely file, or cause to be prepared and timely filed, all Tax Returns required to be filed by Buyer (if any) with respect to Asset Taxes and PRPP Taxes, and (y) timely pay, or cause to be timely paid in full, all such Taxes due and payable on such Tax Returns, in each case, under or pursuant to the law of the applicable taxing jurisdiction. With respect to any Tax Returns required to be filed by Buyer that relate to a Pre-Closing Tax Period and could reasonably be expected to adversely affect Seller or any of its Affiliates, Buyer shall provide Seller with copies of all such Tax Returns no later than thirty (30) days prior to the due date for filing thereof (including applicable extensions) for Seller’s review, comment and approval (not to be unreasonably withheld, conditioned or delayed), and Buyer shall incorporate any of Seller’s reasonable comments. The Parties agree that this Section 7.6(c) is intended to solely address the Tax Return filing responsibility relating to Asset Taxes and PRPP Taxes and

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shall not be interpreted as altering the manner in which Asset Taxes and PRPP Taxes are allocated to and economically borne by the Parties (except for any penalties, interest or additions to Tax imposed as a result of any breach by Buyer or Seller of its obligations under this Section 7.6(c), which shall be borne by the Party in breach), which is addressed exclusively in Section 7.6(a) and Section 7.6(b).

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(d) Tax Contests. With respect to any PRPP Taxes and Asset Taxes for which Seller is responsible under Section 7.6(a) and Section 7.6(b), respectively, Seller shall have the option, at its sole cost and expense, to control the prosecution, settlement or compromise of any proceeding involving such Taxes in a Tax Contest (as defined below); *provided*, that Seller shall keep Buyer reasonably informed of the status of any such Tax Contest and, if any such Tax Contest could reasonably be expected to **adversely** affect Buyer or any of its Affiliates, Seller shall not settle or compromise such Tax Contest without the prior written consent of Buyer (not to be unreasonably withheld, conditioned or delayed). Buyer shall give written notice to Seller of its receipt of any notice of any audit, examination, claim or assessment for any Tax for which Seller is responsible (each, a “Tax Contest”) within twenty (20) Business Days after its receipt of such notice; *provided* that failure to give any such written notice within such twenty (20) Business Day period shall limit Seller’s indemnification obligation pursuant to this Agreement to the extent Seller is actually and materially prejudiced by such failure. If Seller fails to assume control of any Tax Contest which it has the right to control pursuant to this Section 7.6(d) within a reasonable period of time following the receipt of notice of such Tax Contest, Buyer shall have the sole right to control such Tax Contest.

(e) Cooperation. Seller shall grant to Buyer (or its designees) access at all reasonable times to all of the information, books and records relating to the Acquired Assets within the possession of Seller that are not transferred to Buyer (including workpapers and correspondence with Taxing Authorities), and shall afford Buyer (or its designees) the right (at Buyer’s expense) to take extracts therefrom and to make copies thereof, to the extent reasonably necessary to permit Buyer (or its designees) to prepare Tax Returns, respond to Tax audits and investigations, prosecute Tax protests, appeals and refund claims and to conduct negotiations with Tax Authorities, in each case, relating to the Acquired Assets. Buyer shall grant to Seller (or its designees) access at all reasonable times to all of the information, books and records relating to the Acquired Assets for taxable periods and portions of taxable periods through the Closing Date within the possession of Buyer (including workpapers and correspondence with Tax Authorities), and shall afford Seller (or its designees) the right (at Seller’s expense) to take extracts therefrom and to make copies thereof, to the extent reasonably necessary to permit Seller (or its designees) to prepare Tax Returns, respond to Tax audits and investigations, prosecute Tax protests, appeals and refund claims and to conduct negotiations with Tax Authorities, in each case, relating to the Acquired Assets. After the Closing Date, the Parties will preserve all information, records or documents in their respective possessions relating to tax periods beginning prior to Closing until six (6) months after the expiration of any applicable statute of limitations (including extensions thereof) with respect to the assessment of such Taxes.

(f) Tax Refunds. Seller shall be entitled to any and all cash refunds of PRPP Taxes and Asset Taxes for which Seller is responsible under Section 7.6(a) and Section 7.6(b), respectively, and Buyer shall be entitled to any and all cash refunds of PRPP Taxes and Asset Taxes for which Buyer is responsible under Section 7.6(a) and Section 7.6(b), respectively. If a

Party or its Affiliate receives a refund of PRPP Taxes or Asset Taxes to which the other Party is entitled pursuant to this Section 7.6(f), such recipient Party shall forward to the entitled Party the amount of such refund within thirty (30) days after such refund is received, net of any reasonable costs or expenses (including Taxes) incurred by such recipient Party in procuring such refund.

7.7 Transfer Taxes and Transaction Expenses.

(a) The Parties do not expect the transactions contemplated by this Agreement to result in any Transfer Taxes; *provided*, that to the extent that any Transfer Taxes are payable by reason of the sale or transfer of the Acquired Assets under this Agreement, each of Seller and Buyer shall bear half of the cost of such Transfer Taxes. To the extent not required by applicable Law to be filed by Buyer, Seller shall file all necessary documents (including all Tax Returns) with respect to all such amounts in a timely manner. Seller and Buyer shall reasonably cooperate in good faith to minimize, to the extent permissible under applicable Law, the amount of any such Transfer Taxes. Notwithstanding the foregoing, this Section 7.7(a) shall not cause Buyer to be liable for any amount in excess of the amount committed by FEMA for the transactions described by this Agreement.

(b) To the extent any filings fees and third party costs required in order to consummate the Transaction are incurred in connection with obtaining any Consents and Permits of Governmental Authorities, such filings fees and third party costs shall be borne entirely by Buyer, and Buyer shall indemnify, defend, reimburse and hold harmless Seller against any such filings fees and third party costs.

(c) Whether or not the Transactions are consummated, each Party shall (except as otherwise specified in this Section 7.7) pay its own fees and expenses incident to the negotiation, preparation, execution, delivery and performance hereof, including the fees and expenses of its counsel, accountants and other experts and any broker or finder engaged or alleged to have been engaged by such Party.

7.8 Delivery of Acquired Assets. Seller shall cause any Encumbrances on the Acquired Assets (other than Permitted Encumbrances) to be released, discharged and terminated in full prior to the Closing, and shall deliver to Buyer all of the Acquired Assets free and clear of any such Encumbrances (other than Permitted Encumbrances).

7.9 Funding.

(a) Buyer shall use its best efforts to take or cause to be taken, all actions, and do, or cause to be done, all things necessary, proper or advisable to obtain funds pursuant to the FEMA Funding to pay the Deferred Payment pursuant to Section 3.1(b)(ii), including by (i) maintaining in effect the commitments with FEMA to provide the FEMA Funding (the "Funding Commitment") and (ii) satisfying on a timely basis all conditions in the Funding Commitment and complying with its obligations thereunder. Buyer shall take all actions necessary to enforce its rights under the Funding Commitment in a timely and diligent manner. Without limiting the generality of the foregoing, Buyer shall take all actions necessary to cause FEMA to comply with their respective obligations thereunder, including to fund the FEMA Funding in accordance with the terms thereof (including by promptly commencing a litigation proceeding to compel such

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(i) If any one or more Event(s) of Loss occurs, and the aggregate cost of restoring the Acquired Assets damaged or destroyed by such Event(s) of Loss to a condition reasonably comparable to their prior condition, less any insurance proceeds received by, or payable to, Seller in connection with such Event(s) of Loss (provided, that any insurance proceeds received or payable in connection with such Event(s) of Loss are either used to restore, repair or replace the Acquired Assets that have been damaged, or shall be made available to Buyer at the Closing) exceeds two p... [7]

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breaching party to provide its portion of the **FEMA** Funding in accordance with the terms thereof or otherwise comply with its obligations under the Funding **Commitment**).

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(b) Buyer shall not without the prior written consent of Seller: (A) permit any amendment, replacement, supplement or modification to, or any waiver of any provision or remedy under, the Funding Commitment; or (B) terminate **the** Funding Commitment.

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(c) Buyer shall provide Seller with prompt written notice of any actual or threatened breach, default, termination or repudiation by any party to **the** Funding Commitment of which Buyer becomes aware and a copy of any written notice or other written communication received by Buyer from any financing source with respect to any actual or threatened breach, default, termination or repudiation by any party to **the** Funding Commitment of any provision thereof. Buyer shall inform Seller in reasonable detail on a current basis of the status of its efforts to consummate the **FEMA** Funding.

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7.10 **Disclaimers**

(a) **IT IS THE EXPLICIT INTENT AND UNDERSTANDING OF EACH PARTY HERETO THAT NO PARTY HERETO OR ANY OF SUCH PARTY'S AFFILIATES, REPRESENTATIVES OR AGENTS IS MAKING ANY REPRESENTATION OR WARRANTY WHATSOEVER, ORAL OR WRITTEN, EXPRESS OR IMPLIED, OTHER THAN THOSE SET FORTH IN THIS AGREEMENT. EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES SPECIFICALLY SET FORTH IN THIS AGREEMENT, THE PARTIES EXPRESSLY DISCLAIM ALL OTHER REPRESENTATIONS AND WARRANTIES OF ANY KIND OR NATURE EXPRESSED OR IMPLIED. NEITHER SELLER NOR ANY OTHER PERSON WILL HAVE OR BE SUBJECT TO ANY LIABILITY TO BUYER OR ANY OTHER PERSON RESULTING FROM THE DISTRIBUTION TO BUYER, OR THE BUYER'S USE OF, ANY INFORMATION NOT CONTAINED IN THIS AGREEMENT (INCLUDING ANY OFFERING MEMORANDUM, BROCHURE OR OTHER PUBLICATION PROVIDED TO BUYER, OR ANY OTHER DOCUMENT OR INFORMATION PROVIDED TO BUYER IN CONNECTION WITH THE SALE OF THE ACQUIRED ASSETS). SELLER MAKES NO REPRESENTATION, WARRANTY OR COVENANT OF ANY KIND WITH RESPECT TO ANY PROJECTIONS, ESTIMATES OR BUDGETS HERETOFORE DELIVERED TO OR MADE AVAILABLE TO BUYER OF FUTURE REVENUES, EXPENSES OR EXPENDITURES, FUTURE RESULTS OF OPERATIONS (OR ANY COMPONENT THEREOF), FUTURE CASH FLOWS OR THE FUTURE FINANCIAL CONDITION (OR ANY COMPONENT THEREOF) OF THE ACQUIRED ASSETS OR THE FUTURE BUSINESS AND OPERATIONS OF BUYER AFTER GIVING EFFECT TO THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT.**

Deleted: **<#>Repair of Out of Service CT.** [Seller will complete the Required Repair of the Unit Under Repair to at Seller's expense and under Seller's control. Seller will use commercially reasonable efforts to complete such Required Repair before Closing if feasible and if not completed prior to Closing will use commercially reasonable efforts to complete such repairs as promptly as reasonably possible. The Required Repair shall be under the control of Seller. Buyer may inspect such repairs at its own expense pursuant to Section 7.2, but such Required Repair shall be deemed completed if the service provider has provided standard certifications that such Required Repair has been completed.]⁸⁹

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(b) EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN, THE ACQUIRED ASSETS ARE BEING TRANSFERRED THROUGH THE SALE OF THE ACQUIRED ASSETS ON AN "AS IS, WHERE IS" BASIS AND, EXCEPT AS EXPRESSLY PROVIDED IN ARTICLE V **AND SECTION 9.5(B)**, SELLER EXPRESSLY DISCLAIMS ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND OR NATURE, EXPRESS OR IMPLIED, AS TO THE CONDITION, VALUE, QUALITY OR THE PROSPECTS (FINANCIAL OR OTHERWISE), RISKS AND OTHER INCIDENTS OF THE ACQUIRED

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ASSETS. ADDITIONALLY, EXCEPT AS EXPRESSLY PROVIDED IN ARTICLE V, AND SECTION 9.5(B), SELLER SPECIFICALLY DISCLAIMS ANY REPRESENTATION OR WARRANTY OF MERCHANTABILITY, USAGE, SUITABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE.

7.11 Purchase Option.

(a) Seller grants to Buyer and its successors and assigns, an absolute, exclusive and irrevocable right (the "Purchase Option") to acquire, free and clear of Encumbrances, claims and other interests (except for Permitted Encumbrances), one or more Additional Units.

(b) Buyer may exercise the Purchase Option at any time following the Closing Date until (and including) the Purchase Option Expiration Date. To exercise the Purchase Option, Buyer shall deliver written notice to Seller specifying (i) the date of closing of the purchase (the "Purchase Option Closing Date"), which shall occur on a date mutually agreed by Seller and Buyer, but not more than 90 days from the date of such notice and (ii) the Additional Units to be acquired (the "Acquired Additional Units"). For the avoidance of doubt, Buyer may only elect to exercise the Purchase Option once.

(c) In consideration of the transfer of the Acquired Additional Units, Buyer shall pay to Seller the Purchase Option Purchase Price in immediately available funds on the Purchase Option Closing Date. For the avoidance of doubt, the Purchase Option Purchase Price includes the cost for (i) demobilizing and decommissioning the Non-Acquired Units on Site and (ii) the installation and commissioning of the Acquired Additional Units, which in the case of each of clauses (i) and (ii) shall be undertaken by Seller at its sole cost and expense and be finalized by the Purchase Option Closing Date.

(d) The purchase of the Acquired Additional Units shall be pursuant to an agreement to be entered into by the Parties in substantially similar form to this Agreement, including as it relates to representation and warranties and indemnities, on the Purchase Option Closing Date (or on such other date that the Parties may agree in writing).

(e) In the event that Buyer does not exercise the Purchase Option by the Purchase Option Expiration Date, Buyer and Seller shall discuss in good faith new arrangements for the treatment of the Non-Acquired Units on Site; provided, that if Buyer and Seller cannot come to mutual agreement on such new arrangements, Seller shall, at its own cost and expense, demobilize and decommission the Non-Acquired Units on Site by no later than 180 days following the Purchase Option Expiration Date. Buyer shall provide Seller with reasonable access to the property and the Non-Acquired Units on Site for the purposes of conducting the demobilizing and decommissioning of the Non-Acquired Units on Site and the installation and commissioning of the Acquired Additional Units pursuant to this Section 7.11.

ARTICLE VIII INDEMNIFICATION

8.1 Survival of Representations, Warranties and Covenants.

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CONDITIONS TO OBLIGATIONS OF BUYER AND SELLER
Conditions to the Obligations of Each Party. The obligations of the Parties to proceed with the Closing are subject to the satisfaction on or prior to the Closing Date of all of the following conditions, any one or more of which may be waived in writing, in whole or in part, as to a Party by such Party:⁹²⁹³

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FEMA Funding and Other Sources of Funding. Buyer shall have received from FEMA and [•]⁹⁴ an amount of immediately available funds equal to the Purchase Price. ¶
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Conditions to the Obligations of Buyer. The obligations of Buyer to proceed with the Closing are subject to the satisfaction, at or before the Closing, of all the conditions set forth in this Section 8.2. Buyer may waive any or all of such conditions in whole or in part without prior notice. No such waiver of a condition shall, however, constitute a waiver by Buyer of any of its other rights or remedies if Seller shall breach or be in default under any of its representations, warranties or covenants made under or pursuant to this Agreement. ¶
Accuracy of Representations and Warranties. ¶
The representations and warranties made by Seller in Article V of this Agreement (other than the Selling [... [10]

Deleted: representations and warranties made by Buyer in this Agreement (other than the Buyer Fundamental Representations) shall be true and correct (without giving effect to any materiality qualification or standard contained in any such representation or [... [11]

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Buyer's Performance. Buyer shall have performed, satisfied and complied (i) in all respects with all [... [12]

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(a) Seller's Representations. The representations and warranties of Seller and Parent set forth in this Agreement and any certificate delivered in connection herewith, shall survive the Closing until the twelve (12) months' anniversary of the Closing Date, except that (i) the Selling Parties Fundamental Representations (other than the representations and warranties set forth in Section 5.6 (Condition, Ownership and Sufficiency of Assets), which shall survive until the twelve (12) months' anniversary of the Closing Date) shall survive the Closing until the earlier of five (5) years following the Closing Date and the expiration of the applicable statute of limitations, and (ii) the representations and warranties of Seller set forth in Section 5.11 (Taxes), shall survive the Closing until the applicable statute of limitation plus sixty (60) days with respect to the matters covered thereby.

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(b) Buyer's Representations. The representations and warranties of Buyer set forth in this Agreement and any certificate delivered in connection herewith, shall survive the Closing until the twelve (12) months' anniversary of the Closing Date, except that the representations and warranties of Buyer set forth in Sections 6.1 (Organization), 6.2 (Authority), and 6.5 (Brokers) (collectively, the "Buyer Fundamental Representations"), shall survive the Closing until the earlier of five (5) years following the Closing Date and the expiration of the applicable statute of limitations.

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(c) Covenants of Seller and Buyer. The respective covenants, agreements and obligations of Seller and Buyer set forth in this Agreement, any Transaction Document or any certificate or other instrument delivered by or on behalf of a Party pursuant to this Agreement to be performed at or prior to the Closing shall terminate at, and not survive, the Closing. The respective covenants, agreements and obligations of Seller and Buyer set forth in this Agreement, any Transaction Document or any certificate or other instrument delivered by or on behalf of a Party pursuant to this Agreement to be performed after the Closing Date shall survive until performed in accordance with their respective terms.

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(d) Notice of Claim. No claim for a breach of a representation or warranty, or covenant, may be made or brought by any Party after the expiration of the applicable survival period unless such claim has been asserted in good faith by delivery of proper written notice, specifying the reasonable details of the claim, on or prior to the expiration of the applicable survival period hereunder, in which case such claim shall survive until such claim is fully and finally resolved, irrespective of whether the party delivering such notice has initiated any legal proceeding or otherwise taken any further action in connection with the matters constituting the basis for such claim.

8.2 Indemnity by Seller. Following the Closing, Seller will indemnify, defend and hold harmless Buyer and its Affiliates and each of their respective officers, directors, employees, attorneys, agents, successors and assigns (the "Buyer Indemnified Parties") from and with respect to, and compensate or reimburse the Buyer Indemnified Parties for, any and all Losses actually suffered or incurred as a result of any of the following:

(a) the inaccuracy of any representation or warranty of Seller set forth in Article V or of Parent set forth in Section 9.5(b) of this Agreement or in any certificate delivered by Seller in connection herewith at the Closing;

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(b) the breach by Seller of any covenant, agreement or obligation of Seller set forth in this Agreement or any Transaction Document;

(c) any Liability for Pre-Closing Taxes; or

(d) any Excluded Liability.

8.3 Indemnity by Buyer. Following the Closing, Buyer will indemnify, defend and hold harmless Seller and its Affiliates, and each of their respective officers, directors, employees, attorneys, agents, successors and assigns (the “Seller Indemnified Group”) from and with respect to, and compensate or reimburse the Seller Indemnified Group for, any and all Losses actually suffered or incurred as a result of any of the following:

(a) the inaccuracy of any representation or warranty of Buyer set forth in Article VI of this Agreement or in any certificate delivered by Buyer in connection herewith at the Closing;

(b) the breach by Buyer of any covenant, agreement or obligation of Buyer set forth in this Agreement or any Transaction Document;

(c) all Claims brought against Seller relating to the transactions contemplated by this Agreement by any creditor or other Person in connection with or related to the Title III Case, and all reasonable and documented expenses (including reasonable attorney’s fees) incurred by Seller in connection with such Claims;

(d) all reasonable and documented expenses (including reasonable attorney’s fees) incurred by Seller in connection with the collection of the Deferred Payment and the enforcement of Seller’s rights under Section 3.1(b)(ii); or

(e) any Assumed Liability.

8.4 Limitations on Indemnification.

(a) Deductible and De-Minimis. No Claim may be made by an Indemnified Party for indemnification pursuant to Section 8.2(a) or Section 8.3(a), as applicable, unless and until:

(i) the aggregate amount of all Losses for which the Indemnified Party seeks to be indemnified exceeds \$3,000,000 (the “Deductible”), at which time the Indemnified Party shall be entitled to indemnification for all such Losses in excess of the Deductible; provided, that Claims arising from any inaccuracy of a Selling Parties Fundamental Representation or a Buyer Fundamental Representation shall not be subject to the Deductible; and

(ii) solely with respect to Claims that may be made for indemnification pursuant to any inaccuracy of Section 5.6 (Condition, Ownership and Sufficiency of Assets), and notwithstanding that the Deductible shall not apply to such Claims, the individual Loss sought to be indemnified pursuant to an inaccuracy of Section 5.6 (Condition, Ownership and Sufficiency of Assets) exceeds \$21,000 (the “De Minimis”), at which time the

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Seller’s exercise of the access to the books and records pursuant to Section 7.3;

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Indemnified Party shall be entitled to indemnification for all Losses in respect of such individual Loss in excess of the De Minimis.

(b) **Caps.** An Indemnified Party shall not be entitled to recover damages from the Indemnifying Party pursuant to Sections 8.2 or 8.3, as applicable:

(i) to the extent the aggregate Losses indemnifiable under Section 8.2(a) or Section 8.3(a), as applicable, exceed ten percent (10%) of the Purchase Price, except in respect of any Selling Parties Fundamental Representations or Buyer Fundamental Representations; and

(ii) to the extent the aggregate Losses indemnifiable under Section 8.2 or Section 8.3, as applicable, exceed one hundred percent (100%) of the Purchase Price.

(c) The amount of any Losses shall be reduced by the amount of any insurance proceeds the Indemnified Party actually recovers and any amounts such Indemnified Party actually recovers from any other third parties with respect to such Losses. Each Indemnified Party shall use commercially reasonable efforts to make and pursue (or cause its Affiliates to make and pursue) any available insurance claims relating to any Loss for which it is seeking indemnification hereunder. In the event that an insurance or other recovery is made by any applicable Indemnified Party with respect to any Losses for which any such Person has been indemnified hereunder, then a refund equal to the aggregate amount of the recovery shall be made promptly to the applicable Indemnifying Party.

(d) Each Party shall take and shall cause its Affiliates to take all commercially reasonable steps to mitigate any Losses subject to indemnification under this Agreement.

(e) In no event may an Indemnified Party have a “double recovery” with respect to the same Losses (including, for the avoidance of doubt, pursuant to Section 2.1(e)).

(f) Seller shall have no liability under this Agreement with respect to breaches of Section 5.7(c) including for Remediation to the extent arising out of Releases of Hazardous Materials that occurred prior to the installation and operation of the Power Generation Equipment, or that arise from Buyers operations.

(g) Notwithstanding anything to the contrary in this Article VIII, nothing in this ARTICLE VIII shall limit (i) the rights or remedies (including any amount to be recovered, which shall not be limited to 100% of the Purchase Price) of any Person under this Agreement based upon or in connection with Fraud, (ii) either Party’s right to bring claims based on Fraud at any time following the Closing Date (which such right shall survive indefinitely or until the latest time permitted by applicable Law).

(h) For the purposes of determining whether a breach of representation or warranty has occurred for the purposes of Section 8.2(a) Section 8.3(a), and calculating the amount of Losses related thereto, any qualification as to materiality, Material Adverse Effect or any other similar qualification contained in Article V or Section 9.5(b) of this Agreement or in any certificate or other instrument delivered by or on behalf of Seller pursuant to this Agreement shall be disregarded

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(it being understood that the word “material” or “Material” in the defined term “Material Contract(s)” and “Material Adverse Effect” shall not be disregarded for any of such purposes).

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(i) The Parties shall treat any payments made pursuant to this Article VIII as adjustments to the Purchase Price for U.S. federal, state, local or foreign income Tax purposes, unless otherwise required by applicable Law.

8.5 Indemnification Process.

(a) All Claims by any Indemnified Party under this Article VIII shall be asserted and resolved as set forth in this Section 8.5.

(b) The Indemnified Party shall give written notice to the Indemnifying Party in the event that (i) any Claim is asserted or instituted by any Person other than the parties to this Agreement that would reasonably be expected to give rise to Losses for which an Indemnifying Party could be liable to an Indemnified Party under this Agreement (such Claim, a “Third Party Claim”) or (ii) any Indemnified Party under this Agreement shall have a Claim to be indemnified by any Indemnifying Party under this Agreement that does not involve a Third Party Claim (such claim, a “Direct Claim”). In the event of a Third Party Claim or Direct Claim, the Indemnified Party shall with reasonable promptness send to the Indemnifying Party a written notice specifying the nature of such Third Party Claim or Direct Claim and the amount or estimated amount of the related Losses for which the Indemnified Party is seeking indemnity under this Agreement (a “Claim Notice”), *provided, that* the failure to so notify the Indemnifying Party shall not relieve the Indemnifying Party of its obligations hereunder except to the extent that (and only to the extent that) such failure shall have caused the Losses for which the Indemnified Party is obligated to be greater than such Losses would have been had the Indemnified Party given the Indemnifying Party prompt notice.

(c) In the event of a Third Party Claim, the Indemnifying Party shall be entitled to appoint counsel of the Indemnifying Party’s choice at the expense of the Indemnifying Party to represent the Indemnified Party and any others the Indemnifying Party may reasonably designate in connection with such Claim (in which case the Indemnifying Party shall not thereafter be responsible for the fees and expenses of any separate counsel retained by any Indemnified Party except as set forth below); *provided that* such counsel is reasonably acceptable to the Indemnified Party. Notwithstanding an Indemnifying Party’s election to appoint counsel to represent an Indemnified Party in connection with a Third Party Claim, an Indemnified Party shall have the right to participate in the defense of such Claim and to employ counsel of its choice for such purpose; *provided that* the fees and expenses of such separate counsel shall be borne by the Indemnified Party (other than any fees and expenses of such separate counsel that are incurred prior to the date the Indemnifying Party effectively assumes control of such defense which, notwithstanding the foregoing, shall be included in Losses (and borne by, the Indemnifying Party if such Claim is successful)). The Indemnifying Party shall not be entitled to assume control of such defense and the fees and expenses of counsel retained by the Indemnified Party shall be included in Losses (and borne by the Indemnifying Party if the Claim is successful) if (i) the Claim relates to or arises in connection with any criminal proceeding, action, indictment, allegation or investigation, (ii) the Indemnified Party reasonably believes an adverse determination with respect to the action, lawsuit, investigation, proceeding or other claim giving rise to such Claim would be

materially detrimental to the Indemnified Party's reputation or future business prospects or (iii) the Claim seeks an injunction or equitable relief against the Indemnified Party that would materially impact the operation or use of the Power Generation Equipment; *provided that* the Indemnified Party shall keep the Indemnifying Party apprised of any major developments relating to any such Claim. If the Indemnifying Party shall control the defense of any such Claim, the Indemnifying Party shall obtain the prior written consent of the Indemnified Party (which shall not be unreasonably withheld) before entering into any settlement of a Claim or ceasing to defend such Claim if, pursuant to or as a result of such settlement or cessation, (x) injunctive or other equitable relief will be imposed against the Indemnified Party, (y) the terms of such settlement impose requirements for materially increased capital expenditures and/or materially increased operating expenditures would be required in order to continue to operate the Power Generation Equipment at Net Electrical Output or (z) if such settlement does not expressly and unconditionally release the Indemnified Party from all Liabilities with respect to such Claim, with prejudice.

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(d) In the event of a Direct Claim, the Indemnifying Party shall notify the Indemnified Party within fifteen (15) Business Days following receipt of a Claim Notice as to whether or not the Indemnifying Party disputes such Direct Claim.

(e) From and after the delivery of a Claim Notice relating to a Third Party Claim, at the reasonable request of the Indemnifying Party, each Indemnified Party shall grant the Indemnifying Party and its representatives reasonable access to the books, records, personnel and properties of such Indemnified Party to the extent reasonably related to the matters to which the Third Party Claim relates. All such access shall be granted during normal business hours and under conditions that shall not interfere with the operations of such Indemnified Party. The Indemnifying Party shall not, and shall require that its representatives do not, use (except in connection with such Third Party Claim) or disclose to any third party other than the Indemnifying Party's representatives (except as may be required by applicable Law) any information obtained pursuant to this Section 8.5(e) that is designated as confidential by an Indemnified Party.

(f) To the extent the provisions of this Section 8.5 are inconsistent with Section 7.6(c), Section 7.6(c) shall control.

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8.6 Subrogation Rights; No Duplication.

(a) The Indemnifying Party required to make a payment under this Article VIII shall be subrogated, to the extent of such payment, to the rights of the entity to which such payment has been made for reimbursement or indemnification against third parties relating to the Claim on which such payment has been based.

(b) Notwithstanding anything in this Article VIII to the contrary, the obligations of the Indemnifying Party pursuant to this Article VIII shall be without duplication as between entities to which the Indemnifying Party is required to make payments.

8.7 Exclusivity of Indemnification. Except as otherwise expressly provided herein, the indemnification provisions of this Article VIII are intended to provide the sole and exclusive remedy as to all money damages that any Party may incur arising from or relating to the Transactions. Each Party hereby waives, to the extent that it may do so, any other rights or

remedies that may arise under any applicable Law; *provided, however*, that the foregoing shall not be interpreted to limit the types of remedies, including specific performance or other equitable remedies, which may be sought by an Indemnified Party in connection with a breach of a covenant or agreement contained herein.

ARTICLE IX GENERAL PROVISIONS

9.1 Notices. All notices and other communications hereunder and following the Closing shall be in writing and shall be deemed given if properly addressed: (i) if delivered personally, by commercial delivery service (with written acknowledgment of receipt by the intended recipient), on the day of delivery; or (ii) if delivered by internationally recognized courier (appropriately marked for next day delivery), one Business Day after sending; or (iii) if delivered by first class, registered or certified mail (return receipt requested), upon the date of delivery or the date of any refusal of delivery, as reflected on the return receipt; or (iv) if delivered by electronic mail or facsimile, upon the intended recipient's delivery of written acknowledgment of receipt. Notices shall be deemed to be properly addressed to any party hereto if addressed to the following addresses (or at such other address for a party as shall be specified by like notice):

(a) If to Seller:

NFE Power PR LLC
Attn: General Counsel
111 W 19th St, 8th Floor
New York, NY 10011
E-mail: legal@newfortressenergy.com

with a copy (which will not constitute notice) to:

Vinson & Elkins L.L.P.
Attn: Todd R. Triller; George C. Hopkins
1114 Avenue of the Americas
32nd Floor
New York, New York 10036
E-mail: ttriller@velaw.com; ghopkins@velaw.com

(b) If to Parent:

New Fortress Energy Inc.

Attn: General Counsel
111 W 19th St, 8th Floor
New York, NY 10011
E-mail: legal@newfortressenergy.com

(c) If to Buyer:

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TERMINATION

Termination. This Agreement may be terminated at any time before the Closing: by either Buyer or Seller, if (i) there shall be any Law enacted, promulgated or issued by any Governmental Body that makes consummation of the Closing illegal or otherwise prohibited or (ii) any Governmental Body shall have issued an Order permanently enjoining the transactions contemplated by this Agreement, and such Order shall have become final and non-appealable; so long as Seller is not in material breach of its obligations under this Agreement, by Seller if there has been a breach by Buyer of a representation, warranty, covenant or agreement contained herein, such breach would result in a failure of a condition set forth in Section 8.1 or 8.3, and such breach remains uncured by the earlier of (x) thirty (30) days after notice of such breach is received by Buyer and (y) the Outside Date

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so long as Buyer is not in material breach of its obligations under this Agreement, by Buyer if there has been a breach by Seller of a representation, warranty, covenant or agreement contained herein, such breach would result in a failure of a condition set forth in Section 8.1 or 8.2, and such breach remains uncured by the earlier of (x) thirty (30) days after notice of such breach is received by Seller and (y) the Outside Date; by Seller or Buyer if the Closing has not occurred by []¹⁰⁹ or such other date that Buyer and Seller may agree upon in writing (the "Outside Date"), unless the failure to close by such date is due to a breach of, or failure to fulfill any obligation under, this Agreement by such Party seeking to terminate; by Buyer or Seller if there is a Material Adverse Effect; or by Buyer or Seller pursuant to Section 7.12.¹¹⁰
Effect of Termination. Any termination of this Agreement under Section 10.1 will be effective immediately upon the delivery of written notice by the terminating Party to the other Party. In the event of the termination of this Agreement as provided in Section 10.1, this Agreement shall be of no further force or effect, except (a) for the provisions of Article I (*Definitions*), Sections 7.4 (*Confidentiality*), 7.5 (*Public Announcements*) and 7.11(c) (*Transaction Expenses*), this Section 10.2 (*Effect of Termination*) and Article XI (*General Provisions*), each of which shall survive the termination of this Agreement, and (b) nothing in this Section 10.2 shall relieve any Party from Liability for any intentional breach prior to such termination of this Agreement.

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Puerto Rico Electric Power Authority
Attn: Chief Executive Officer – Josué Colón Ortiz
PO BOX 364267
San Juan, Puerto Rico 00936-4267
E-mail: director_ejecutivo@prepa.com

with a copy (which will not constitute notice) to:

Puerto Rico Public-Private Partnerships Authority
Attn: Executive Director – Fermín E. Fontanés Gómez
PO BOX 42001
San Juan, Puerto Rico 00940-2001
Email: Fermin.Fontanes@p3.pr.gov

In the event of a change in a party's address, that party shall notify the other party of its new address within five (5) Business Days of the change.

9.2 Other Agreements Superseded; Waiver and Modification, etc.; Remedies Cumulative

(a) This Agreement supersedes all prior agreements or understandings, written or oral, between Seller, on the one hand, and Buyer or any Affiliate of Buyer, on the other hand, relating to the acquisition of the Acquired Assets (other than the Confidentiality Agreement). Any provision of this Agreement may be waived, amended or supplemented only by a written instrument signed by Buyer and Seller.

(b) No failure on the part of any Person to exercise any power, right, privilege or remedy under this Agreement, and no delay on the part of any Person in exercising any power, right, privilege or remedy under this Agreement, shall operate as a waiver of such power, right, privilege or remedy; and no single or partial exercise of any such power, right privilege or remedy shall preclude any other or further exercise thereof or of any other power, right, privilege or remedy.

(c) Except as otherwise expressly provided herein, any and all remedies herein expressly conferred upon a Party will be deemed cumulative with and not exclusive of any other remedy conferred hereby or by law upon such Party, and the exercise by a Party of any one remedy will not preclude the exercise of any other remedy.

9.3 Construction. Each of the Parties confirms that both of them and their counsel have reviewed, negotiated, and adopted this Agreement as the agreement and understanding of the Parties, and the language used in this Agreement shall be deemed to be the language chosen by the Parties to express their mutual intent and consequently that any rule of construction interpreting this Agreement against the drafting party shall not apply. No specific representation or warranty shall operate to qualify or limit a more general representation or warranty addressing the same matter.

9.4 Specific Performance. The Parties agree that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached. It is accordingly agreed that either Party shall be entitled to an

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injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the terms and provisions hereof in any federal or state court having jurisdiction, this being in addition to any other remedy to which it is entitled.

9.5 Guarantee.

(a) Guaranteed Obligations.

(i) Parent irrevocably and unconditionally, guarantees to Buyer the due and punctual payment and performance of the obligations of Seller under ARTICLE VIII of this Agreement (the “Guaranteed Obligations”).

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(ii) The Guaranteed Obligations may be enforced by Buyer without Buyer first taking any steps or proceedings against Seller. If, for any reason whatsoever, Seller fails or is unable to duly, punctually and fully pay or perform any of the Guaranteed Obligations, upon a demand by Buyer forthwith, Parent will pay or perform, or cause to be paid or performed, such Guaranteed Obligations. This is a guarantee of payment and performance and not solely collectability, and is in no way conditioned or contingent upon any attempts to collect or upon any other condition or contingency. Notwithstanding anything to the contrary set forth in this Section 9.5, (i) to the extent that Parent is relieved from the Guaranteed Obligations by satisfaction thereof or pursuant to any mutual written agreement between Buyer and Seller, Parent shall be similarly relieved of such Guaranteed Obligations and (ii) Parent shall be permitted to assert any defenses to the exercise of the guaranty in this Section 9.5 by Buyer available to Seller in accordance with the terms and conditions of the Agreement in connection with the Guaranteed Obligations. Notwithstanding anything to the contrary in this Agreement, in no event will the Guaranteed Obligations exceed an amount equal to 100% of the Purchase Price.

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(iii) The obligations of Parent under this Section 9.5 are continuing and shall remain in force until (i) the expiration of the applicable survival periods set forth in Section 8.1 relating to the Guaranteed Obligations, or (ii) the date any Claims arising out of any Guaranteed Obligations pursuant to this Agreement are paid in full or otherwise resolved.

(b) Representations and Warranties of Parent. Parent hereby represents and warrants to Buyer as of the date hereof that: (i) it is a legal entity duly organized, validly existing and in good standing under the Laws of its jurisdiction of organization; (ii) it has full corporate power and authority and has taken all corporate action necessary in order to execute, deliver and perform its obligations under this Agreement, (“Parent Transaction Approvals”); (iii) this Agreement has been duly executed and delivered by it and, assuming the due authorization, execution and delivery by the other parties hereto, is a legal, valid and binding obligation of such party, enforceable against it in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, fraudulent conveyance, moratorium and other applicable Law of general application relating to or affecting creditors’ rights and to general principles of equity; and (iv) neither the execution and delivery by Parent of this Agreement nor the consummation by Parent of the Transactions will constitute a violation of, or be in conflict with, or constitute or create a default or accelerate or adversely affect any obligations under, or require

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the consent of any other Person under (A) Parent's Charter Documents; or (B) any Law or Order to which Parent is subject.

9.6 Recovery of Litigation Costs. If any legal action or any arbitration or other proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default or misrepresentation in connection with any provision of this Agreement, the successful or prevailing Party shall be entitled to recover reasonable attorneys' fees and other costs incurred in that action or proceeding, in addition to any other relief to which it may be entitled.

9.7 Governing Law. This Agreement shall be construed in accordance with and governed by the Laws of the Commonwealth.

9.8 Dispute Resolution.

(a) The Parties and Parent acknowledge and understand that, to resolve any and all claims arising out of relating to or in connection with this Agreement or the existence, interpretation, breach, termination or validity thereof, they may file a civil action, including actions in equity, in the courts of the Commonwealth, and in accordance with all applicable rules of civil procedure of the Commonwealth. Each of the Parties and Parent irrevocably consents to the exclusive jurisdiction of such court in any such actions or proceedings, waives any objection it may have to the jurisdiction of any such action or proceeding, as well as objections or defenses based on sovereign immunity. The Parties and Parent acknowledge and agree that the terms and conditions of this Agreement have been freely, fairly and thoroughly negotiated.

(b) Except as otherwise provided in this Agreement, each Party (and Parent, as applicable) shall bear its own costs and expenses in any legal proceeding where it is the named defendant or in any legal proceeding among the Parties (and Parent, as applicable). Notwithstanding the foregoing, each Party (and Parent, as applicable) retains its rights to bring any legal proceeding or to implead the other Party (and Parent, as applicable), as to any matter arising hereunder.

9.9 Immunity.

(a) This Agreement and the transactions described herein constitute commercial activities of the Parties, and both Seller and Buyer agree that, to the extent that either one of them or any of their assets enjoys or will in the future enjoy any right of immunity (whether characterized as sovereign immunity or otherwise) against the other Party or any of their respective successors and permitted assigns, in connection with any legal proceeding in Puerto Rico or in any other foreign jurisdiction (or their respective political subdivisions), to enforce this Agreement or arising out of the transactions described in the Agreement including, but not limited to, immunity from service of process, immunity from jurisdiction or a judgment by any court or tribunal, immunity from enforcement of a judgment, and immunity from precautionary attachment of any of its assets, each Party hereby expressly and irrevocably waives such immunity with respect to such jurisdiction to the fullest extent permitted by applicable Law.

(b) Buyer acknowledges and agrees that this Agreement and the transactions contemplated hereby constitute commercial activities of Buyer, and Buyer is subject to private commercial law with respect thereto. Buyer is not entitled to immunity from any legal proceedings

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Seat. The arbitration proceedings shall take place in San Juan, Puerto Rico, and shall be conducted in English. ¶
Arbitration Panel. The arbitration panel shall be made up of three (3) arbitrators. Each Party shall select one arbitrator within fifteen (15) days following a Party's decision to submit the Dispute to arbitration, and the third arbitrator, who shall preside over the proceedings, shall be selected by mutual agreement of the two (2) arbitrators selected by the Parties. In the event that the two (2) arbitrators fail to agree on the selection of the third arbitrator within thirty (30) days, the presiding arbitrator shall be selected in accordance with the *Arbitration Rules of the International Chamber of Commerce*. ¶

Arbitration Rules. The arbitration proceedings and the arbitral award issued in accordance with the provisions set forth herein and in the *Arbitration Rules of the International Chamber of Commerce*. ¶

Arbitral Award. The arbitral award shall be final, not subject to appeal, and binding on the Parties as of the date it is issued. ¶

No Suspension. The submission of a Dispute to arbitration notwithstanding, the Parties shall be obligated to continue to comply with their obligations under this Agreement. ¶

Confidentiality. The arbitration proceedings shall be confidential, and any participating Person shall maintain their confidentiality, including but not limited to the arbitration proceedings and any documents filed during the arbitration, except and to the extent that their disclosure is required of a Party in the exercise of its lawful right to protect any right or enforce or challenge any award before a court with jurisdiction or any other authority. ¶

Arbitration Expenses. The Party for whom the arbitration award is unfavorable shall be liable for all costs and expenses of both Parties (including attorneys' fees and expenses) incurred in connection with the arbitration proceedings. If the arbitration award favors neither Party, such costs and expenses shall be shared equally by both Parties based on the proportion determined by the arbitrators themselves, in conformity with the principle that the less favored Party shall cover a greater share of the expenses. ¶

Waiver. The Parties expressly waive their right to administration of justice by the courts of the United S... [13]

in the United States or the Commonwealth with respect to this Agreement or the transactions contemplated hereby, whether on grounds of sovereign immunity or otherwise.

9.10 Certain Waivers.

(a) EACH PARTY HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT.

(b) EACH OF SELLER AND BUYER TO THE FULLEST EXTENT PERMITTED BY LAW, IRREVOCABLY WAIVES ANY RIGHTS THAT IT MAY HAVE TO PUNITIVE, ~~SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL, LOST PROFITS, MULTIPLES OF EARNINGS, LOST SALES OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT, CONTRACT OR OTHERWISE OR SIMILAR~~ DAMAGES BASED UPON, OR ARISING OUT OF, THIS AGREEMENT ~~OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS OR ACTIONS OF EITHER OF THEM RELATING THERETO~~, EXCEPT SUCH DAMAGES THAT ARE PAYABLE TO A THIRD PARTY WITH RESPECT TO A THIRD PARTY CLAIM FOR WHICH ANY PERSON IS SEEKING INDEMNIFICATION PURSUANT TO ARTICLE VIII.

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(c) EACH OF BUYER AND SELLER 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 9.10.

9.11 Successors; Assignability. This Agreement shall inure to the benefit of and be binding upon the heirs, executors, administrators, successors and assigns of the Parties hereto. Neither Party may assign its rights hereunder without the prior written consent of the other Party. Any purported assignment contrary to the provisions of this Section 9.11 shall be void and of no force or effect.

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9.12 Time of Essence. Time is of the essence in the performance of the transactions contemplated by this Agreement.

9.13 Counterparts. This Agreement may be executed in any number of counterparts and each such executed counterpart shall be deemed to be an original instrument, but all such executed counterparts together shall constitute one and the same instrument. Any signature page delivered by facsimile or electronic image transmission shall be binding to the same extent as an original signature page. Any Party that delivers a signature page by facsimile or electronic image transmission shall deliver an original counterpart to the other Party upon its request.

9.14 Parties in Interest. Nothing in this Agreement, express or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any Person other than the Parties to this Agreement and their respective permitted successors and assigns, nor is anything in this Agreement intended to relieve or discharge any obligation of any third Person to either Party hereto or give any third Person any right of subrogation or action over against either Party hereto.

9.15 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 contemplated hereby 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, such provision shall be modified so as to effect the original intent of the Parties as closely as possible in an acceptable manner in order that the transactions contemplated hereby are consummated as originally contemplated to the greatest extent possible.

9.16 Office of the Comptroller. Buyer agrees to file this Agreement with the Comptroller of the Commonwealth of Puerto Rico promptly after its execution and to provide Seller with evidence of its filing within fifteen (15) days following the date of this Agreement. The Parties acknowledge and agree that the obligations and considerations under this Agreement shall not be enforceable until this Agreement shall have been registered with the Office of the Comptroller of the Commonwealth of Puerto Rico as provided by Act No. 18 of the Legislative Assembly of Puerto Rico, enacted on October 30, 1975.

9.17 Federal Funding Requirements. The Parties agree to comply with the provisions set forth in Exhibit C.

9.18 No Set-Off. Buyer acknowledges that the Deferred Payment is fully earned at Closing and due and payable on the earlier of (i) receipt of funds from COR3 and (ii) 10 Business Days after the Closing Date. The Deferred Payment shall not be subject to any defense, set-off or counterclaim (other than a defense of payment in full in cash) that may be available to, or be asserted by, Buyer against Seller, whether under this Agreement or any other agreements among the parties or their affiliates and all such defenses and set-off rights are hereby irrevocably waived.

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IN WITNESS WHEREOF, the Parties have caused this Asset Purchase Agreement to be executed by their duly authorized officers as of the date first above written.

SELLER:

NFE Power PR LLC

By: _____

Name:

Title:

PARENT (solely for the purposes of Section 9.5):

New Fortress Energy Inc.

By: _____

Name:

Title:

BUYER:

Puerto Rico Electric Power Authority

By: _____

Name:

Title:

EXHIBIT A
[FORM OF REGASIFICATION SYSTEM LEASE]

(see attached)

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EXHIBIT B

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[FORM OF SWORN STATEMENT]

I, [NAME OF SIGNATORY], of legal age, [CIVIL STATUS], [PROFESSION], and resident of [MUNICIPALITY], [STATE], hereby solemnly swear:

1. That my personal status is the one stated above.
2. That I hold the position of [TITLE] of NFE Power PR LLC (the “Company”) organized as limited liability company under the laws of the Commonwealth of Puerto Rico with Federal Taxpayer Identification Number [NUMBER].
3. That I am authorized to represent the Company for purposes of this sworn statement.
4. That neither the Company nor any of its presidents, vice-presidents, directors, managers, executive directors or members of its Board of Directors, or persons that fulfill similar tasks, have been convicted of, nor have they pleaded guilty to, any of the crimes in Article 6.8 of Puerto Rico Act No. 8-2017, as amended, known as the “Act for the Management and Transformation of Human Resources of the Government of Puerto Rico”, for any of the crimes listed in Articles 250 through 266 of Act No. 146-2012, known as the “Puerto Rico Penal Code”, or for any of the crimes listed in Puerto Rico Act No. 2-2018, known as the “Anti-Corruption Code for a New Puerto Rico”.
5. No commissions or bonuses have been paid, in cash or in kind, and there is no commitment for the future payment of any such commissions or bonuses to any public official, employee or any former public official that participated in the negotiations and transactions contemplated in the Company’s agreement with the Puerto Rico Electric Power Authority in connection with the sale of certain generation assets.
6. Except as set forth in the Company’s agreement with the Puerto Rico Electric Power Authority in connection with the sale of certain generation assets, that neither the Company nor any of its presidents, vice-presidents, directors, managers, executive director or members of its Board of Directors, or persons that fulfill similar tasks have conflicts of interest in connection with the sale of certain generation assets to the Puerto Rico Electric Power Authority.
7. That everything stated above is true to the best of my knowledge, information and belief and thus, to make it public I sign this declaration in [MUNICIPALITY], [STATE], on [DATE].

By: _____
Name: _____

Title: _____

Affidavit No. ____

Sworn and subscribed before me by [NAME OF SIGNATORY], of the personal circumstances stated above, in [HIS/HER] capacity as [TITLE] of NFE Power PR LLC, who is personally known to me, on [DATE].

EXHIBIT C

Federal Funding Requirements

ARTICLE I COMPLIANCE WITH COPELAND ANTI-KICKBACK ACT

To the extent applicable, in the performance of this Agreement:

- a. Seller: Seller shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.
- b. Subcontracts: Seller or any of its subcontractors shall insert in any subcontracts the clause above and such other clauses as FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. Seller as prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.
- c. Breach: A breach of the contract clauses above may be grounds for termination of the Agreement, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.”

ARTICLE II THE FEDERAL WATER POLLUTION CONTROL ACT

- a. Buyer agrees as of the Closing Date to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. that apply to the Acquired Assets or the operation thereof.
- b. Buyer agrees to report any violation arising from the operation or ownership of the Acquired Assets to assure notification to the Government of Puerto Rico, FEMA, HUD, or other Federal Program agencies, and the appropriate Environmental Protection Agency Regional Office.
- c. To the extent applicable, Buyer agrees to include these requirements in each subcontract relating to the operation of the Acquired Assets exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

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Schedule 1.1(a)¹¹⁷

Schedule 1.1(a)¹¹⁷

Fuel Specifications and Testing¹¹⁸

Natural Gas Specifications¹¹⁸

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ARTICLE III

SUSPENSION AND DEBARMENT

The debarment and suspension regulations restrict awards, subawards, contracts, and subcontracts with parties that are debarred, suspended, or otherwise excluded, or declared ineligible for participation in federal assistance programs and activities. If applicable, a contract or subcontract must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM).

In general, an “excluded” party cannot receive a federal grant award or a contract considered to be a “covered transaction,” which includes parties that receive federal funding indirectly such as subawards and subcontracts. The key to the exclusion is whether there is a covered transaction. A covered transaction is a nonprocurement transaction at either a primary or secondary tier. Specifically, a covered transaction includes the following contracts for goods or services under FEMA grant and cooperative agreement programs: (i) The contract is at least \$25,000. (ii) The contract requires the approval of FEMA, regardless of amount. (iii) The contract is for federally required audit services. (iv) It is a subcontract for \$25,000 or more.

- a. This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, Buyer is required to verify, and Seller hereby represents and warrants to Buyer, that none of Seller’s principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- b. Seller must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower-tier transaction it enters into, to the extent applicable.
- c. This certification is a material representation of fact relied upon by Buyer. If it is later determined that Seller did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to Buyer, the United States federal government may pursue available remedies, including but not limited to suspension and/or debarment.
- d. Seller agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C . Seller further agrees to include a provision requiring such compliance in its lower-tier-covered transactions, to the extent applicable.
- e. Seller certifies that, at the time of the execution of this Agreement, its principals and affiliates have not been debarred, suspended, or placed in ineligibility status under the provisions of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000 (government debarment and suspension regulations).
- f. Seller represents and warrants that it will not enter into any contracts or subcontracts in connection with the Acquired Assets, with any individual or entity which has been debarred, suspended or deemed ineligible under those provisions. During Pre-Closing

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Period, the Seller will periodically review www.SAM.gov and local notices to verify the continued accuracy of this representation.

ARTICLE IV **BYRD ANTI-LOBBYING AMENDMENT, 31 U.S.C. § 1352 (AS AMENDED)**

Section 4.1 Applicability

If Seller applies or bids for an award of \$100,000 or more in connection with the Acquired Assets, it shall file the required certification required certification regarding lobbying. Each tier certifies to the tier above that it will not and has not used federally appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to Buyer, who in turn will forward the certification(s) to the federal awarding agency.

Section 4.2 Required Certification

If applicable, Seller must sign and submit to Buyer the following certification:

APPENDIX A, 44 C.F.R. PART 18 – CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. ~~No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.~~
2. ~~If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.~~
3. ~~The undersigned shall require that the language of this certification be included~~

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in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Seller, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, Seller understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

Signature of Seller's Authorized Official

Name and Title of Seller's Authorized Official

Date

ARTICLE V **PROCUREMENT OF RECOVERED MATERIALS**

The requirements of Section 6002 include procuring only items designated in guidelines of the EPA at 40 C.F.R. Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

Therefore, to the extent applicable:

- a. In the performance of this Agreement, Seller shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired—*
 - i. Competitively within a timeframe providing for compliance with the contract performance schedule;*
 - ii. Meeting contract performance requirements; or*

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- iii. At a reasonable price.
- b. Information about this requirement, along with the list of EPA designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensiveprocurement-guideline-cpg-program>.
- c. Seller also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act."

ARTICLE VI **PROHIBITION ON CONTRACTING** **FOR COVERED TELECOMMUNICATIONS EQUIPMENT OR SERVICES**

For purchases in support of FEMA declarations and awards issued on or after November 12, 2020, all FEMA recipients and subrecipients, and their contractors and subcontractors, are required to include this contract provision in all FEMA-funded contracts and subcontracts, including any purchase orders.

Prohibition on Contracting for Covered Telecommunications Equipment or Services

- a. Definitions. As used in this clause, the terms backhaul; covered foreign country; covered telecommunications equipment or services; interconnection arrangements; roaming; substantial or essential component; and telecommunications equipment or services have the meaning as defined in FEMA Policy, #405-143-1 Prohibitions on Expending FEMA Award Funds for Covered Telecommunications Equipment or Services As used in this clause—
- b. Prohibitions.
 - (1) Section 889(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232, and 2 C.F.R. § 200.216 prohibit the head of an executive agency on or after Aug.13, 2020, from obligating or expending grant, cooperative agreement, loan, or loan guarantee funds on certain telecommunications products or from certain entities for national security reasons.
 - (2) Unless an exception in paragraph (c) of this clause applies, neither Seller nor Buyer, nor their respective subcontractors may use grant, cooperative agreement, loan, or loan guarantee funds from the Federal Emergency Management Agency to:
 - i. Procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
 - ii. Enter into, extend, or renew a contract to procure or obtain any equipment,

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system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;

- iii. Enter into, extend, or renew contracts with entities that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system;
or
- iv. Provide, as part of its performance of this contract, subcontract, or other contractual instrument, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

c. Exceptions.

(1) This clause does not prohibit each of Seller and Buyer from providing—

- i. A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or
- ii. Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(2) By necessary implication and regulation, the prohibitions also do not apply to:

- (i) Covered telecommunications equipment or services that:
 - i. Are not used as a substantial or essential component of any system; and
 - ii. Are not used as critical technology of any system.
- (ii) Other telecommunications equipment or services that are not considered covered telecommunications equipment or services.

d. Reporting requirement.

(1) In the event Seller or Buyer identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or Seller or Buyer is notified of such by any of their respective subcontractors at any tier or by any other source, the party that has identified or has been notified of such use of covered telecommunications equipment or services shall report the information in paragraph (d)(2) of this clause to the recipient or subrecipient, unless elsewhere in this contract are established procedures for reporting the information.

(2) Seller and Buyer, as applicable, shall report the following information pursuant to paragraph (d)(1) of this clause:

- (i) Within one business day from the date of such identification or notification:
The contract number; the order number(s), if applicable; supplier name;
supplier unique entity identifier (if known); supplier Commercial and

Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.

(ii) Within 10 business days of submitting the information in paragraph (d)(2)(i) of this clause: Any further available information about mitigation actions undertaken or recommended. In addition, the subcontractor shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunication equipment or services.

e. *Subcontracts.* Seller and Buyer, as applicable, shall insert the substance of this clause including this paragraph (e), in all subcontracts and other contractual instruments.

ARTICLE VII

DOMESTIC PREFERENCE FOR PROCUREMENTS

For purchases in support of FEMA declarations and awards issued on or after November 12, 2020, all FEMA recipients and subrecipients are required to include in all contracts and purchase orders for work or products a contract provision encouraging domestic preference for procurements.

As applicable, and to the extent consistent with law, Seller should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States. This includes, but is not limited to iron, aluminum, steel, cement, and other manufactured products.

For purposes of this clause: *Produced in the United States* means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States. *Manufactured products* mean items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

ARTICLE VIII

ACCESS TO RECORD AND RECORDS RETENTION

Section 9.1 Contracts under a Major Disaster Declaration

In compliance with section 1225 of the Disaster Recovery Reform Act of 2018, Buyer and Seller acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

ARTICLE IX
CONTRACT CHANGES OR MODIFICATIONS

Subject to the requirements set forth in Section 11.2 of this Agreement, Buyer may, at any time, by written order, make changes in any services or work to be performed within the general scope of this Agreement in accordance with 2 CFR. If such changes cause an increase or decrease in Seller's cost of, or time required for, performance of any services under this Agreement, an equitable adjustment shall be made, and this Agreement shall be modified in writing accordingly; provided, however, that no changes shall be made to the scope of the services that would render the costs incurred in the performance of this Agreement unallowable or not allocable under, or outside the scope or not reasonable for the completion of, Federal grant awards from FEMA, HUD or any other U.S. Federal agency.

ARTICLE X
PROVISIONS REQUIRED BY LAW DEEMED INSERTED

Each and every provision of law and clause required by federal law, regulation, executive order, policy, procedure, directive, Federal grant award or agreement, or cooperative agreement with any Federal agency to be inserted in this Agreement shall be deemed to be inserted herein and the Agreement shall be read and enforced as though it were included herein. If, through mistake or otherwise, any provision is not inserted, or is not correctly inserted, then upon the application of either party the Agreement shall be amended to make such insertion or correction.

EXHIBIT D
COR3 Letter Agreement

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