

**EXH. CP-3
DOCKET U-210542
WITNESS: CHRISTOPHER PARKER**

**BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

**IN THE MATTER OF THE JOINT
APPLICATION OF PUGET SOUND
ENERGY, ONTARIO TEACHERS'
PENSION PLAN BOARD, AND
MACQUARIE WASHINGTON
CLEAN ENERGY INVESTMENT,
L.P., FOR AN ORDER
AUTHORIZING PROPOSED SALES
OF INDIRECT INTERESTS IN
PUGET SOUND ENERGY**

Docket U-210542

**SECOND EXHIBIT (NONCONFIDENTIAL)
TO THE PREFILED DIRECT TESTIMONY (NONCONFIDENTIAL) OF**

CHRISTOPHER PARKER

**ON BEHALF OF THE ONTARIO TEACHERS'
PENSION PLAN BOARD**

AUGUST 13, 2021

EXECUTION VERSION

PURCHASE AND SALE AGREEMENT

between

CPP INVESTMENT BOARD (USRE II) INC.,

as Seller,

and

2848926 Ontario Limited,

as Buyer

Dated as of July 6, 2021

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EXHIBITS

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PURCHASE AND SALE AGREEMENT

This PURCHASE AND SALE AGREEMENT is entered into as of July 6, 2021, by and between CPP Investment Board (USRE II) Inc., a Canadian corporation (“Seller”), and 2848926 Ontario Limited, a corporation organized under the laws of the Province of Ontario (“Buyer”). The parties to this Agreement are individually referred to as a “Party” and collectively referred to as the “Parties”.

RECITALS

WHEREAS, as of the date hereof, Seller owns 31.5677% of the issued and outstanding Class A Interests (the “Company Interests”) of Puget Holdings LLC, a Delaware limited liability company (the “Company”);

WHEREAS, Seller is party to the Second Amended and Restated Senior Secured Loan Agreement, dated as of January 20, 2015, as amended by that First Amendment thereto, dated as of December 12, 2019, and that Second Amendment thereto, dated as of June 23, 2021 by and between Puget Intermediate Holdings Inc., as the borrower therein, and Seller, as the lender therein (as amended, the “Loan Agreement”);

WHEREAS, Seller intends to sell, grant, convey, assign, transfer and deliver to Buyer, and Buyer intends to purchase, acquire, assume and accept from Seller, (a) all of Seller’s right, title and interest in and to (i) 15.78385% of the issued and outstanding Company Interests (the “Purchased Interests”) (representing 50% (the “Pro Rata Portion”) of the Company Interests owned by Seller as of the date hereof) and (ii) the Pro Rata Portion of the Loan (as defined in the Loan Agreement) owing under the Loan Agreement to Seller at the Closing (the “Purchased Loan”) (clauses (i) and (ii), collectively, the “Purchased Assets”), and (b) all of Seller’s obligations, liabilities, covenants, duties and agreements arising out of, under or relating to, the Purchased Assets, in each case, upon the terms and subject to the conditions set forth in this Agreement;

WHEREAS, Seller is concurrently entering into a purchase and sale agreement with Macquarie Washington Clean Energy Investment, L.P. (the “Other Buyer”), dated as of the date hereof (the “Other PSA”), providing for the sale, grant, conveyance, assignment, transfer and delivery by Seller of the Purchased Interests and Purchased Loan (in each case, as defined in the Other PSA, and which, for the avoidance of doubt, are different and distinct from the Purchased Interests and Purchased Loan, respectively, under this Agreement); and

WHEREAS, concurrently with the execution of this Agreement, as a material inducement to Seller’s willingness to enter into this Agreement and to consummate the transactions contemplated hereby, the Equity Commitment Provider (as defined below) has executed and delivered to Seller the Financing Commitment (as defined below).

AGREEMENT

NOW, THEREFORE, in consideration of the premises and the mutual covenants and promises herein made, and in consideration of the representations and warranties herein contained,

and for other good and valuable consideration the adequacy of which is hereby acknowledged, the Parties, intending to become legally bound, hereby agree as follows:

ARTICLE I.
DEFINITIONS

Section 1.1 Definitions. As used in this Agreement, the following terms shall have the following meanings:

“Action” means any action, suit or proceeding by or before any court or other Governmental Authority.

“Affiliate” means, with respect to any Person, any other Person that directly or indirectly Controls, is Controlled by, or is under common Control with, such Person; *provided, however*, that, for the purposes set forth below (other than as otherwise set expressly forth below and elsewhere in this Agreement), “Affiliates” shall mean:

(a) solely in the representations and warranties made by Seller with respect to its Affiliates (other than those in Section 3.9) and the covenants made by Seller regarding actions to be taken (or refrained from being taken) by its Affiliates (other than those in Section 5.5), Seller’s Controlled Affiliates other than their Excluded Persons;

(b) solely in the representations and warranties made by Seller with respect to its Affiliates in Section 3.9 and in the definitions of “Affiliate Contracts” and “Leakage”, Seller Parent Controlled Affiliates;

(c) solely in the representations and warranties made by Buyer with respect to its Affiliates and in the covenants made by Buyer regarding actions to be taken (or refrained from being taken) by its Affiliates (other than those in Section 4.5, Section 5.2(a) and (c)-(e) or Section 5.5), Buyer Parent Controlled Affiliates.

“Affiliate Contract” means any Contract between Seller or any of its Affiliates (excluding, prior to the Closing, any Company Entity), on the one hand, and any Company Entity, on the other hand.

“Agreement” means this Purchase and Sale Agreement, including all Exhibits and Schedules hereto (including the Disclosure Schedules).

“Alternative Proposal” means any inquiry, proposal or offer from any Person or group of Persons (other than (x) Buyer, any of its Affiliates or any of its or their respective Representatives and (y) the Other Buyer, any of its Affiliates, or any of its or their respective Representatives) relating to (i) any transfer by Seller of any Company Interests, (ii) a merger, consolidation, liquidation, recapitalization, share exchange or other business combination transaction involving any Company Entity or the Purchased Assets; (iii) the issuance of shares of capital stock or other equity securities of any of the Company Entities (other than to any other Company Entities); or (iv) the sale, lease, exchange or other disposition of all or a material portion of the business, assets or properties of any of the Company Entities (including shares of capital stock or other equity securities of any Company Entity (other than the Company)) or the Purchased Assets, in each case

of clauses (i) through (iv), other than as contemplated by this Agreement or the Other PSA (including matters set forth on Section 1.1(a) of the Seller Disclosure Schedule).

“Approved Business Plan” means the five-year business plan approved by the Business Planning and Compensation Committee and the Board as of November 2020.

“Assignment Agreement” means the assignment agreement evidencing the transfer to Buyer or its designee of the Purchased Assets, substantially in the form attached hereto as Exhibit A.

“Base Purchase Price” means \$1,357,500,000.

“Benefit Plan” means each employee benefit plan (within the meaning of Section 3(3) of the Employee Retirement Income Security Act of 1974) and each other benefit or compensation plan, policy, program, agreement or arrangement, in each case, sponsored or maintained by any Company Entity for the benefit of any current or former employee, officer, or director, or with respect to which any Company Entity has any current or contingent liability, excluding any such plan sponsored or maintained by any Governmental Authority.

“Board” has the meaning set forth in the LLC Agreement.

“Business Day” means any day other than a Saturday or Sunday or any day on which banks in the State of New York or the Province of Ontario are authorized or required to close.

“Buyer” has the meaning set forth in the preamble to this Agreement.

“Buyer Company Rights” means any management, voting, consent or similar rights (in each case, subject to any applicable duties under Law) available to Buyer (or any Manager appointed or nominated by Buyer) from and after the Closing under (and solely to the extent the exercise of such rights would not reasonably be expected to result in a breach of) any Governing Documents or other Contracts with respect to Buyer’s direct or indirect ownership interest in the Company Entities from and after the Closing. For the avoidance of doubt, Buyer exercising (which term, as used in connection with “Buyer Company Rights”, shall mean exercising or abstaining from exercising, as applicable) its “Buyer Company Rights” in relation to a Manager appointed or nominated by Buyer means that Buyer shall use reasonable efforts to request or cause such Manager, subject to his or her fiduciary duties, to so exercise such rights.

“Buyer Competing Transaction” means any transaction between Buyer or any Buyer Interested Person, on the one hand, and any other Person (including any Member (as defined in the LLC Agreement)) other than Seller, on the other hand, with respect to the acquisition, purchase, sale, assignment, disposition or any other transfer of any right, title or interest in, to or under any Equity Interests of the Company or any Company Subsidiary or any Loan under and as defined in any Puget Intermediate Loan Agreement (as defined in the LLC Agreement), other than the transactions contemplated by this Agreement and the other Transaction Documents.

“Buyer Disclosure Schedule” means the disclosure schedule delivered by Buyer to Seller on the date hereof and attached hereto.

“Buyer Indemnified Parties” means Buyer, each Affiliate thereof, and each Representative of Buyer and/or any Affiliate thereof.

“Buyer Interested Person” means (a) any Affiliate of Buyer described in clause (c) of the definition of “Affiliate” (b) any member of the Infrastructure and Natural Resources Group within Ontario Teachers’ Pension Plan Board and its Controlled Affiliates (including investment funds, accounts or other investment vehicles managed, advised or sponsored by such member or any of its Affiliates, and portfolio companies of such funds) and (c) any other Person (whether or not such other Person is otherwise deemed to be an “Affiliate” of Buyer for any other purpose of this Agreement, the other Transaction Documents or the Other PSA) that is or is deemed or determined to be, or upon completion of the transactions contemplated by this Agreement will or will be deemed to be, an “affiliated interest” of Buyer or any of the Persons referred to in clauses (a) or (b), on the one hand, and any Company Entity, on the other hand, pursuant to or within the meaning of applicable Laws of the State of Washington (including RCW 80.16.010) as interpreted and applied by the WUTC.

“Buyer Non-Monetary WUTC Condition” means a Non-Monetary WUTC Condition imposed on or otherwise affecting Buyer or any of its Buyer Parent Controlled Affiliates.

“Buyer Parent Controlled Affiliates” means Ontario Teachers’ Pension Plan Board (and any general partner thereof and the Controlled Affiliates of such general partners) and each of its Controlled Affiliates, other than the Excluded Persons of the foregoing Persons.

“Buyer Termination Fee” has the meaning set forth in Section 8.3(a).

“Buyer Regulatory Costs Indemnity” means one or more written instruments in form and substance reasonably satisfactory to Seller pursuant to which Buyer and/or the Other Buyer agree to assume and pay all Indemnified Regulatory Costs.

“CFIUS” means the Committee on Foreign Investment in the United States.

“CFIUS Approval” means (a) the Parties shall have received written notice from CFIUS that it has concluded its review, or, if applicable, investigation and has determined that there are no unresolved national security concerns with respect to the transactions contemplated by this Agreement and that action under CFIUS Regulations is concluded, (b) the Parties shall have received written notice from CFIUS that the transactions contemplated by this Agreement do not constitute a “covered transaction” within the meaning of the CFIUS Regulations or (c) if CFIUS has sent a report to the President requesting the President’s decision with respect to the transactions contemplated by this Agreement, either (i) the President has announced a decision not to take any action to suspend, prohibit or place any limitations on the transactions contemplated by this Agreement or (ii) the time permitted under the CFIUS Regulations for the President to take action to suspend or prohibit the transactions contemplated by this Agreement shall have lapsed.

“CFIUS Regulations” means Section 721 of the Defense Production Act of 1950, as amended (50 U.S.C. § 4565), and all rules and regulations thereunder, including those codified at 31 C.F.R. Parts 800, 801 and 802.

“Chosen Courts” has the meaning set forth in Section 9.15(a).

“Claim Notice” means written notification pursuant to and in accordance with Section 7.3(a) of a Third-Party Claim for indemnity under Section 7.2 by an Indemnified Party, specifying in reasonable detail the nature of and basis for such Third-Party Claim and for the Indemnified Party’s claim against the Indemnifying Party under Section 7.2, together with (a) the amount or, if not then reasonably determinable, the estimated amount, estimated in good faith, of the Damages arising from such Third-Party Claim and (b) reasonable supporting documentation (to the extent available) regarding the nature, basis and amount (or estimated amount) of such Third-Party Claim.

“Closing” has the meaning set forth in Section 2.3.

“Closing Certificate” means, with respect to Buyer, the certificate required to be delivered by Buyer pursuant to Section 2.4(b)(ii), and, with respect to Seller, the certificate required to be delivered by Seller pursuant to Section 2.4(a)(iv).

“Closing Date” means the date the Closing occurs pursuant to Section 2.3.

“Closing Distribution Amount” means the Pro Rata Portion of the aggregate amount paid in cash or property to Seller or any of its Seller Parent Controlled Affiliates as Distributions during the period from (but excluding) December 31, 2020 to (and including) the Closing Date.

“Code” means the Internal Revenue Code of 1986.

“Commitment Amount” has the meaning set forth in Section 4.5.

“Company” has the meaning set forth in the recitals to this Agreement.

“Company Entities” means the Company and each Company Subsidiary.

“Company Interests” has the meaning set forth in the recitals to this Agreement.

“Company Subsidiary” means each direct and indirect Subsidiary of the Company.

“Confidentiality Agreement” means that certain Non-Disclosure Agreement, dated as of February 3, 2021, by and between Seller Parent and Ontario Teachers’ Pension Plan Board.

“Consent” of any Person means any consent, clearance, approval, exemption, waiver, concession, grant, license, permit, exemption, order or authorization of, filing, declaration, certification or registration with, and notice to, such Person.

“Contract” means any written agreement, contract, subcontract, lease, license, sublicense or other legally binding commitment or undertaking.

“Contracting Parties” has the meaning set forth in Section 9.11.

“Control” (including the terms “Controlled by” and “under common Control with”) means, with respect to any Person, the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities or ownership interests, by contract or otherwise.

“COVID-19” has the meaning set forth in the definition of “COVID-19 Measures”.

“COVID-19 Changes” has the meaning set forth in Section 1.2.

“COVID-19 Measures” means any quarantine, “shelter in place,” “stay at home,” workforce reduction, social distancing, shut down, closure or sequester order, guideline, recommendation, or Law by any Governmental Authority in connection with or in response to COVID-19 or SARS-CoV-2 virus (or any mutation or variation thereof or related health condition) (collectively, “COVID-19”).

“Damages” means all losses, claims, damages, payments, costs and expenses, amounts paid in connection with any assessments, judgments or settlements relating thereto, and out-of-pocket costs and expenses and attorneys’ fees and expenses reasonably incurred in defending against any Action.

“Data Room” means the “Project Puma” electronic data room hosted through Intralinks established by Seller or its Representatives in connection with the transactions contemplated hereby, as of twenty-four (24) hours prior to the date hereof.

“Disclosure Schedules” means the Buyer Disclosure Schedule and the Seller Disclosure Schedule.

“Distribution Adjustment Amount” means (a) if the Closing Distribution Amount equals the Target Distribution Amount, then zero, (b) if the Target Distribution Amount exceeds the Closing Distribution Amount, then a positive amount equal to the amount by which the Target Distribution Amount exceeds the Closing Distribution Amount and (c) if the Closing Distribution Amount exceeds the Target Distribution Amount, then a negative amount equal to the amount by which the Closing Distribution Amount exceeds the Target Distribution Amount.

“Distributions” means, without duplication, (a) distributions by the Company to Seller, (b) interest payments, principal repayments (including repayments of PIK Increases (as defined in the Loan Agreement)) and other payments by Puget Intermediate Holdings Inc. pursuant to the Loan Agreement (excluding, for the avoidance of doubt, any non-cash PIK Increases (as defined in the Loan Agreement)) and (c) any Leakage.

“End Date” has the meaning set forth in Section 5.4(g).

“Environmental Law” means any applicable Law existing on the date hereof related to pollution or protection of the environment; *provided, however*, that the term “Environmental Law” shall not include any Law relating to worker health or safety matters to the extent not related to human exposure to hazardous or toxic materials, wastes or substances.

“Equity Commitment Provider” means Ontario Teachers’ Pension Plan Board and its respective successors and permitted assigns pursuant to and in accordance with the terms of the Financing Commitment.

“Equity Financing” has the meaning set forth in Section 4.5.

“Equity Interests” means stocks or similar securities in a corporation, partnership interests, limited liability company interests or any other equity interest in any Person.

“Excluded Persons” means, with respect to any Person, the operating or portfolio companies and investment funds or vehicles of such Person.

“FERC” means the Federal Energy Regulatory Commission.

“Final Order” means any Governmental Order (a) that is not reversed, rejected, stayed, enjoined, withdrawn, set aside, annulled or suspended and is in full force and effect, (b) with respect to which, if applicable, any mandatory waiting period prescribed by Law before the transactions contemplated by this Agreement may be consummated has expired and (c) as to which all conditions (except such ministerial conditions as are within the control of any Party and that are required to make such Governmental Order effective) to the consummation of the transactions contemplated hereby prescribed by Law have been satisfied.

“Financing Commitment” has the meaning set forth in Section 4.5.

“Fundamental Representations” means (a) with respect to Seller, the representations and warranties set forth in Section 3.1(a), Section 3.2, Section 3.3(a), Section 3.5(a), Section 3.5(b), Section 3.5(c), Section 3.5(d) and Section 3.6, and (b) with respect to Buyer, the representations and warranties set forth in Section 4.1, Section 4.2, Section 4.3, Section 4.4, Section 4.8 and Section 4.10.

“GAAP” means generally accepted accounting principles in the United States of America.

“Governing Documents” means, (a) with respect to any corporation, its articles or certificate of incorporation and bylaws, (b) with respect to any limited liability company, its articles or certificate of organization or formation and its operating agreement or limited liability company agreement or documents of similar substance, (c) with respect to any limited partnership, its certificate of limited partnership and partnership agreement or governing or organizational documents of similar substance and (d) with respect to any other entity, governing or organizational documents of similar substance to any of the foregoing, in the case of each of clauses (a) through (d), as may be in effect from time to time.

“Government Closure” has the meaning set forth in Section 5.4(m).

“Governmental Authority” means (a) any federal, state, provincial, county, municipal or other local government, any supranational or foreign government or any political subdivision thereof, (b) any court of competent jurisdiction, national administrative agency or commission, tribunal or arbitral body or (c) any other governmental or regulatory authority or instrumentality.

“Governmental Order” means any binding order, writ, judgment, injunction, decree, notice, ruling, stipulation, determination or award entered by or with any Governmental Authority of competent jurisdiction.

“Indebtedness” means the following obligations: (a) any indebtedness for borrowed money, (b) any obligations evidenced by bonds, debentures, notes or other similar instruments, (c)

any obligations for the deferred purchase price of property, goods or services (including earnouts, conditional sale agreements or other title retention agreements), (d) any obligations evidenced by any swap, exchange, commodity option, hedging or similar Contracts, (e) any obligations, contingent or otherwise, under letters of credit, banker's acceptances or similar facilities to the extent drawn upon, (f) any lessee obligations under capital leases that would be classified as balance sheet liabilities in accordance with GAAP, (g) any guaranty of any of the obligations described in the foregoing clauses (a) through (f), and (h) any obligations in the nature of accrued fees, interest, premiums or penalties in respect of any of the foregoing.

“Indemnified Party” means a Buyer Indemnified Party or a Seller Indemnified Party, as applicable.

“Indemnified Regulatory Costs” has the meaning set forth in Section 8.1(g)(ii).

“Indemnifying Party” means any Person from which indemnification is being sought pursuant to Article VII.

“Indemnity Notice” means written notification pursuant to and in accordance with Section 7.3(b) of a claim for indemnity under Section 7.2 by an Indemnified Party, specifying in reasonable detail, the nature of and basis for such claim, together with (a) the amount or, if not then reasonably determinable the estimated amount, estimated in good faith, of the Damages arising from such claim and (b) reasonable supporting documentation (to the extent available) regarding the nature, basis and amount (or estimated amount) of such claim.

“Indemnity Reduction Amounts” has the meaning set forth in Section 7.2(d).

“Intentional Fraud” means, with respect to any Party, actual and intentional fraud by such Party in making any representation or warranty under Article III, Article IV or any of the Closing Certificates, as applicable; *provided* that such actual and intentional fraud of such Party shall not be deemed to exist unless, in addition to the elements of actual and intentional fraud under the Laws of the State of Delaware, such Party had actual knowledge (as opposed to imputed or constructive knowledge) that such representation or warranty made by such Party under Article III, Article IV or any of the Closing Certificates, as applicable, was inaccurate in any material respect when made, with the express intention that the counterparty would rely thereon to such counterparty's detriment.

“Interim Period” has the meaning set forth in Section 5.1(a).

“JVN” has the meaning set forth in Section 5.4(c).

“Knowledge” means, with respect to Seller, the actual knowledge of any individual set forth on Section 1.1(b) of the Seller Disclosure Schedule, and, with respect to Buyer, the actual knowledge of any individual set forth on Section 1.1(a) of the Buyer Disclosure Schedule.

“Laws” means all applicable laws, statutes, constitutions, rules, regulations, ordinances, and Governmental Orders, in each case having the force and effect of law, or any similar form of decision or approval of, or determination by, or any binding interpretation or administration of any of the foregoing by, any Governmental Authority.

“Leakage” means, without duplication, the amount (or, if non-cash, value) of the following: (a) any redemption or purchase by any Company Entity of Equity Interests of such Company Entity held by Seller; (b) any other payment to, on behalf of or for the benefit of, Seller or any of its Affiliates by any Company Entity (including payment by any Company Entity of any Transaction Expenses for which Seller is responsible); (c) any transfer of, or future benefits granted in respect of, assets or properties of any Company Entity for the benefit of, Seller or any of its Affiliates; (d) any forgiveness, assumption or incurrence by any Company Entity of, or any offering of any guarantee or indemnity by any Company Entity with respect to, any Indebtedness or Liability of Seller or any of its Affiliates; (e) any Tax payable by any Company Entity, less any Tax benefit to any Company Entity, as a result of any Leakage referred to in the foregoing clauses (a) through (d); and (f) any agreement to take any action set forth in the foregoing clauses (a) through (e).

“Liability” means any liability, assurances, commitments and obligations of any kind (whether known or unknown, whether asserted or unasserted, whether absolute or contingent, whether accrued or unaccrued, whether liquidated or unliquidated, and whether due or to become due).

“Lien” means any mortgage, pledge, lien, charge, security interest or other encumbrance.

“LLC Agreement” means the Second Amended and Restated Limited Liability Company Agreement of the Company, dated as of May 28, 2009, as amended by the First Amendment thereto, dated as of October 30, 2017 and the Second Amendment thereto, dated as of June 1, 2021.

“Loan Agreement” has the meaning set forth in the recitals to this Agreement.

“Loan Purchase Price” means, without duplication, the Pro Rata Portion of (a) the aggregate principal amount of the Loan (as defined in the Loan Agreement), including all PIK Increases (as defined in the Loan Agreement), and all accrued but unpaid interest thereon (including all unpaid interest accrued prior to the date hereof) outstanding as of the Closing, minus (b) any interest payments, payments of PIK Increases and principal repayments paid to Seller by Puget Intermediate Holdings Inc. in cash at the Closing.

“Manager” means a member of the Board.

“Material Adverse Effect” means: (a) with respect to the Company Entities, any change, event, occurrence, circumstance or effect (for purposes of this paragraph, collectively, a “change”) that has had, has or would reasonably be expected to have, a material adverse effect on the business, operations, assets, or financial condition of the Company Entities, taken as a whole; *provided, however*, that none of the following or any change arising therefrom, either alone or in combination, shall constitute or be deemed to constitute a Material Adverse Effect, or shall be taken into account in determining whether a Material Adverse Effect has occurred, occurs or would reasonably be expected to occur: (i) changes generally affecting the industries or markets (whether global, international, national, regional, state, provincial or local) in which any of the Company Entities operate (including the wholesale and retail electricity generation, transmission and distribution and natural gas transmission and distribution markets and industries, the wholesale and retail markets and industries for electric power and natural gas, the fuel supply and fuel transportation industries and markets, and the industries and markets for related products and

services), including changes due to or arising out of actions by competitors or regulators, (ii) changes in global, international, national, regional, state, provincial or local political, regulatory or social conditions, including any acts of war, whether or not declared, armed hostilities, sabotage and terrorism and any escalation or worsening thereof, whether perpetrated or encouraged by a state or non-state actor or actors (including cyberattacks), (iii) changes in global, international, national, regional, state, provincial or local electric transmission or distribution systems, (iv) changes in the markets for or costs of commodities, raw materials or supplies used in the business of the Company Entities, including steel, aluminum, fuel oil, natural gas or other petroleum products, (v) changes in the markets for or costs of products or services provided by the business of the Company Entities, including electricity or natural gas, (vi) effects of weather, meteorological events, epidemics, pandemic or any other public health event of a comparable scale and magnitude (including any effect related to COVID-19), or other natural occurrences, (vii) changes in Law or regulatory policy or the interpretation or enforcement thereof after the date hereof, (viii) changes in general economic or business conditions, including changes or adverse conditions in the financial, securities or banking markets (including, in each case, disruptions thereof, changes to interest rates and exchange rates for currencies, the price levels or trading volumes generally or of any security or market index, or the availability of financing generally), (ix) the announcement, negotiation, pendency, execution or delivery of this Agreement or the consummation of the transactions contemplated hereby, including the identity of, or the effect of any fact or circumstance relating to, Buyer or any of its Affiliates or any communication by Buyer or any of its Affiliates regarding plans, proposals or projections with respect to the Company Entities (including any impact on the relationship of the Company Entities, contractual or otherwise, with its customers, suppliers, distributors, service providers, contractors, lenders, agents, employees or partners), (x) changes in accounting requirements or principles, including any change in GAAP after date hereof, (xi) labor strikes, requests for representation, organizing campaigns, work stoppages, slowdowns or other labor disputes, (xii) actions or omissions expressly required to be taken or not taken by Seller, the Company Entities or their respective Affiliates in accordance with this Agreement or the other Transaction Documents or requested, or consented to, by Buyer or any of its Affiliates, (xiii) any breach, violation or non-performance of any provision of this Agreement by Buyer or any of its Affiliates or Representatives, (xiv) changes in or effects on the assets or properties of the Company Entities to the extent fully cured (including the payment of money) by Seller, any Company Entity or any of their respective Affiliates prior to the Closing, (xv) failure by Seller or any Company Entity to meet any published analyst estimates or expectations of revenue, earnings or other financial performance or results of operations of all or any portion of any Company Entity for any period occurring after the date hereof, or any failure to meet internal or published projections, budgets, plans or forecasts of revenues, earnings or other financial performance or results of operations of all or any portion of any Company Entity for any period after the date hereof (it being understood and agreed that the exception in this clause (xv) shall not preclude any Party from asserting that the underlying facts, circumstances, changes, events, occurrences or developments giving rise to such failure should be taken into account in determining whether there has been a Material Adverse Effect if not otherwise excluded by another clause of this definition), or (xvi) any matter disclosed in the Seller Disclosure Schedule, except, in the case of clauses (i) through (viii) and (x), to the extent that such change adversely affects the Company Entities, taken as a whole, in a substantially disproportionate manner relative to other participants in their industry and markets; (b) with respect to Buyer, any change that has had, has or would reasonably be expected to have a material

adverse effect on the ability of Buyer to perform its obligations under, or consummate the transactions contemplated by, this Agreement by the Termination Date; and (c) with respect to Seller, any change that has had, has or would reasonably be expected to have a material adverse effect on the ability of Seller to perform its obligations under, or consummate the transactions contemplated by, this Agreement by the Termination Date.

“Member” has the meaning set forth in the LLC Agreement.

“Non-Monetary Other Condition” has the meaning set forth in Section 5.4(c).

“Non-Monetary WUTC Condition” means any agreement, commitment or condition in connection with obtaining the WUTC Approval or the WUTC Other PSA Approval that, if imposed or required by the WUTC for the consummation of the transactions contemplated hereby or the Other PSA and entered into, made or accepted, would not reasonably be expected to result in Regulatory Costs or that is not included or otherwise accounted for within the calculation of Regulatory Costs.

“Non-Party Affiliates” has the meaning set forth in Section 9.11.

“Other Buyer” has the meaning set forth in the recitals to this Agreement.

“Other PSA” has the meaning set forth in the recitals to this Agreement.

“Other PSA Notice” has the meaning set forth in Section 5.12.

“Parties” has the meaning set forth in the preamble to this Agreement.

“Person” means a natural person or any partnership, limited liability partnership, corporation, limited liability company, association, joint stock company, trust, estate, joint venture, unincorporated organization or other entity, including any Governmental Authority.

“Pre-Closing Covenants” has the meaning set forth in Section 7.1.

“Preliminary Purchase Price” means (a) the Base Purchase Price, plus (b) the Distribution Adjustment Amount, if any, plus (c) only if the Closing Date occurs after December 31, 2021, the Time Value Adjustment Amount.

“President” means the President of the United States.

“Prime Rate” means a rate of interest per annum (calculated daily on the basis of a year of three hundred sixty-five (365) days and the actual number of days elapsed) equal to the prime rate as published in the *Wall Street Journal*, Eastern Edition.

“Pro Rata Portion” has the meaning set forth in the recitals to this Agreement.

“Puget Sound Energy” means Puget Sound Energy, Inc., a Washington corporation.

“Purchase Price” has the meaning set forth in Section 2.2(a).

“Purchased Assets” has the meaning set forth in the recitals to this Agreement.

“Purchased Interests” has the meaning set forth in the recitals to this Agreement.

“Purchased Interests Purchase Price” means (a) the Purchase Price, minus (b) the Loan Purchase Price.

“Purchased Loan” has the meaning set forth in the recitals to this Agreement.

“Regulatory Costs” means an amount equal to the aggregate (without any duplication) of (a) the post-tax present value, as at the date of this Agreement and using a discount rate of seven percent (7.0%) per annum compounded daily, of any cost or any adverse financial impact of any obligation, commitment or concession (in each case, to the extent not incurred, assumed or imposed as of the date hereof) that is required by the WUTC to be incurred or assumed by, or imposed by the WUTC on, or agreed to by Seller or any of its Affiliates, Buyer or any of its Affiliates, or any Company Entity, with the WUTC staff or intervenors in the WUTC application proceeding in connection with obtaining the WUTC Approval and/or any WUTC Other PSA Approval (other than pursuant to Section 7.04(f) of the LLC Agreement), other than any direct cost or any adverse financial impact of any obligation, commitment or concession that is (x) currently imposed or substantively equivalent to those currently imposed upon Seller, any of its Affiliates or any Company Entity (including the commitments set forth on Section 1.1(c) of the Seller Disclosure Schedule) or (y) expressly provided for in the Approved Business Plan and (b) any payments obligation of Seller (or that would be Seller’s obligation but for the operation of this Agreement) to any other Member pursuant to Section 7.04(f) of the LLC Agreement. For clarity, the costs of any credit support, including letters of credit, shall be considered costs for purposes of this definition of “Regulatory Costs”; *provided, however*, that nothing in this definition shall, or is intended to, limit the obligations of Buyer pursuant to Section 5.4(l) of this Agreement.

“Regulatory Costs Cap” means \$ [REDACTED].

“Releasee” has the meaning set forth in Section 7.5(a).

“Releasor” has the meaning set forth in Section 7.5(a).

“Remedies Exception” means the effects of bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium and other Laws relating to or affecting creditors’ rights generally and general equitable principles (whether considered in a proceeding in equity or at law).

“Representatives” means, with respect to any Person, such Person’s members, partners, other equity holders, trustees, directors, managers, committee members, officers, employees, attorneys, consultants, advisors, representatives and other agents, in each case, acting on behalf of such Person.

“Required Consents” has the meaning set forth in Section 6.1(d).

“Required Regulatory Approvals” has the meaning set forth in Section 6.1(b).

“Right” means any option, warrant, convertible or exchangeable security or other right to subscribe for, purchase or otherwise acquire any Equity Interest or other security of any class, with or without payment of additional consideration in cash or property, either immediately or upon the occurrence of a specified date or a specified event or the satisfaction of any other condition.

“SAMR” has the meaning set forth in Schedule B.

“Securities Act” means the Securities Act of 1933.

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

“Seller Company Rights” means any management, voting, consent or similar rights (in each case, subject to any applicable duties under Law) available to Seller (or a Manager appointed or nominated by Seller) under (and solely to the extent the exercise of such rights would not reasonably be expected to result in a breach of) any Governing Documents or other Contracts with respect to Seller’s direct or indirect ownership interest in the Company Entities. For the avoidance of doubt, Seller exercising (which term, as used in connection with “Seller Company Rights”, shall mean exercising or abstaining from exercising, as applicable) its “Seller Company Rights” in relation to a Manager appointed or nominated by Seller means that Seller shall use reasonable efforts to request or cause such Manager, subject to his or her fiduciary duties, to so exercise such rights.

“Seller Disclosure Schedule” means the disclosure schedule (together with all attachments and appendices thereto) delivered by Seller to Buyer on the date hereof and attached hereto.

“Seller Indemnified Parties” means Seller, each Affiliate thereof, and each Representative of Seller or any Affiliate thereof.

“Seller Parent” means Canada Pension Plan Investment Board.

“Seller Parent Controlled Affiliates” means Seller Parent and its Controlled Affiliates other than its and their Excluded Persons.

“Seller Termination Fee” has the meaning set forth in Section 8.4(a).

“Subsidiary” means, with respect to any Person, any other Person of which more than fifty percent (50%) of the outstanding voting securities or ownership interests are owned or Controlled, directly or indirectly, by such first Person.

“Surviving Covenants” has the meaning set forth in Section 7.1.

“Target Distribution Amount” means the Pro Rata Portion of the aggregate amount reflected on Schedule A to be paid in cash to Seller as Distributions during the period from (but excluding) December 31, 2020, to (and including) the Closing Date (including, only if such date is not on a scheduled distribution date as set forth in Schedule A) a pro rata portion of the amount to be paid at the next scheduled distribution date after such date as set forth on Schedule A, based on the proportion that (a) the period from (but excluding) the last scheduled distribution date prior to such date as set forth on Schedule A to (and including) such date bears to (b) the period from

(but excluding) such last scheduled distribution date to (and including) such next scheduled distribution date.

“Tax” means any national, federal, state, local, or foreign tax, charge, duty, fee, levy or other similar assessment, including income, net proceeds, gross receipts, license, payroll, employment, excise, severance, stamp, occupation, premium, windfall profits, environmental, customs duties, capital stock, franchise, profits, withholding, social security (or similar), unemployment, disability, property, personal property, sales, use, transfer, registration, value added, alternative or add-on minimum, estimated, or other tax of any kind whatsoever, imposed by any Governmental Authority, and including any interest, penalty, or addition thereto, whether disputed or not.

“Tax Return” means any return, declaration, report, claim for refund, or information return or statement relating to Taxes, including any schedule or attachment thereto, and including any amendment thereof, required to be filed with any Governmental Authority.

“Termination Date” has the meaning set forth in Section 8.1(b).

“Third-Party Claim” has the meaning set forth in Section 7.3(a).

“Time Value Adjustment Amount” means an amount equal to the difference between (a) the Base Purchase Price and (b) the Base Purchase Price accreted at a rate of seven percent (7.0%) per annum, compounded daily, during the period from (but excluding) December 31, 2021 to (but including) the earlier of (x) the Closing Date and (y) June 30, 2022.

“Transaction Documents” means this Agreement, the Assignment Agreement, the Financing Commitment and all other documents delivered or required to be delivered by any Party at or prior to the Closing pursuant to this Agreement.

“Transaction Expenses” means the amount of all out-of-pocket fees and expenses incurred in connection with the preparation, negotiation, execution and delivery of this Agreement and the other Transaction Documents and the consummation of the transactions contemplated hereby and thereby, including the out-of-pocket attorneys’, accountants’ and other advisors’ and brokers’ fees and expenses.

“Transfer” has the meaning set forth in the LLC Agreement.

“Transfer Taxes” means any and all transfer, sales, use, value-added, excise, stock, stamp, documentary, filing, recording and other similar Taxes, filing fees and similar charges, including all applicable real property or leasehold interest transfer or gains Taxes, but excluding any net income Taxes.

“WUTC” means the Washington Utilities and Transportation Commission.

“WUTC Approval” means the approval by the WUTC, pursuant to RCW 80.12.020, of the transactions contemplated by this Agreement.

“WUTC Other PSA Approval” means the approval by the WUTC, pursuant to RCW 80.12.020, of the transactions contemplated by the Other PSA.

Section 1.2 Rules of Construction. Whenever the feminine, masculine, neuter, singular or plural shall be used in this Agreement, such construction shall be given to such words or phrases as shall impart to this Agreement a construction consistent with the interest of the Parties entering into this Agreement, and whenever any other word derived from a defined term shall be used in this Agreement, such derived word shall have the meaning correlative to such defined term (e.g., “Controlled” or “Controlling” shall have the meaning correlative to “Control”). As used herein, references to (a) “or” shall mean “and/or,” (b) “including” or “include” shall be deemed to be followed by the words “without limitation,” (c) “Article,” “Section,” “Schedule” or “Exhibit” shall refer to an Article or Section of, or Schedule or Exhibit to, this Agreement, (d) “paragraphs” or “clauses” shall refer to separate paragraphs or clauses of the section or subsection in which the reference occurs, (e) “this Agreement,” “herein,” “hereof,” “hereby,” “hereunder,” and words of similar import shall refer to this Agreement as a whole, including the Schedules and Exhibits attached hereto, and not to any particular subdivision hereof, unless expressly so limited, (f) “extent” in the phrase “to the extent” shall mean the degree to which a subject or other thing extends, and such phrase shall not mean simply “if,” (g) any “Person” shall include references to such Person’s successors and permitted assigns, and, in the case of any “Governmental Authority,” to any Person succeeding to its functions and capacities, (h) any “Contract” (including this Agreement) or “Law” shall refer to such Contract or Law as amended, modified, supplemented or amended and restated from time to time (in accordance with its terms and the terms hereof, as applicable), and in effect at any given time (and, in the case of any Law, to any successor provisions), (i) “dollars,” or “\$” shall be deemed to refer to United States dollars, (j) any “Law” shall be deemed also to refer to all rules, regulations and exemptions promulgated thereunder, (k) “ordinary course” when used with respect to any Person shall mean the ordinary course of business consistent with past practice of such Person, excluding any deviations from the ordinary course of business and past practices of the applicable Person (x) as required to comply with COVID-19 Measures or (y) in connection with any commercially reasonable action taken or not taken by such Person or its Affiliates in good faith to mitigate the risk on such Person or its Affiliates of COVID-19 or the COVID-19 Measures so long as such deviations are generally consistent with the then-current ordinary course operations of similarly situated Persons operating in the geographical locations, industries and markets in which such Person operates (collectively, the “COVID-19 Changes”), and (l) Affiliates of such Person shall be deemed to refer to such Person’s Affiliates at any given time of determination. The headings and captions herein are inserted for convenience of reference only and are not intended to govern, limit or aid in the construction of any term or provision hereof. It is the intention of the Parties that every covenant, term and provision of this Agreement shall be construed simply according to its fair meaning and not strictly for or against any Party (notwithstanding any rule of Law requiring an Agreement to be strictly construed against the drafting party), it being understood that the Parties are sophisticated and have had adequate opportunity and means to retain counsel to represent their interests with respect to this Agreement. Any reference in this Agreement to a “day” or a number of “days” (without explicit reference to “Business Days”) shall be interpreted as a reference to a calendar day or number of calendar days. If any action is to be taken or given on or by a particular calendar day, and such calendar day is not a Business Day, then such action may be deferred until the next Business Day. For the avoidance of doubt, references in this Agreement to “the transactions contemplated by this Agreement,” “the transactions contemplated by this Agreement

and the other Transaction Documents” or phrases of similar import shall in no event refer to, or be deemed to refer to, the transactions contemplated by the Other PSA unless otherwise expressly provided for herein.

ARTICLE II.
PURCHASE AND SALE

Section 2.1 Purchase and Sale. Upon the terms and subject to the conditions of this Agreement, Seller shall sell, grant, convey, assign, transfer and deliver to Buyer, and Buyer hereby agrees to purchase, acquire, assume and accept from Seller, free and clear of any and all Liens (other than Liens arising under the LLC Agreement or the Loan Agreement, as the case may be, and restrictions on sales of securities under applicable securities Laws) (a) all of Seller’s right, title and interest in and to the Purchased Assets and (b) all of Seller’s obligations, liabilities, covenants, duties and agreements arising out of, under or relating to, the Purchased Assets, for the consideration specified in, and determined in accordance with, Section 2.2; *provided*, that Buyer is not assuming (i) any of the obligations, liabilities, covenants, duties or agreements arising under the Other PSA, and (ii) except as expressly provided for in Section 5.4(l) or otherwise constituting Indemnified Regulatory Costs, any of Seller’s obligations, liabilities, covenants, duties or agreement under Section 7.04(f) of the LLC Agreement with respect to any of the Required Regulatory Approvals in connection with the transactions contemplated hereby or the Other PSA.

Section 2.2 Purchase Price.

(a) At the Closing, Buyer shall pay in immediately available funds by wire transfer the Preliminary Purchase Price to an account that has been designated in writing by Seller to Buyer at least five (5) Business Days prior to the anticipated Closing Date (the Preliminary Purchase Price, as adjusted in accordance with Section 5.7(b), the “Purchase Price”).

(b) At least five (5) Business Days prior to the anticipated Closing Date, Seller shall deliver to Buyer a written statement setting forth Seller’s calculation of the Preliminary Purchase Price and all components thereof (together with reasonable supporting calculations and documentation used in the preparation thereof and such other information as may be reasonably requested by the Buyer to verify such amounts), and such calculation shall be final and binding on the Parties, absent fraud or manifest error.

(c) The Parties intend that, for U.S. federal and applicable state and local income tax purposes, the allocation of the Purchase Price between the Purchased Interests and the Purchased Loan shall be determined as follows: (a) to the Purchased Loan in an amount equal to the Loan Purchase Price, and (b) to the Purchased Interests in an amount equal to the Purchased Interests Purchase Price. Buyer and Seller shall prepare and file all Tax Returns consistent with such allocation and shall take no position inconsistent with such allocation.

Section 2.3 Closing. Subject to the satisfaction or, if permissible, waiver of the conditions set forth in Article VI, the closing of the transactions contemplated by this Agreement (the “Closing”) shall take place at the offices of Sullivan & Cromwell LLP, 125 Broad Street, New York, New York 10004 (or remotely via the electronic exchange of closing deliveries), commencing at 10:00 a.m. New York time (a) on the day that is fifteen (15) Business Days after

the date on which the last of the conditions set forth in Article VI (other than those conditions that by their terms are to be satisfied at the Closing, but subject to the satisfaction or, if permissible, waiver of such conditions at the Closing) is satisfied or, if permissible, waived, or (b) on such other date or at such other time or place as the Parties may mutually agree upon in writing. The Closing shall be effective for all purposes at 12:01 a.m. Washington time on the Closing Date.

Section 2.4 Closing Deliveries.

(a) At the Closing, Seller shall deliver, or cause to be delivered, to Buyer the following:

(i) a counterpart of the Assignment Agreement duly executed by Seller;

(ii) evidence in writing of the resignations or removals, effective as of the Closing, of the individuals serving as directors, managers, committee members or officers of the Company Entities appointed or designated to such positions pursuant to Seller's rights under the LLC Agreement, which individuals are listed on Section 2.4(a)(ii) of the Seller Disclosure Schedule;

(iii) a statement to Buyer validly executed by a duly authorized officer of Seller pursuant to Section 1445(b)(2) of the Code, substantially in the form attached hereto as Exhibit B, certifying that Seller is not a foreign Person;

(iv) a certificate from Seller signed by a duly authorized officer of Seller confirming the satisfaction of the conditions set forth in Section 6.3(a) and Section 6.3(b) as of the Closing Date; and

(v) a certificate from Seller signed by a duly authorized officer of Seller setting forth a representation and warranty of Seller, made as of the Closing Date, that the written statement delivered by Seller to Buyer pursuant to and in accordance with Section 2.2 is true and correct in all respects.

(b) At the Closing, Buyer shall deliver, or cause to be delivered, to Seller the following:

(i) a counterpart of the Assignment Agreement duly executed by Buyer or its applicable Affiliates; and

(ii) a certificate from Buyer signed by a duly authorized officer of Buyer confirming the satisfaction of the conditions set forth in Section 6.2(a) and Section 6.2(b) as of the Closing Date.

Section 2.5 Additional Closing Deliverables. The Parties shall (and Seller shall exercise its Seller Company Rights in a manner consistent with permitting the Company Entities to) execute and deliver all such additional documents, instruments, conveyances and assurances and take all further actions as may be required pursuant to the LLC Agreement, including Section 5.02(d), Section 5.02(e) and Section 7.04(f) of the LLC Agreement and pursuant to the Loan Agreement, including Section 10.6(b) and Section 10.6(c) of the Loan Agreement, in each case, in furtherance of the consummation of the transactions contemplated hereby and by the other Transaction Documents.

Section 2.6 Satisfaction of Conditions. Upon the Closing, all conditions to the obligations of Seller and Buyer to proceed with the Closing under this Agreement shall be deemed to have been fully and completely satisfied or, if permissible, waived for all purposes; *provided*, that the foregoing shall not preclude any right or remedy hereunder with respect to any claim of Intentional Fraud.

Section 2.7 Transfer Taxes. Notwithstanding anything herein to the contrary, Buyer shall be solely responsible for, and shall pay, any and all Transfer Taxes imposed as a result of the purchase and sale of the Purchased Assets contemplated by this Agreement. Buyer shall duly and timely file or cause to be filed all necessary documents (including all Tax Returns) with respect to all such amounts and, prior to filing any such documents or Tax Returns, shall provide a draft of such documents or Tax Returns to Seller for Seller's review and consent at least fifteen (15) Business Days before such Tax Returns are required to be filed (taking into account any extensions), such consent not to be unreasonably withheld or delayed. The Parties will cooperate and shall join in the execution of any such Tax Returns and other documentation as required by Law.

ARTICLE III.
REPRESENTATIONS AND WARRANTIES REGARDING SELLER

Seller represents and warrants to Buyer, except as set forth in the Seller Disclosure Schedule, as of the date hereof and as of the Closing, as follows:

Section 3.1 Organization.

(a) Seller is duly organized, validly existing, and in good standing under the Laws of the jurisdiction of its organization, and Seller has all requisite power, authority and legal right to conduct its business as it is currently conducted and to own, lease and operate its properties where such properties are now owned, leased or operated, except where the failure to have such power, authority and legal right would not, individually or in the aggregate, have a Material Adverse Effect on Seller. Seller is duly qualified or licensed to do business and is in good standing in each jurisdiction in which the property owned, leased or operated by it or the nature of the business conducted by it makes such qualification or licensure necessary, except where the failure to be so duly qualified or licensed or in good standing would not, individually or in the aggregate, have a Material Adverse Effect on Seller.

(b) To Seller's Knowledge, each Company Entity is duly organized, validly existing, and in good standing under the Laws of the jurisdiction of its organization, except where the failure to be so duly qualified or licensed or in good standing would not, individually or in the aggregate, have a Material Adverse Effect on the Company Entities. To Seller's Knowledge, each Company Entity has all requisite power, authority and legal right to conduct its business as it is currently conducted and to own, lease and operate its properties where such properties are now owned, leased or operated, except where the failure to have such power, authority and legal right would not, individually or in the aggregate, have a Material Adverse Effect on the Company Entities. The Company is treated as a corporation for U.S. federal income tax purposes and has elected to be treated as a corporation for U.S. federal income tax purposes from the date of its formation.

Section 3.2 Authorization. Seller has all requisite organizational power and authority to execute and deliver this Agreement and the other Transaction Documents to which it is (or, at the Closing, will be) a party, to perform its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. The execution and delivery by Seller of this Agreement and such other Transaction Documents to which it is (or, at the Closing, will be) a party, the performance of its obligations hereunder and thereunder and the consummation of the transactions contemplated hereby and thereby have been duly authorized by all necessary organizational action on the part of Seller. This Agreement and the other Transaction Documents to which Seller is (or, at the Closing, will be) a party have been (or, at the Closing, will be) duly executed and delivered by Seller and constitute (or, at the Closing, will constitute) legal, valid and binding obligations of Seller, enforceable against Seller in accordance with their respective terms, subject to the Remedies Exception.

Section 3.3 Noncontravention. None of the execution and delivery by Seller of this Agreement or the other Transaction Documents to which it is (or, at the Closing, will be) a party, the performance by Seller of its obligations hereunder or thereunder, or the consummation by Seller of the transactions contemplated hereby or thereby (a) conflicts with any provision of the Governing Documents of Seller or the Company, (b) assuming that the Consents specified in Section 3.4 and Section 4.4 have been obtained or made and any applicable waiting period has expired or been terminated, violates any Law to which Seller is subject or (c) results in a breach of, constitutes a default (or an event that, with the giving of notice or lapse of time or both, would constitute a default) under, or results in the acceleration of any obligation or loss of any benefit under, any Contract to which it is a party, except, in the case of each of clauses (b) and (c), for such violations, breaches or defaults that would not, individually or in the aggregate, have a Material Adverse Effect on Seller and in the case of clause (b) only, except for such violations that would not, individually or in the aggregate, have a Material Adverse Effect on the Company Entities.

Section 3.4 Governmental Consents. No Consent of, with or to any Governmental Authority is required to be obtained or made by or with respect to Seller or any of Seller's Affiliates or the Company in connection with the execution or delivery by Seller of this Agreement and the other Transaction Documents to which it is (or, at the Closing, will be) a party, or the performance by Seller of its obligations hereunder or thereunder, except for (a) Consents set forth on Section 3.4 of the Seller Disclosure Schedule, (b) Consents that, if not obtained or made, would not, individually or in the aggregate, have a Material Adverse Effect on Seller or the Company Entities, (c) Consents not required to be made or given until after the Closing, (d) Consents required to be obtained or made by or on behalf of Buyer as a result of the specific legal or regulatory status of Buyer or any of its Affiliates or as a result of any other facts that specifically relate to the business or activities in which Buyer or any of its Affiliates is or proposes to be engaged, other than the business of the Company Entities, and (e) the Consents specified in Section 4.4.

Section 3.5 Title to Purchased Assets; Subsidiaries.

(a) Seller is the record and beneficial owner of 31.5677% of the Company Interests, and owns such Company Interests free and clear of all Liens, other than Liens arising under this Agreement and the LLC Agreement and restrictions on sales of securities under applicable securities Laws. Except as set forth in the LLC Agreement, and other than Buyer's rights under

this Agreement, there are no Rights to purchase or acquire from Seller all or any portion of the Purchased Interests. All of the Purchased Interests are validly issued, fully paid (to the extent required by the LLC Agreement) and non-assessable (except as such non-assessability may be affected by Sections 18-607 and 18-804 of the Delaware Limited Liability Company Act), and were not issued to or acquired by Seller in violation of any Law, agreement or the preemptive rights of any Person.

(b) Seller has made available to Buyer a true, complete and correct copy of the LLC Agreement. The LLC Agreement (i) constitutes a valid and legally binding obligation of Seller and, to Seller's Knowledge, of the other parties thereto, and (ii) is enforceable in accordance with its terms against Seller and, to Seller's Knowledge, each of the other parties thereto, except, in each case, as such enforceability may be limited by the Remedies Exception. Neither Seller nor, to Seller's Knowledge, any of the other parties to the LLC Agreement is in material breach of, or default under the LLC Agreement, and, to Seller's Knowledge, no event has occurred that, with the giving of notice or lapse of time or both, would constitute a default under, or result in the acceleration of any obligation or loss of any benefit under, the LLC Agreement.

(c) Section 3.5(c) of the Seller Disclosure Schedule sets forth all Company Interests that are issued and outstanding and, to Seller's Knowledge, the owner of such Company Interests. Other than under, or as provided in, this Agreement, the Other PSA, the LLC Agreement and the Loan Agreement, there are no (i) outstanding options, warrants, convertible securities or other rights, agreements, or commitments of any character obligating Seller or the Company to issue or sell any Company Interests or, to Seller's Knowledge, any other security or interest in any Company Entity; or (ii) outstanding contracts or other arrangements of Seller or, to Seller's Knowledge, any Company Entity, to purchase, redeem or otherwise acquire any outstanding Company Interests or other security or interest of the Company Entities, or securities or obligations of any kind convertible into securities or interests of the Company Entities. To Seller's Knowledge, there are no outstanding or authorized equity appreciation, phantom equity, equity purchase or grant plans or similar rights with respect to any interests in any Company Entity. There are no voting agreements or other agreements to which Seller or any of its Affiliates is a party, or, to Seller's Knowledge, any other voting or other agreements, in each case, in effect with respect to the voting or transfer of any of the Company Interests or any other security or interest in any Company Entity (other than this Agreement, the Other PSA, the LLC Agreement and the Voting Agreement, dated as of April 17, 2019, by and between Mount Rainier Utility Holdings LLC, a Delaware limited liability company and PIP2PX (PAD) Ltd., PIP2GV (PAD) Ltd., PIP6PX (PAD) Ltd., and PIP6GV (PAD) Ltd., each a corporation organized under the laws of Alberta, as amended, modified, supplemented or amended and restated from time to time).

(d) Seller has good and valid title to the Purchased Loan, free and clear of all Liens other than Liens arising under this Agreement, the Loan Agreement and applicable Laws (including common law) in connection therewith. Except as set forth in the Loan Agreement and Other PSA, and other than Buyer's rights under this Agreement, there are no rights to purchase or acquire from Seller all or any portion of the Loan (as defined in the Loan Agreement). The Loan Agreement is in full force and effect and constitutes the legal, valid and binding obligation of Seller and, to Seller's Knowledge, each of the other parties thereto, enforceable against Seller and, to Seller's Knowledge, each of the other parties thereto, in accordance with its terms (except to the extent that its enforceability may be limited by the Remedies Exception). Neither Seller nor, to

Seller's Knowledge, any of the other parties to the Loan Agreement is in material breach of, or default under the Loan Agreement, and, to Seller's Knowledge, no event has occurred that, with the giving of notice or lapse of time or both, would constitute a default under, or result in the acceleration of any obligation or loss of any benefit under, the Loan Agreement.

(e) To Seller's Knowledge, (i) Section 3.5(e) of the Seller Disclosure Schedule sets forth all Subsidiaries of the Company, and (ii) the Company is the record and beneficial owner of all of the outstanding equity and voting interests of each of the Subsidiaries. All of the outstanding equity and voting interests of the Company and each of the Subsidiaries of the Company are, to Seller's Knowledge, validly issued, fully paid and non-assessable, and were not, to Seller's Knowledge, issued or acquired in violation of any Law, agreement or the preemptive rights of any Person. Neither the Company nor, to Seller's Knowledge, any Subsidiary owns any equity or debt securities of any other Person.

Section 3.6 Brokers' Fees. None of Seller or any of its Affiliates or their respective directors or officers, as applicable, has employed any investment banker, broker or finder or incurred (or will incur) any liability for any brokerage payments, investment banking fees, finder's or similar fees or commissions as a result of the execution and delivery of this Agreement or the Transaction Documents to which Seller is (or, at the Closing, will be) a party or the consummation of the transactions contemplated hereby or thereby, in each case, for which Buyer or any Company Entity is or would become liable (other than any such fees or commissions for which Buyer or such Company Entity shall have been reimbursed in full by Seller).

Section 3.7 Litigation. In each case, as of the date hereof, (a) there are no Actions pending, or to Seller's Knowledge, threatened against Seller or any of its Affiliates and (b) neither Seller nor any of its Affiliates is subject to any Governmental Order, that would, in the case of each of clauses (a) and (b), individually or in the aggregate, have a Material Adverse Effect on Seller.

Section 3.8 Affiliate Contracts. Except for the Loan Agreement, there are no Affiliate Contracts.

Section 3.9 Anti-Money Laundering; Anti-Bribery and Sanctions. To Seller's Knowledge, Seller's and its Affiliates' (to the extent acting on Seller's behalf) conduct of the transactions contemplated by this Agreement, and its and such Affiliates' (to the extent acting on Seller's behalf) use of the proceeds realized from the transactions contemplated hereby, do not and will not violate any applicable Laws relating to (a) anti-terrorist financing, (b) money laundering, (c) bribery or corruption or (d) any sanctions regime or list of sanctioned persons administered by the United States (including the Office of Foreign Assets Control of the U.S. Department of the Treasury (OFAC)), the United Nations Security Council, the European Union, or any other relevant sanctions authority or Governmental Authority with jurisdiction over Seller or such of its Affiliates.

Section 3.10 No Reliance. Seller agrees that the detailed representations and warranties set forth in this Agreement have been negotiated at arm's length among sophisticated Persons. Except for the representations and warranties expressly set forth in Article IV or in any certificate or agreement delivered by Buyer in connection with this Agreement, Seller acknowledges that

none of Buyer, any of its Affiliates or its or their respective Representatives makes or has made any other express or any implied representation or warranty to Seller as to the accuracy or completeness of any information regarding Buyer or any other matter. For the avoidance of doubt, nothing in this Section 3.10 shall be construed to limit any of Seller's rights in the event of Intentional Fraud.

ARTICLE IV.
REPRESENTATIONS AND WARRANTIES REGARDING BUYER

Buyer represents and warrants to Seller, as of the date hereof and as of the Closing, as follows:

Section 4.1 Organization. Buyer is a corporation duly organized, validly existing, and in good standing under the Laws of the jurisdiction of its organization, and Buyer has all requisite organizational power, authority and legal right to conduct its business as it is currently conducted and to own, lease and operate its properties where such properties are now owned, leased or operated, except where the failure to have such power, authority and legal right would not, individually or in the aggregate, have a Material Adverse Effect on Buyer. Buyer is duly qualified or licensed to do business and is in good standing in each jurisdiction in which the property owned, leased or operated by it or the nature of the business conducted by it makes such qualification or licensure necessary, except where the failure to be so duly qualified or licensed or in good standing would not, individually or in the aggregate, have a Material Adverse Effect on Buyer.

Section 4.2 Authorization. Buyer has all requisite organizational power and authority to execute and deliver this Agreement and the other Transaction Documents to which it is (or, at the Closing, will be) a party, to perform its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. The execution and delivery by Buyer of this Agreement and such other Transaction Documents to which it is (or, at the Closing, will be) a party, the performance of its obligations hereunder and thereunder and the consummation of the transactions contemplated hereby and thereby have been duly authorized by all necessary organizational action on the part of Buyer. This Agreement and the other Transaction Documents to which Buyer is (or, at the Closing, will be) a party have been (or, at the Closing, will be) duly executed and delivered by Buyer and constitute (or, at the Closing, will constitute) legal, valid and binding obligations of Buyer, enforceable against Buyer in accordance with their respective terms, subject to the Remedies Exception.

Section 4.3 Noncontravention. None of the execution and delivery by Buyer of this Agreement or the other Transaction Documents to which it is (or, at the Closing, will be) a party, the performance by Buyer of its obligations hereunder or thereunder, or the consummation by Buyer of the transactions contemplated hereby or thereby (a) conflicts with any provision of the Governing Documents of Buyer, (b) results in a breach of, constitutes a default (or an event that, with the giving of notice or lapse of time or both, would constitute a default) under, or results in the acceleration of any obligation or loss of any benefit under, any Contract to which it is a party or (c) assuming that the Consents specified in Section 3.4 and Section 4.4 are obtained or made and any applicable waiting period has expired or been terminated, violates any Law to which Buyer is subject, except, in the case of each of clauses (b) and (c), for such violations, breaches or defaults that would not, individually or in the aggregate, have a Material Adverse Effect on Buyer.

Section 4.4 Governmental Consents. No Consent of, with or to any Governmental Authority is required to be obtained or made by or with respect to Buyer or any of its Affiliates in connection with the execution and delivery by Buyer of this Agreement and the other Transaction Documents to which it is (or, at the Closing, will be) a party, or the performance by Buyer of its obligations hereunder or thereunder, except for (a) Consents that, if not obtained or made, would not, individually or in the aggregate, have a Material Adverse Effect on Buyer, (b) Consents not required to be made or given until after the Closing, and (c) the Consents specified in Section 3.4.

Section 4.5 Financial Capacity. Buyer has delivered to Seller true, correct and complete copy of the executed equity commitment letter (together with all related exhibits, schedules, annexes and supplements) from the Equity Commitment Provider (the "Financing Commitment"), pursuant to which the Equity Commitment Provider has committed, subject to the terms thereof, to fund the cash amounts set forth therein for the Purchase Price or the Buyer Termination Fee, Buyer's indemnification obligations pursuant to this Agreement and all costs, fees and expenses required to be paid by Buyer and its Affiliates at the Closing or upon the termination of this Agreement pursuant to Section 8.3 in connection with the transactions contemplated by this Agreement and the other Transaction Documents, in each case, if, as and when such payment obligations become due and payable hereunder; *provided*, that in no event shall the total amount committed hereunder exceed \$1,406,305,576.23 (the "Commitment Amount" and such financing, the "Equity Financing"). The Financing Commitment has not been amended, restated, waived, supplemented or otherwise modified, no such amendment, restatement, waiver, supplement or other modification is pending or contemplated, and the Financing Commitment (and the respective commitments contained in the Financing Commitment) have not been withdrawn, terminated or rescinded in any respect. The Financing Commitment, in the form so delivered, is in full force and effect and is a legal, valid and binding obligation of the parties thereto. As of the date hereof, there has been no event which, with or without notice, lapse of time or both, would (i) constitute a material default or breach on the part of any party thereto under the Financing Commitment, (ii) cause any condition contained in the Financing Commitment not to be satisfied, or (iii) reasonably be expected to result in any portion of the financing contemplated by the Financing Commitment to be unavailable on the Closing Date. As of the date hereof, there are no conditions precedent or other contingencies related to the Equity Financing (including any contingency that would permit the Equity Commitment Provider to reduce the amount of or delay the funding of the Equity Financing) other than as expressly set forth in the Financing Commitment. Other than the Financing Commitment or in accordance with the terms of the Financing Commitment, neither Buyer nor any of its Buyer Parent Controlled Affiliates has entered into any agreement, side letter or other contractual arrangement, whether oral or written, governing the Equity Financing. The Equity Financing, when funded in accordance with the terms and conditions of the Financing Commitment, will provide Buyer with cash proceeds immediately before the Closing sufficient for Buyer to consummate the transactions contemplated by this Agreement and the other Transaction Documents to which it is (or at the Closing, will be) a party, and to perform its obligations hereunder and thereunder (including its obligation to pay the Preliminary Purchase Price and any other amounts payable by the Buyer hereunder at the Closing). To the extent that this Agreement or any Exhibit to this Agreement must be in a form acceptable to an equity sponsor under the Financing Commitment, such equity sponsor has approved this Agreement and all such Exhibits. The Financing Commitment provides that the Seller is a third-party beneficiary thereof for the purposes described therein and is entitled to enforce Buyer's right to enforce such agreement, in each case, subject to the terms and conditions thereof. For the avoidance of doubt,

none of the rights and obligations of any Party, nor the transactions contemplated hereby, are subject to any term or condition providing that Buyer first obtain financing of any sort. As of the date hereof and assuming the accuracy of the representations and warranties of Seller contained in this Agreement, Buyer has no reason to believe (x) that any of the conditions to the Equity Financing contained in the Financing Commitment to be satisfied will not be satisfied at the time it is required to consummate the Closing hereunder or (y) that any portion of the Equity Financing will not be available to Buyer at the Closing. Buyer acknowledges that receipt or availability of funds or financing by Buyer or any of its Affiliates shall not be a condition to Buyer's obligations hereunder or under the other Transaction Documents to which it is (or at the Closing, will be) a party. To the knowledge of the Equity Commitment Provider, no funds to be paid to Seller have derived from or will have been derived from, or constitute, either directly or indirectly, the proceeds of any criminal activity or any activity in breach of applicable anti-corruption, anti-money laundering, anti-terrorism, sanctions, export controls or similar Laws. Buyer is not party to any debt commitment letter and will not finance any portion of the Preliminary Purchase Price with debt financing from any source or of any type (excluding any equityholder loan or similar financing made by an Affiliate of any Equity Commitment Provider that is not secured by, and is in all respects non-recourse to, the Purchased Interests and the Company Entities).

Section 4.6 Ownership. In each case, other than as consented to or waived in writing by Seller, as of the Closing Date (a) the Equity Commitment Provider directly or indirectly owns and solely controls one-hundred percent (100%) of the economic and voting interest in Buyer in a manner consistent with all disclosures set forth in the applications submitted to Governmental Authorities in compliance with Section 5.4(d)(i) and Section 5.4(d)(iv) except as otherwise consented to in writing by Seller, and (b) Buyer will, directly or indirectly, own and solely control one-hundred percent (100%) of the Purchased Interests (including all economic and voting interest therein), and no understanding or arrangement has been entered into since the formation of Buyer that would result in Buyer ceasing to have such ownership and control at any time at or after the Closing.

Section 4.7 No Competitive Overlap. Neither Buyer nor any of its Affiliates (including investment funds, accounts or other investment vehicles managed, advised or sponsored by Buyer or any of its Affiliates, and portfolio companies of such funds) is engaged in the generation, transmission or distribution of electricity or the transportation or distribution of natural gas in the State of Washington. For purposes of this Section 4.7, neither Buyer nor any of its Affiliates shall be deemed to be engaged in the generation, transmission or distribution of electricity or the transportation or distribution of natural gas merely through the ownership of either (a) a passive interest of less than ten percent (10%) in the equity securities of any company active in such business, whether voting or non-voting; (b) any interest in a "qualifying facility" within the meaning of the Public Utility Regulatory Policies Act of 1978, as amended, that is located outside of the Puget Sound Energy balancing authority area or any first-tier balancing authority area; or (c) a passive interest of less than ten percent (10%) of the voting securities of any company that owns or controls a "qualifying facility" within the meaning of the Public Utility Regulatory Policies Act of 1978, as amended, that is located in the Puget Sound Energy balancing authority area or any first-tier balancing authority area. Neither Buyer nor any of its Affiliates (including investment funds, accounts or other investment vehicles managed, advised or sponsored by Buyer or any of its Affiliates, and portfolio companies of such funds) owns any Rights in any Company Entity.

Section 4.8 Investment. Buyer is aware that the Purchased Interests being acquired by Buyer pursuant to the transactions contemplated hereby have not been registered under the Securities Act or under any state securities Laws. Buyer is not an underwriter, as such term is defined under the Securities Act, and Buyer is purchasing the Purchased Interests for its own account solely for investment and not with a view toward, or for sale in connection with, any distribution thereof within the meaning of the Securities Act, nor with any intention of distributing or selling any of the Purchased Interests in violation of applicable securities Laws. Buyer, on behalf of itself and its Affiliates, acknowledges that none of them may sell or otherwise dispose of the Purchased Interests except in compliance with the registration requirements or exemption provisions under the Securities Act and the rules and regulations promulgated thereunder, or any other applicable securities Laws. Buyer is an “accredited investor” as defined under Rule 501 promulgated under the Securities Act.

Section 4.9 Litigation. (a) There are no Actions pending, or to Buyer’s Knowledge threatened, against Buyer or any of its Affiliates and (b) neither Buyer nor any of its Affiliates is subject to any Governmental Order that would, in the case of each of clauses (a) and (b), individually or in the aggregate, have a Material Adverse Effect on Buyer.

Section 4.10 Brokers’ Fees. None of Buyer, its Affiliates or any of their respective directors or officers, as applicable, has employed any investment banker, broker or finder or incurred (or will incur) any liability for any brokerage payments, investment banking fees, finder’s or similar fees or commissions as a result of the execution and delivery of this Agreement or the Transaction Documents to which Buyer is (or, at the Closing, will be) a party or the consummation of the transactions contemplated hereby or thereby for which Seller or any Affiliate of Seller is or would become liable.

Section 4.11 Investigation; No Reliance.

(a) Seller and the Company Entities have provided Buyer with such access to information, properties, books, records and personnel of the Company Entities as Buyer has deemed necessary and appropriate in order for Buyer to investigate the businesses and properties of the Company Entities sufficiently to make an informed investment decision to purchase the Purchased Assets and to enter into this Agreement. Buyer (either alone or together with its advisors) has such knowledge and experience in financial and business matters so as to be capable of evaluating the merits and risks of its purchase of the Purchased Assets and is capable of bearing the economic risks of such purchase. Buyer’s acceptance of the Purchased Assets at the Closing shall be based upon its own investigation, examination and determination with respect thereto as to all matters and without reliance upon any express or implied representations or warranties of any nature made by or on behalf of or imputed to Seller, except as expressly set forth in this Agreement and in its Closing Certificate.

(b) Buyer has relied solely on Buyer’s own legal, tax, financial, regulatory and other advisors and the representations and warranties made by Seller as expressly set forth in this Agreement and in its Closing Certificate for its evaluation of its investment decision to purchase the Purchased Assets and to enter into this Agreement and not on the advice of Seller, any Company Entity or any Affiliate or Representative of any of the foregoing. Buyer acknowledges that any financial projections that may have been provided to it are based on assumptions about

future operating results, which are based on assumptions about certain events, many of which are beyond the control of Seller. Buyer further acknowledges and agrees that, except as expressly set forth in this Agreement and in its Closing Certificate, no representation or warranty has been made, and Buyer has not relied on any representation or warranty, regarding Seller, the Purchased Assets, any Company Entity or any other matter, including any representation or warranty regarding any projections, forecasts, estimates, budgets, revenues, profits, results of operations, cash flows, or the condition (financial or otherwise) of the Purchased Assets or any Company Entity or the businesses, assets or liabilities thereof, or any other information, data or materials provided or not provided by or on behalf of Seller, any Company Entity or any Affiliate or Representative of any of the foregoing in connection with the transactions contemplated hereby, including information, data or materials in any memorandum or management presentation, in the Data Room, in any oral, written or electronic response to any information request or any other information, data or materials of any kind or nature whatsoever provided to Buyer, its Affiliates or its or their respective Representatives. For the avoidance of doubt, nothing in this Section 4.11 shall be construed to limit any of Buyer's rights in the event of Intentional Fraud.

ARTICLE V.
COVENANTS

Section 5.1 Conduct of the Company Entities.

(a) During the period from and after the date hereof and to the Closing (the "Interim Period"), except as otherwise contemplated, permitted or required by this Agreement or any of the other Transaction Documents (including as described in Section 5.1 of the Seller Disclosure Schedule), and except as otherwise approved in writing by Buyer (which approval shall not be unreasonably withheld, conditioned or delayed), Seller will exercise any applicable Seller Company Rights in a manner consistent with permitting the Company Entities to (it being understood and agreed that Seller may have no authority under its Seller Company Rights with respect to the matters of the Company Entities addressed in this Section 5.1):

- (i) conduct their respective businesses in the ordinary course; and
- (ii) use reasonable best efforts to preserve, maintain and protect the assets and properties of the Company Entities in all material respects except for ordinary wear and tear (*provided* that (w) Seller's covenants under this Section 5.1 shall not require or obligate Seller or its Affiliates to make (or agree to make) any payment or assume (or agree to assume) any Liability or offer or grant any financial accommodation or other benefit to (or accept any deduction or setoff of amounts otherwise payable from) any Person, (x) nothing in this Section 5.1 shall prohibit or otherwise restrict in any way the operation of the business of Seller and its Affiliates, except solely with respect to the exercise of the Seller Company Rights, (y) the Parties agree that Seller shall not be deemed to violate its covenants under this Section 5.1 in connection with any action, inaction or circumstance that is beyond Seller's control, including any action or failure to act on the part of any of the Company Entities or any Representative thereof so long as Seller otherwise complies with its obligations under this Section 5.1, and (z) no failure to take any action by Seller shall be deemed a breach of this Section 5.1(a) if such action is restricted pursuant to Section 5.1(b)).

(b) Without limiting the generality of the foregoing, during the Interim Period, except as otherwise contemplated, permitted or required by this Agreement (including as described in Section 5.1 of the Seller Disclosure Schedule) or any of the other Transaction Documents, and except as otherwise approved in writing by Buyer (which approval shall not be unreasonably withheld, conditioned or delayed), to the extent that the Seller Company Rights are applicable to the matters set forth below, Seller shall not exercise its applicable Seller Company Rights (if any) in a manner consistent with permitting the Company Entities to (it being understood and agreed that Seller may have no authority under its Seller Company Rights with respect to the matters of the Company Entities addressed in this Section 5.1(b)):

- (i) amend the Governing Documents of any Company Entity;
- (ii) authorize for issuance, issue, grant, sell, transfer, dispose of, pledge or otherwise encumber any Equity Interests of any Company Entity, or issue any rights to subscribe for, purchase or acquire any Equity Interests of any Company Entity, in each case, other than (A) as required or permitted under any Benefit Plan or (B) the sale, transfer, disposition, pledge or encumbrance of any Equity Interests in the Company (other than the Purchased Interests) by any Person (other than the Company);
- (iii) except as required or permitted by GAAP, change any accounting methods or principles or auditing practices in a manner that would adversely affect the Company Entities, taken as a whole, in a material respect;
- (iv) sell, transfer or otherwise dispose of any of the assets of the Company Entities that are material to the Company Entities, taken as a whole, to any Person (other than dispositions to any other Company Entity and dispositions of obsolete assets) or pledge or otherwise encumber any such assets, in each case, other than in the ordinary course;
- (v) except in the ordinary course and except for any PIK Increases (as defined in the Loan Agreement and in each Authorized Loan (as defined in the Loan Agreement)), (A) create, incur or assume any Indebtedness, (B) assume, guarantee, endorse or otherwise become liable or responsible (whether directly or indirectly) for any material obligations of any Person or (C) make any loans, advances or capital contributions to or investments in any Person (other than, in the case of each of clauses (A) through (C) for such Indebtedness, obligations, loans, advances, capital contributions or investments, as the case may be, among Company Entities);
- (vi) acquire any assets that would be material, individually or in the aggregate, to the Company Entities, taken as a whole, except in the ordinary course or in accordance with the Approved Business Plan (or any subsequent business plan approved by the Business Planning and Compensation Committee of the Board) for the Company Entities;
- (vii) enter into or amend any Affiliate Contract;
- (viii) except as required by Law, make or change any material Tax election, or settle any material dispute or Action with respect to Taxes, in each case, if such action is reasonably expected to materially adversely affect Buyer or any of its Buyer Parent Controlled Affiliates with respect to any Tax period (or portion thereof) beginning after the Closing;

(ix) directly or indirectly purchase, redeem, or otherwise acquire or retire any of its capital stock or other Equity Interests or any warrants, options or similar instruments to acquire the same; or

(x) agree or commit, whether in writing or otherwise, to do any of the foregoing.

(c) Except in furtherance of the transactions described in Section 5.1 of the Seller Disclosure Schedule, Seller agrees not to waive any Seller Company Rights or grant any consent with respect to any Transfer of Company Interests by another Member without the consent of Buyer (such consent not to be unreasonably withheld, conditioned or delayed).

(d) Notwithstanding the foregoing or anything in this Agreement to the contrary, Seller and the Company Entities may take (or not take, as the case may be) any of the actions described in this Section 5.1 if reasonably necessary to prevent the occurrence of or mitigate the effects of damage to property or injury to persons under emergency circumstances or as required pursuant to applicable Law or in connection with any COVID-19 Change.

Section 5.2 Access to Information.

(a) During the Interim Period, Buyer may make or cause to be made such review of the Company Entities and their respective books, and other records (including, for clarity, any business plan approved by the Business Planning and Compensation Committee of the Board) as Buyer deems reasonably necessary or advisable for the exercise of its rights and obligations hereunder or the consummation of the transactions contemplated hereby. Seller shall exercise any applicable Seller Company Rights in a manner consistent with permitting the Company Entities to afford Buyer and its Representatives reasonable access to the Managers, directors, officers, senior employees, books, and other records of the Company Entities during normal business hours to review information and documentation relating to the properties, books, and other records of the Company Entities; *provided*, that such access shall only be upon reasonable advance notice and shall not disrupt personnel and operations of the Company Entities and shall be at Buyer's sole cost and expense; *provided, further*, that none of Buyer, its Affiliates or its or their respective Representatives shall conduct any environmental site assessment, compliance evaluation or investigation with respect to any property of Seller or any Company Entity without the prior written consent of Seller (it being understood and agreed that Seller may have no such authority, whether contractual or otherwise, to consent to such undertakings with respect to such Managers, directors, officers, senior employees, properties, books or other records) and without ongoing consultation with Seller with respect to any such activity (it being understood and agreed that in no event shall any subsurface investigation or testing of any environmental media be conducted); *provided, further*, that, for the avoidance of doubt, none of Buyer, its Affiliates or its or their respective Representatives shall have any right to access or review any Tax Return of Seller or any of its Affiliates or any of its or their respective direct or indirect equity holders; *provided, further*, that any access to Managers, directors, officers and senior employees of any Company Entity pertaining to obtaining the WUTC Approval and any WUTC Other PSA Approval shall be governed solely by Section 5.4. All requests for access to the Managers, directors, officers, senior employees, books, and other records of the Company Entities shall be made to such Representatives of Seller as Seller shall designate, who shall be solely responsible for coordinating

all such requests and all access permitted hereunder, including determining the appropriate attendance, format, duration and frequency thereof. Buyer shall indemnify the Seller Indemnified Parties and the Company Entities in respect of and hold each of them harmless from and against any and all Damages suffered, incurred or sustained by any of them resulting from, arising out of or relating to the activities of Buyer, its Affiliates and their respective Representatives under this Section 5.2 (it being understood that the discovery by Buyer of any pre-existing matter that does not arise out of or relate to Buyer's activities and any consequences of such discovery shall not be deemed to be arising out of or relating to Buyer's activities). The foregoing indemnification obligation shall survive the Closing or termination of this Agreement.

(b) None of Buyer, its Affiliates or its or their respective Representatives shall, prior to the Closing, contact or communicate with (i) any customers, suppliers, distributors, service providers, contractors, lenders, agents, employees, or partners that have business relationships with the Company Entities (other than the Other Buyer), (ii) any Governmental Authority or (iii) any of the Representatives of any Person described in clause (i) or clause (ii), in each case in connection with the transactions contemplated hereby, whether in person or by telephone, mail or other means of communication, without the prior written consent of Seller, other than, in the case of any Governmental Authority and any Representatives thereof, in connection with obtaining or making any of the Consents pursuant to, in accordance with and as contemplated by Section 5.4.

(c) Subject to, and without limitation to the generality of the terms in Section 5.2(a), any access to the Managers, directors, officers, senior employees, books and other records (as applicable) of the Company Entities shall be subject to the following additional limitations: (i) Buyer, its Affiliates, and its and their respective Representatives, as applicable, shall give Seller notice of at least two (2) Business Days' prior to accessing such books and other records and before the requested date for any meetings with Managers, directors, officers or senior employees, and a Representative of Seller shall have the right to be present when Buyer, its Affiliates or its or their respective Representatives conducts any meetings or other communications with such Managers, directors, officers or senior employees or any of its or their on-site investigations of such books and other records; (ii) none of Buyer, its Affiliates or its or their respective Representatives shall damage the property of the Company Entities or any portion thereof; and (iii) Buyer, its Affiliates, and its and their respective Representatives, as applicable, shall use reasonable best efforts to perform all investigations and all communications with any Representative and personnel of Seller or its applicable Affiliates, or the Managers, directors, officers, senior employees of the Company Entities (as applicable) in an expeditious and efficient (and where possible, remote) manner, and that such access may be further limited by Seller or its applicable Affiliates in response to COVID-19 Changes to the extent reasonably necessary to protect the health and safety of their respective Representatives or other commercial partners or in order to comply with any applicable COVID-19 Measures.

(d) Notwithstanding anything herein to the contrary, Seller shall not be required to provide Buyer, its Affiliates or any of its or their respective Representatives any access to any information, whether during the Interim Period or from and after the Closing, that (i) relates to bids or offers received by Seller, any Company Entity, or any Affiliate or Representative of any of the foregoing in connection with the sale process resulting in the execution and delivery of this Agreement (including any analyses conducted in connection with such sale process), (ii) Seller, any Company Entity, or any Affiliate of any of the foregoing are prohibited from providing to

Buyer, its Affiliates or its or their respective Representatives by reason of applicable Law, (iii) is protected by attorney-client privilege or work product protection, (iv) is pertinent to any litigation in which Seller, any Company Entity, or any Affiliate of any of the foregoing on the one hand, and Buyer or any of its Affiliates, on the other hand, are adverse parties (without limiting any rights of any party to such litigation to discovery in connection therewith), or (v) Seller, any Company Entity, or any Affiliate of any of the foregoing are required to keep confidential or prevent access to by reason of any Contract with a third party or any fiduciary duty.

(e) During the Interim Period, each Party agrees to keep the other Party reasonably apprised of the status of any matters relating to the completion of any of the transactions contemplated hereby, any matter specified in Section 5.1, or material developments concerning the Company Entities or the process for obtaining Required Regulatory Approvals, and to reasonably seek the views of and consult with the other Party regarding the foregoing, in each case, except (x) as otherwise specified under Section 5.4, and (y) to the extent (i) prohibited by reason of applicable Law, (ii) protected by attorney-client privilege or work product protection, (iii) pertinent to any litigation in which Seller, any Company Entity, or any Affiliate of any of the foregoing on the one hand, and Buyer or any of its Affiliates, on the other hand, is an adverse party (without limiting any rights of any party to such litigation to discovery in connection therewith), or (iv) required to be kept confidential by reason of any Contract with a third party or any fiduciary duty.

Section 5.3 Efforts to Close; Further Assurances.

(a) Subject to the terms and conditions of this Agreement and applicable Law, (x) Buyer shall (and shall cause its Affiliates to), and (y) Seller shall (and shall cause its Affiliates to, and shall exercise its Seller Company Rights in a manner consistent with permitting the Company Entities to), in each case of (x) and (y), cooperate and use their respective reasonable best efforts to take, or cause to be taken, all actions, and to do, or cause to be done, all things reasonably necessary, proper or advisable under applicable Laws and otherwise to consummate and make effective the transactions contemplated by this Agreement and the other Transaction Documents as soon as practicable (but no later than the Termination Date) and to take such actions or do such things as any other Party may reasonably request in order to cause any of the conditions to such other Party's obligations to consummate such transactions specified in Article VI to be fully satisfied.

(b) Each Party acknowledges that its obligation to use (and to cause any other Person to use) its "reasonable best efforts" for purposes of this Section 5.3 shall be deemed to require compliance with the express terms of Section 5.4 with respect to making or obtaining Consents, regardless of whether such terms provide for a standard of performance equivalent to or other than a "reasonable best efforts" standard, and regardless of whether such terms provide for an obligation to cause Persons equivalent to or other than its Affiliates (in each case, as defined therewith) to take the actions specified therein.

(c) From time to time after the Closing Date, Buyer shall (and shall cause its Affiliates to) and Seller shall (and shall cause its Affiliates to) execute and deliver such further instruments, and take (or cause its respective Affiliates or Affiliates, as the case may be, to take) such other

action, as may be reasonably necessary to carry out the purposes and intents of this Agreement and the other Transaction Documents.

Section 5.4 Consents.

(a) (i) Seller shall (and shall cause its Affiliates to) use reasonable best efforts to obtain or make all Consents of or with any Person (other than any Governmental Authority) under any Contract to which Seller or any Company Entity is a party necessary or advisable in order to allow the Parties to consummate, as promptly as practicable (but no later than the Termination Date), the transactions contemplated by this Agreement and the other Transaction Documents, including, for the avoidance of doubt, the Required Consents, and (ii) Buyer shall (and shall cause its Affiliates to) use reasonable best efforts to obtain or make all Consents of or with any Person (other than any Governmental Authority) under any Contract to which Buyer is a party necessary or advisable in order to allow the Parties to consummate, as promptly as practicable (but no later than the Termination Date), the transactions contemplated by this Agreement and the other Transaction Documents.

(b) Subject to the terms and conditions of this Agreement, including Section 5.4(c) and Section 5.4(d), Buyer shall (and shall cause its Affiliates to) and Seller shall (and shall cause its Affiliates to, and shall exercise or not exercise its Seller Company Rights in a manner consistent with permitting the Company Entities to) use reasonable best efforts to take or cause to be taken all actions, make any and all undertakings necessary and do or cause to be done all things, in order to (i) submit all applications, registrations, petitions, filings and notices to all Governmental Authorities, (ii) obtain or make all Consents of or with, and other permissions and actions of or by, all Governmental Authorities and (iii) make any subsequent or amended or supplemental submissions to, and respond promptly and completely to requests for information and documents and other inquiries from, all Governmental Authorities and other Persons, in the case of each of clauses (i) through (iii), necessary or advisable in order to allow the Parties to consummate, as promptly as practicable (but no later than the Termination Date), the transactions contemplated by this Agreement and the other Transaction Documents; *provided, however*, that Seller's covenants under this Section 5.4(b) shall not require or obligate Seller or its Affiliates or the Company Entities to make (or agree to make) any payment or assume (or agree to assume) any Liability or offer or grant any financial accommodation or other benefit to (or accept any deduction or setoff of amounts otherwise payable from) any Person other than as specifically required of Seller by the terms of this Agreement (including Section 5.4(c) and Section 5.4(d)) or Seller or any such Affiliate by the terms of any Contract to which it is a party.

(c) In furtherance, and not in limitation, of the obligations set forth in Section 5.4(b), Buyer shall (and shall cause its Affiliates to) and Seller shall (and shall cause its Affiliates to, and shall exercise its Seller Company Rights in a manner consistent with permitting the Company Entities to) (i) make the appropriate applications to the WUTC with respect to the WUTC Approval for the transactions contemplated by this Agreement and the other Transaction Documents and/or any WUTC Other PSA Approval for transactions contemplated by the Other PSA, in each case, as soon as practicable following the date of this Agreement and in no event later than forty-five (45) days hereafter, (ii) make the appropriate filings with FERC necessary for the FERC approval set forth in Schedule B as soon as practicable following the date of this Agreement and in no event later than thirty (30) days thereafter, (iii) submit to CFIUS a joint

voluntary notice under the CFIUS Regulations (“JVN”) as promptly as practicable after the date of this Agreement, but in no event later than thirty (30) days thereafter, and (iv) make appropriate filings with any other Governmental Authority from which Consent is required with respect to the transactions contemplated by this Agreement and the other Transaction Documents, in each case, as soon as practicable following the date of this Agreement. If and to the extent that any non-monetary agreement, commitment or condition is imposed or required by a Governmental Authority (other than the WUTC) for the consummation of the transactions contemplated hereby, in each case, that would materially and adversely affect Buyer, any of the Buyer Parent Controlled Affiliates, any Company Entity or any other Member (any such agreement, commitment or condition, a “Non-Monetary Other Condition”), then Seller shall promptly notify such affected Person in writing and seek the written consent of such affected Person to such Non-Monetary Other Condition. If such affected Person has not provided its written consent to such Non-Monetary Other Condition within ten (10) days after receipt of written notice thereof, then Seller may terminate this Agreement in accordance with Section 8.1(g)(i).

(d) The Parties agree that:

(i) (A) the applications submitted to FERC and CFIUS, as applicable, with respect to the transactions contemplated hereby and by the other Transaction Documents shall include the information concerning the transactions contemplated hereby and thereby, the Company Entities, and Buyer and its Affiliates as required by applicable Laws of the United States and such other jurisdictions as may be mutually determined by Seller on behalf of the Company, on the one hand, and Buyer, on the other hand, (B) subject to compliance by each Party with its obligations under Section 5.4(b), Section 5.4(c) and Section 5.4(d)(ii)-(iv), such applications and any amendments or supplements thereto shall include such agreements or commitments as may be advisable to obtain prompt approval of such applications, and (C) subject to compliance by each Party with its obligations under Section 5.4(b), Section 5.4(c) and Section 5.4(d)(ii)-(iv), (1) Seller shall not agree to, nor accept, any additional or different agreements, commitments or conditions in connection with the transactions contemplated hereby pursuant to any settlement or otherwise with FERC, CFIUS or any other Governmental Authority (other than the WUTC), in the case of any agreement, commitment or condition (x) materially and adversely affecting any Company Entity, or (y) materially and adversely affecting Buyer or any of the Buyer Parent Controlled Affiliates, without the prior written consent of Buyer, and (2) Buyer shall not agree to, nor accept, any additional or different agreements, commitments or conditions in connection with the transactions contemplated hereby pursuant to any settlement or otherwise with FERC, CFIUS, or any other Governmental Authority (other than the WUTC), in the case of any agreement, commitment or condition to which Buyer is a party and (x) materially and adversely affecting Seller or any of the Seller Parent Controlled Affiliates or (y) materially and adversely affecting any Company Entity, without the prior written consent of Seller. For the avoidance of doubt, Buyer shall not be required to agree to or accept, as a condition to CFIUS Approval, any condition imposed or required by CFIUS that would require any assets, properties and/or business of any Company Entity to be divested, held separate, or restricted from Buyer’s control in any way deemed by Buyer acting reasonably and in good faith to be materially adverse to Buyer individually or in the aggregate.

(ii) in order to ensure an expeditious and streamlined process for obtaining the WUTC Approval and the WUTC Other PSA Approval, such process (including the content of the

applications submitted to the WUTC with respect to the transactions contemplated hereby and by the other Transaction Documents and any additional or different agreements, commitments or conditions in connection with the transactions contemplated hereby pursuant to any settlement or otherwise with the WUTC) shall be, to the extent permitted under applicable Law and subject to Section 5.4(d)(iv), determined, managed and conducted in all respects by the Company in consultation with Seller; *provided*, that Seller shall use its commercially reasonable efforts to establish regular scheduled meetings with the Company regarding obtaining such WUTC Approval and WUTC Other PSA Approval, and solely in connection with such meetings between Seller and the Company and any private settlement conferences (and not meetings with or proceedings before the WUTC, which are governed by Section 5.4(e)), following preparation by the Company, in consultation with Seller, of an initial draft application for review by the Parties, (1) Seller shall provide copies of any draft applications and settlement offers and reasonable advance notice and invitation to a reasonable and proportionate number of the natural persons that are Representatives of Buyer (and/or counsel of Buyer) designated in writing to Seller as of the date hereof (or any substitutions thereto designated in writing after the date hereof) to attend (solely in the capacity of a silent observer except at the request of Seller or the Company or as otherwise provided below) any regular scheduled (or rescheduled) meeting between the Company and Seller (and/or their respective counsels) (including by way of teleconference, videoconference or similar medium) or settlement conference; *provided*, that Buyer's inability to attend any such meeting shall not delay or impair the ability of the Company and Seller to hold any such meeting or settlement conference; (2) Seller shall consult with Buyer prior to the submission of the initial application to the WUTC or final settlement offer being made or entered into with some or all of the parties to the proceeding in connection with the WUTC Approval or the WUTC Other PSA Approval; and (3) Buyer shall have full participation rights with respect to any meeting between the Company and Seller or settlement conference at which the parties thereto discuss any agreement, commitment or condition that, if entered into, made or accepted, would reasonably be expected to result in Regulatory Costs exceeding, in the aggregate, the Regulatory Costs Cap. Notwithstanding anything to the contrary herein, if the Company proposes to include a Buyer Non-Monetary WUTC Condition in the initial application to the WUTC or any amendment or supplement thereto or any initial or subsequent or final settlement offer being made or entered into with some or all of the parties to the proceeding in connection with the WUTC Approval or the WUTC Other PSA Approval (whether or not initially proposed by the Company or any other Person), (A) Seller shall consult with Buyer prior to including such Buyer Non-Monetary WUTC Condition in such application, amendment, supplement, offer or settlement, (B) Buyer shall have full participation rights with respect to any meeting between the Company and Seller or settlement conference at which the parties thereto discuss such Buyer Non-Monetary WUTC Condition, (C) if Buyer does not consent to such Buyer Non-Monetary WUTC Condition, Buyer shall use its reasonable best efforts to propose an alternative Buyer Non-Monetary WUTC Condition in substitution therefor consistent with the WUTC's stated requirements, policies and goals; *provided* that the Company shall not be obligated to accept or consent to include such alternative Buyer Non-Monetary WUTC Condition in such application, amendment, supplement, offer or settlement and (D) in no event shall any Buyer Non-Monetary WUTC Condition be included in such application, amendment, supplement, offer or settlement to which Buyer has not affirmatively consented in writing; *provided, further* that if the Company has proposed to include any one or more Buyer Non-Monetary WUTC Conditions in any such application, amendment, supplement, offer or settlement, and Buyer consent therefor has not been given and, as a result, the Company

has been unable to make the necessary application, amendment, supplement, offer or settlement containing such Buyer Non-Monetary WUTC Condition (whether or not including a settlement with any intervenors) in respect of the WUTC Approval and the WUTC Other PSA Approval by the day that is sixty-five (65) days prior to the Termination Date, and the WUTC Approval and the WUTC Other PSA Approval have not otherwise been obtained by such date, then, at any time thereafter, Seller shall have the right to terminate this Agreement pursuant to Section 8.1(g)(iv); *provided*, that the Buyer Termination Fee shall only be payable in connection with such termination in circumstances in which the Company's inability to make such application, amendment, supplement, offer or settlement is a result of the Company's rejection of an alternative Buyer Non-Monetary WUTC Condition in any such application, amendment, supplement, offer or settlement on the basis that such alternative Buyer Non-Monetary WUTC Condition, if included in such application, amendment, supplement, offer or settlement, would reasonably be expected to materially impair the ability of the Company to obtain the WUTC Approval and the WUTC Other PSA Approval.

(iii) Buyer shall (and shall cause each of its Affiliates to) cooperate fully with the Company and Seller in connection with the process described in Section 5.4(d)(ii), and not take any action that would reasonably be expected to prevent, materially delay, hinder or impair the implementation of such process in accordance with Section 5.4(d)(ii);

(iv) (A) the applications submitted to the WUTC with respect to the transactions contemplated hereby and by the other Transaction Documents shall include the information concerning the transactions contemplated hereby and thereby, the Company Entities, and Buyer and their respective Affiliates as required by applicable Laws of the State of Washington as may be determined by the Company in consultation with Seller, (B) subject to compliance by each Party with its obligations under Section 5.4(b), Section 5.4(c) and Section 5.4(d)(i)-(iii), such applications and any amendments or supplements thereto shall include such agreements or commitments (including such agreements and commitments of a monetary nature as would constitute Regulatory Costs) as may be advisable to obtain prompt approval of such applications as determined by the Company in consultation with Seller and Seller shall at the Closing pay (or cause an Affiliate of Seller at the Closing to pay) or otherwise bear the amount of any Regulatory Costs in an amount not to exceed, in the aggregate, the Regulatory Costs Cap, and (C) if and to the extent that any Non-Monetary WUTC Condition is imposed or required by the WUTC for the consummation of the transactions contemplated by this Agreement or the Other PSA, in each case, that would materially and adversely affect any Company Entity or any other Member, then Seller shall promptly notify such affected Person in writing and seek the written consent of the affected Person with respect to such Non-Monetary WUTC Condition, and if such affected Person has not provided its written consent to such Non-Monetary WUTC Condition within ten (10) days after receipt of written notice thereof, then Seller may terminate this Agreement in accordance with Section 8.1(g)(i); (D) Buyer shall not agree to, nor accept, any additional or different agreements, commitments or conditions in connection with the transactions contemplated hereby pursuant to any settlement or otherwise with the WUTC, in the case of any agreement, commitment or condition to which Buyer or any of the Buyer Parent Controlled Affiliates is a party without the prior written consent of Seller, except for any Buyer Non-Monetary WUTC Condition with respect to which Buyer has consented (or is deemed to have consented) pursuant to Section 5.4(d)(ii) or this Section 5.4(d)(iv); and (E) if and to the extent that any Buyer Non-Monetary WUTC Condition (other than a Buyer Non-Monetary WUTC Condition to which Buyer has consented pursuant to

Section 5.4(d)(ii) is imposed or required by the WUTC for the consummation of the transactions contemplated by this Agreement or the Other PSA, in each case, that would materially and adversely affect any Buyer or any Buyer Parent Controlled Affiliate, then Seller shall promptly notify Buyer in writing and seek the written consent of Buyer with respect to such Buyer Non-Monetary WUTC Condition, and if Buyer has not notified Seller of its prior written consent to such Buyer Non-Monetary WUTC Condition within ten (10) days after receipt of written notice thereof, and if Buyer does not within such ten (10)-day period terminate this Agreement as provided in Section 8.1(i), then Buyer shall be deemed to have consented to such Buyer Non-Monetary WUTC Condition.

(e) The Parties agree that, subject to Section 5.4(d):

(i) other than with respect to the WUTC Approval or any WUTC Other PSA Approval, unless prohibited by applicable Law or by the applicable Governmental Authority, Buyer, on the one hand, and Seller (and each Company Entity), on the other hand, (A) shall not participate in or attend any meeting, or engage in any substantive telephone or in-person conversation, with any Governmental Authority (including any member or Representative of any Governmental Authority's staff) in respect of the transactions contemplated by this Agreement (including with respect to any of the actions referred to in Section 5.4(b) or Section 5.4(c)) without consulting with the other Party in advance, considering in good faith the views of the other Party, and giving the other Party the opportunity to attend and participate with reasonable prior notice, (B) shall permit the other Party to review in advance any proposed substantive written communication to any Governmental Authority or any Representative thereof and consider, in good faith, the other Party's comments on any proposed written communication, (C) shall cooperate in the filing of any substantive memoranda, white papers, filings, correspondence or other written communications addressing, explaining, advocating for or defending the transactions contemplated by this Agreement, including articulating any regulatory or competitive argument or responding to requests for information or documents or objections made by any Governmental Authority, (D) shall furnish the other Party with copies of all correspondence, filings and communications (and, with respect to oral communications, memoranda or other documentation setting forth the substance thereof) between it and its Affiliates (and, with respect to Seller, the Company Entities) and its and their respective Representatives, on the one hand, and any Governmental Authority (including any member or Representative of any Governmental Authority's staff), on the other hand, with respect to the transactions contemplated by this Agreement and (E) shall furnish the other Party with such necessary information and reasonable assistance as such other Party and its Affiliates (and, with respect to Seller, the Company Entities) may reasonably request in connection with their preparation of necessary applications, filings, registrations, or submissions of information to any Governmental Authority in connection with the transactions contemplated by this Agreement. Notwithstanding the foregoing, without limiting any Party's obligation to provide such information to any Governmental Authority to the extent required hereby, a Party may redact any highly-confidential or proprietary information contained in any non-public filing, submission or other document prior to providing a copy thereof to the other Party;

(ii) With respect to the WUTC Approval and any WUTC Other PSA Approval, unless applicable Law or the WUTC requires otherwise and without limiting the rights of Buyer

in Section 5.4(d)(ii) or as a party to the WUTC proceeding if the Company requests Buyer to be a co-applicant:

(A) Seller, the Company and their Affiliates may (1) participate in or attend any meeting, or engage in any substantive telephone or in-person conversation, with the WUTC (including any member or Representative of the WUTC staff) in respect of the transactions contemplated by this Agreement (including with respect to any of the actions referred to in Section 5.4(b) or Section 5.4(c)) without notifying or consulting with the Buyer except to the extent required pursuant to Section 5.4(d)(ii); *provided, however*, that Seller shall either (x) give (with reasonable advance notice) to Buyer's Representatives designated in accordance with Section 5.4(d)(ii) the opportunity to attend (solely in the capacity of silent observers except in response to Seller, the Company or the WUTC), or (y) otherwise provide Buyer a reasonably detailed update promptly following such meeting or conversation, in each case of clauses (x) and (y), any such meetings or conversations that are material to the WUTC Approval) (2) subject to Section 5.4(d)(ii), Section 5.4(d)(iv) and subsection (1) hereof, make any immaterial correspondence, filings, or communication to or with the WUTC or any Representative thereof without (x) permitting Buyer to review or considering the Buyer's comments on such communication, or (y) furnishing Buyer with summaries or copies thereof (whether oral or written); and

(B) subject to Section 5.4(e)(ii)(A), Buyer shall comply with the requirements of Section 5.4(e)(i) with respect to the WUTC Approval or any WUTC Other PSA Approval, *mutatis mutandis*.

(f) Buyer hereby acknowledges and agrees that Puget Sound Energy is subject to the plenary jurisdiction and regulatory authority of the WUTC and also is subject to the jurisdiction and regulatory authority of FERC and that Puget Sound Energy's business operations that are subject to the jurisdictions of the WUTC and FERC are ongoing and are contemplated to continue to be ongoing before and after Closing and regardless of whether or not the transactions contemplated hereby or by the other Transaction Documents are consummated. Notwithstanding anything to the contrary in this Section 5.4, nothing in this Section 5.4 is intended to, has the meaning and purpose of, or shall be understood to, prevent or limit in any way or degree any of the Company Entities' normal and ordinary practices and abilities to meet with or have conversations with the WUTC and FERC concerning any of the Company Entities' ongoing operations that are subject to the WUTC's or FERC's jurisdictions, respectively. Buyer hereby acknowledges and agrees that the Company Entities, in the normal and ordinary course and scope of their meetings and conversations with the WUTC and FERC concerning any of the Company Entities' ongoing operations, may find it also appropriate to discuss the transactions contemplated by this Agreement and the other Transaction Documents (including, without limitation, responding to inquiries as to the potential effects of the transactions contemplated hereby on the ongoing operations under discussion), without Buyer being present and participating in such discussions. In the event of such discussions by any of the Company Entities with the WUTC or FERC, without

Buyer participating in such discussions, Seller shall reasonably apprise Buyer promptly thereafter of such discussions and the material contents thereof.

(g) Buyer shall be solely responsible for, and shall pay, all filing fees payable to Governmental Authorities or their Representatives in connection with obtaining the Required Regulatory Approvals necessary for the transactions contemplated by this Agreement.

(h) Buyer shall not (and shall cause its Affiliates not to), until the later to occur of (x) Closing and (y) the date that all Required Regulatory Approvals have been attained in Final Orders (the later date in clauses (x) and (y), the “End Date”), acquire or agree to acquire, or be acquired or agree to be acquired by, whether by merger, consolidation, asset, business or equity purchase, or any other manner, (i) any regulated electric or gas distribution utility in the State of Washington, other than pursuant to the transactions contemplated by this Agreement, or (ii) any interest in any Person owning, operating or developing electric generation facilities in the State of Washington, in each case, that could reasonably be expected to make more difficult, delay or prevent the satisfaction of the conditions contained in Article VI or the consummation of the transactions contemplated hereby. Notwithstanding the foregoing, this Section 5.4(g) shall not apply to acquisitions by Buyer or any of its Affiliates of, or agreements by Buyer or any of its Affiliates to acquire, (A) any securities of any company active in the generation, transmission or distribution of electricity or the transportation or distribution of natural gas in the State of Washington that results in aggregate, post-transaction ownership of an interest of less than ten percent (10%) of the voting or non-voting interest in any Person; (B) any interest in a “qualifying facility” within the meaning of the Public Utility Regulatory Policies Act of 1978, as amended, that is located outside of the Puget Sound Energy balancing authority area or any first-tier balancing authority area; or (C) a passive interest of less than ten percent (10%) of the voting or non-voting securities of any company that owns or controls a “qualifying facility” within the meaning of the Public Utility Regulatory Policies Act of 1978, as amended, that is located in the Puget Sound Energy balancing authority area or any first-tier balancing authority area. For the avoidance of doubt, the acquisition of any interest described in clause (ii) of the first sentence of this Section 5.4(g) by an entity that is not Controlled by Buyer or an Affiliate of Buyer and for which the decision to pursue, enter into an agreement providing for or consummate such acquisition is not controlled, directed or encouraged by Buyer or an Affiliate of Buyer shall not be treated as an indirect acquisition by Buyer or an Affiliate of Buyer.

(i) Except as consented to or waived in writing by Seller, during the Interim Period, no understanding or arrangement shall be entered into by Buyer or any of its Buyer Controlled Affiliates that would result in (A) the Equity Commitment Provider not directly and indirectly owning and solely controlling one-hundred percent (100%) of the economic and voting interest in Buyer in a manner consistent with all disclosures set forth in the applications submitted to Governmental Authorities in compliance with Section 5.4(d)(i) and Section 5.4(d)(iv) except as otherwise consented to in writing by Seller, in each case, at any time after the applicable dates thereof, or (B) Buyer ceasing to directly and indirectly own and solely control one-hundred percent (100%) of the Purchased Interests (including all economic and voting interest therein) at any time at or after the Closing.

(j) If (i) Buyer or any of its Buyer Parent Controlled Affiliates enters into any Contracts, understandings or arrangements with any Person with respect to any Buyer Competing

Transaction, or (ii) (x) Buyer or any of its Buyer Parent Controlled Affiliates enters into any discussions or negotiations with respect to any of the foregoing actions or any other Buyer Interested Person enters into discussions or negotiations with respect to or otherwise takes any of the foregoing actions (other than communications informing such Person it is unable to discuss such Buyer Competing Transaction), and (y) Seller determines in good faith that such actions could reasonably be expected to result in (A) any Governmental Authority treating any Buyer Competing Transaction and the transactions contemplated by this Agreement as a single transaction or a series of related steps in a single transaction pursuant to which Buyer or any other Person seeks to acquire or acquires control of the Company or (B) any other regulatory determination or other action adverse to Seller or any of its Seller Parent Controlled Affiliates, the Company Entity or any other Member, then Seller shall have the right to terminate this Agreement in accordance with Section 8.1(g)(iii), or, the provisions of Section 5.4(l) shall apply if the Closing occurs.

(k) If Buyer or any Buyer Interested Person seeks approval from any Governmental Authority to consummate any Buyer Competing Transaction or any sale, transfer, assignment or other disposition of any Company Interests owned by Buyer or any portion of the Loan under and as defined in the Loan Agreement during the period between the date hereof and three (3) months after the End Date, then Seller shall have the right to terminate this Agreement in accordance with Section 8.1(g)(iii), or the provisions of Section 5.4(l) shall apply if the Closing occurs; *provided*, that the provisions of this Section 5.4(k) and Section 5.4(l) shall not apply to any circumstance in which Buyer participates in any such sale, transfer, assignment or other disposition solely as a “Tagging Member” or “Required Member” (as defined in the LLC Agreement) pursuant to Section 7.08 or Section 7.09, respectively, of the LLC Agreement.

(l) In the event that any of the circumstances described in Section 5.4(j) or Section 5.4(k) occurs, and as a result thereof, any Governmental Authority treats any Buyer Competing Transaction or any sale, transfer, assignment or other disposition of any Company Interests owned by Buyer or any portion of the Loan under and as defined in the Loan Agreement and the transactions contemplated by this Agreement as a single transaction or a series of related steps in a single transaction pursuant to which Buyer or any other Person seeks to acquire or acquires control of the Company and the Closing occurs, then (A) Buyer hereby agrees that it shall in no circumstance be entitled to, and hereby waives any right to, claim any indemnity against Seller under Section 7.04(f) of the LLC Agreement on the basis that Buyer is a “non-Transferring Member” thereunder with respect to such Buyer Competing Transaction or any such other sale, transfer, assignment or other disposition of any Company Interests owned by Buyer or any portion of the Loan under and as defined in the Loan Agreement or the transactions contemplated by this Agreement, and (B) Buyer hereby assumes, and agrees to indemnify and hold Seller harmless from, any and all obligations and Liability of Seller (if any) as the “Transferring Member” pursuant to Section 7.04(f) of the LLC Agreement with respect to such Buyer Competing Transaction or any such other sale, transfer, assignment or other disposition of any Company Interests owned by Buyer or any portion of the Loan under and as defined in the Loan Agreement or the transactions contemplated by this Agreement. Buyer’s obligations under this Section 5.4(l) shall be in addition to its Liabilities under Article VII and Section 9.12, and shall survive the Closing.

(m) In the event that any Governmental Authority to which any filing is required to be submitted by any given date or within any given period pursuant to this Section 5.4 is closed or

not accepting filings (“Government Closure”), such date or period shall be extended Business Day-for-Business Day for each Business Day the Government Closure is in effect.

Section 5.5 Confidentiality; Public Announcements.

(a) Buyer, its Buyer Parent Controlled Affiliates and its and their Representatives shall hold in confidence all Confidential Information (as defined in the Confidentiality Agreement) obtained by them from Seller, the Company Entities, and Affiliates and Representatives of any of the foregoing, whether or not relating to Purchased Assets or the Company Entities, in accordance with the provisions of the Confidentiality Agreement, which, notwithstanding anything set forth herein, shall remain in full force and effect following the execution of this Agreement and shall survive any termination of this Agreement in accordance with its terms; *provided, however*, that, subject to Section 5.5(c), Buyer, its Affiliates and its and their respective Representatives (i) shall not have any obligation hereunder or thereunder to maintain the confidentiality of any information with respect to the Purchased Assets or the Company Entities from and after the Closing, and (ii) shall be permitted to disclose such Confidential Information (I) as required (x) by any Governmental Authority to be disclosed by any such Person or its Affiliates under applicable Law or any applicable listing agreement with, or rules and regulations of, an applicable securities exchange or (y) for purposes of compliance with such Person’s or its Affiliates’ respective financial reporting obligations or practices or fundraising or marketing activities, (II) in connection with the exercise of any remedies of such Person or its Affiliates or other third-party beneficiaries hereof provided in this Agreement or any Transaction Document or any proceeding related to this Agreement or any Transaction Document or the enforcement of rights of such Person or its Affiliates or other third-party beneficiaries hereof hereunder or thereunder, (III) to such Person’s and its Affiliates’ respective Representatives as necessary in connection with the performance of such Representatives’ services in the ordinary course of business on behalf of such Person or its Affiliates, or (IV) as contemplated by and in accordance with Section 5.4. For purposes of this Section 5.5(a), Confidential Information shall not include information that (A) is or becomes generally available to the public prior to the date of disclosure by any receiving Person other than as a result of disclosure by such receiving Person in violation hereof, (B) is independently developed by or on behalf of the receiving Person or any of its Affiliates without reference to any Confidential Information or (C) is approved in advance in writing by Seller for disclosure.

(b) Seller shall, and shall cause its Controlled Affiliates and Representatives to, keep confidential all, and not use or disclose to any other Person, any confidential information of (1) Buyer or any of its Affiliates and (2) from and after the Closing, the Company Entities or otherwise relating to the Purchased Assets; *provided*, that Seller and its Affiliates and their respective Representatives may use and disclose such confidential information (i) as required (x) by any Governmental Authority to be disclosed by any such Person or its Affiliates under applicable Law or any applicable listing agreement with, or rules and regulations of, an applicable securities exchange or (y) for purposes of compliance with such Person’s or its Affiliates’ respective financial reporting obligations or practices or fundraising or marketing activities, or (ii) by or to such Person’s and its Affiliates’ respective Representatives as necessary in connection with the performance of such Representatives’ services in the ordinary course of business on behalf of such Person or its Affiliates. Notwithstanding the foregoing, (x) for the avoidance of doubt, Seller and its Affiliates and their respective Representatives may, at any time, whether before, at or after the Closing, use and disclose such confidential information in connection with the exercise of any

remedies of such Person or its Affiliates or any Seller Indemnified Parties or other third-party beneficiaries hereof provided in this Agreement or any Transaction Document or any proceeding related to this Agreement or any Transaction Document or the enforcement of rights of such Person or its Affiliates or any Seller Indemnified Parties or other third-party beneficiaries hereof hereunder or thereunder, and (y) such confidential information for purposes of this Section 5.5(b) shall expressly exclude such information that (A) is or becomes generally available to the public prior to the date of disclosure by any receiving Person other than as a result of disclosure by such receiving Person in violation hereof, (B) is independently developed by or on behalf of the receiving Person or any of its Affiliates or (C) is approved in advance in writing by Buyer for disclosure. Buyer acknowledges and agrees that certain directors, managers, committee members, and officers of Seller, and certain employees and/or other personnel of Seller or of the general partner, manager or Controlled portfolio companies of any Controlling Affiliate of Seller that is a Fund, may manage or advise, or serve as directors, managers, committee members, officers, employees and/or other personnel of other Persons and that, notwithstanding anything to the contrary contained herein, such other Persons will not be deemed to have received confidential information of the Company Entities or otherwise relating to the Purchased Assets or otherwise be bound or restricted in any way (directly or indirectly) by this Section 5.5(b), whether due to such management or advice to, or service with, such other Persons or otherwise, including through the disclosure or use of the general knowledge and understanding of the Company Entities' respective industry acquired through or enhanced by such confidential information.

(c) Except as otherwise required herein, no press release or other public announcement, or public statement or comment in response to any inquiry, relating to this Agreement or the transactions contemplated hereby shall be issued or made by Buyer or Seller, or any of their Affiliates or Representatives, without the consent of Buyer or Seller, respectively, such consent not to be unreasonably withheld, conditioned or delayed; *provided, however*, whenever any such press release, public announcement, public statement or comment in response to any inquiry contains any reference to Buyer or its Affiliates or to Seller or its Affiliates, Buyer or Seller, as the case may be, shall be provided with a copy of such press release, public announcement, public statement or comment in response to such inquiry at least seven (7) days in advance of the anticipated release of such item or such shorter period as may be agreed to by the Parties; and *provided, further*, that a press release or other public announcement, statement or comment made without such consent, shall not be in violation of this Section 5.5(c) if it is required by any Governmental Authority or made in order to comply with Laws or stock exchange rules and in the reasonable judgment of the Party or Affiliate making such release or announcement, based upon advice of counsel, prior review and joint approval, despite commercially reasonable efforts to obtain the same, would prevent dissemination of such release or announcement in a sufficiently timely fashion to comply with such requirement, Laws or rules; *provided, further*, that in all instances Buyer or Seller, as the case may be, shall provide prompt notice of any such release, announcement, statement or comment to the other Party and such other Party shall have a reasonable opportunity to comment on the disclosure related thereto (including as to any part of this Agreement that may be redacted on the basis that it contains confidential information of such Party).

Section 5.6 Post-Closing Access; Preservation of Records. From and after the Closing, Buyer shall exercise its Buyer Company Rights in a manner consistent with permitting the Company Entities to make, or cause to be made, available to Seller and its Affiliates and their

respective Representatives all books, records, Tax Returns and documents of the Company Entities (and the assistance of employees responsible for such books, records and documents) during regular business hours as may be reasonably necessary for (a) investigating, settling, preparing for the defense or prosecution of, defending or prosecuting any Action, (b) preparing reports to equity holders and Governmental Authorities or (c) such other purposes for which access to such documents by Seller is reasonably necessary, including preparing and delivering any accounting or other statement provided for under this Agreement or otherwise, preparing Tax Returns, pursuing Tax refunds or responding to or disputing any Tax audit, or the determination of any matter relating to the rights and obligations of Seller, the Company Entities or any of their respective Affiliates under any Transaction Documents; *provided, however*, that access to such books, records, documents and employees shall not unreasonably interfere with the normal operations of Buyer or any of its Affiliates or any of the Company Entities and the reasonable and documented out-of-pocket expenses of Buyer or any of its Affiliates and the Company Entities incurred in connection therewith shall be paid by Seller; *provided, further*, that, for the avoidance of doubt, none of Seller, its Affiliates or its or their respective Representatives shall have any right to access or review any Tax Return of Buyer or any of its Affiliates or any of its or their respective direct or indirect equity holders. Buyer shall exercise its Buyer Company Rights in a manner consistent with permitting the Company Entities to maintain and preserve all such Tax Returns, books, records and other documents for the greater of (i) seven (7) years after the Closing Date and (ii) any applicable statutory or regulatory retention period, as the same may be extended and, in each case, shall offer to transfer such records to Seller at the end of any such period.

Section 5.7 Tax Matters.

(a) Each Party shall (and shall cause its applicable Affiliates to) cooperate fully, as reasonably requested by the other Parties, in connection with the preparation of any Tax Return of the Company Entities with respect to any taxable period ending on or before or including the Closing Date and the conduct of any Action with respect to Taxes of any of the Company Entities. Such cooperation shall include the retention of and (upon any other Party's request) the provision of records and information reasonably relevant to such Tax matters and making employees available on a mutually convenient basis to provide additional information.

(b) Except as otherwise required by Law, the parties hereto agree to treat for all Tax purposes all indemnification payments under Article VII as adjustments to the Purchase Price.

Section 5.8 D&O Indemnification, Exculpation and Insurance.

(a) Buyer acknowledges and agrees that all rights to exculpation, indemnification and advancement of expenses for acts or omissions of directors, managers, committee members and officers of the Company Entities occurring at or prior to the Closing, whether asserted or claimed prior to, at or after the Closing, as provided in the Company Entities' respective Governing Documents and in any indemnification or other similar Contracts of the Company Entities as in effect as of immediately prior to the Closing, shall survive the transactions contemplated by this Agreement and shall continue in full force and effect. For a period of six (6) years following the Closing, Buyer shall, and shall exercise its Buyer Company Rights in a manner consistent with permitting the Company Entities to, maintain in effect any and all such exculpation, indemnification and advancement of expenses provisions and shall not amend, repeal or otherwise

modify any such provisions in any manner that would adversely affect the rights thereunder of any individual who at any time before the Closing was a director, manager, committee member or officer of any of the Company Entities who was a Representative of Seller or any Affiliate of Seller; *provided, however*, that all rights to exculpation, indemnification and advancement of expenses in respect of any Action pending or asserted or any claim made within such period shall continue until the disposition of such Action or resolution of such claim. From and after Closing, Buyer shall exercise its Buyer Company Rights in a manner consistent with permitting the Company Entities to maintain in effect (at their sole cost and expense, including all premiums and deductibles) the directors' and officers' liability insurance policy or policies provided for directors, managers, committee members and officers of the Company Entities as of the date hereof who were Representatives of Seller or any Affiliate of Seller.

(b) In the event Buyer or any of the Company Entities or any of their respective successors or assigns (i) consolidates with or merges into any other Person and shall not be the continuing or surviving company or entity of such consolidation or merger or converts into any other Person or (ii) transfers all or substantially all of its properties and assets to any Person, then, and in each such case, Buyer shall use commercially reasonable efforts to procure that the successors and assigns of Buyer or such Company Entities, as applicable, shall assume the obligations set forth in this Section 5.8.

(c) The provisions of this Section 5.8 are (i) intended to be for the benefit of, and will be enforceable by, each individual who at any time before the Closing was a director, manager, committee member or officer of any of the Company Entities, and his or her heirs and legal representatives and (ii) in addition to, and not in substitution for or limitation of, any other rights of exculpation, indemnification and advancement of expenses or rights to directors' and officers' liability insurance that any such individual may have by Contract or otherwise.

Section 5.9 Alternative Proposals.

(a) From and after the date hereof and through the Closing, Seller shall cause its Affiliates, members, partners, directors, managers, committee members, officers and employees not to, and shall instruct its advisors and other third-party representatives and agents acting on its behalf not to, directly or indirectly, (i) encourage, solicit, initiate, facilitate or continue inquiries, discussions, proposals or offers that constitute or may reasonably be expected to constitute or lead to an Alternative Proposal (including by way of furnishing or providing copies of, access to, or disclosure of, any confidential or non-public information, properties, facilities, books or records concerning any of the Company Entities or their respective businesses which access and/or disclosure is being or has been provided in connection with (A) any inquiry, proposal or offer that constitutes or may reasonably be expected to constitute or lead to an Alternative Proposal, or (B) any discussions or negotiations in connection therewith); (ii) enter into or otherwise engage or participate in any discussions or negotiations with, or provide any information to, or continue any existing discussions or negotiations with any Person or group of Persons (including with any Controlled Affiliates of Seller) conducted heretofore with respect to, or that could lead to, an Alternative Proposal; or (iii) enter into any agreements or other instruments (whether or not binding) regarding an Alternative Proposal.

(b) Seller (i) shall (and shall cause its Affiliates and its and their respective Representatives to) take all commercially reasonable actions to enforce each confidentiality, non-disclosure, non-solicitation, use, business purpose or similar agreement or covenant with respect to the Company Interests owned by Seller and/or the Company Entities to which Seller or any such Affiliate or Representative is a party, and (ii) shall not release, and shall cause such Affiliates and their respective Representatives not to release, in connection with any inquiry, proposal or offer that constitutes or may reasonably be expected to constitute or lead to an Alternative Proposal, any Person from, or waive, amend, suspend or otherwise modify any provision of, or grant permission under or fail to enforce, any confidentiality, non-disclosure, non-solicitation, use, business purpose or similar agreement or covenant with respect to the Company Interests owned by Seller and/or the Company Entities to which Seller or any such Affiliate or Representative is a party that remains in effect as of the date of this Agreement (it being acknowledged by Buyer that the automatic termination or release of any standstill restrictions in any such agreements in accordance with the terms of any such agreement shall not be a violation of this Section 5.9(b)).

Section 5.10 Financing.

(a) Buyer shall give Seller prompt written notice (i) of any actual or anticipated breach or default (or any event or circumstance that, with or without notice, lapse of time or both, would reasonably be expected to give rise to any breach or default) by any party to the Financing Commitment, (ii) if and when Buyer becomes aware that any portion of the Equity Financing may not be available to consummate the transactions contemplated by this Agreement on the terms and conditions and in the manner set forth in the Financing Commitment, (iii) of the receipt of any written notice or other written communication from any Person with respect to any actual, alleged or potential breach, default, termination or repudiation by any party to the Financing Commitment and (iv) of any termination of the Financing Commitment.

(b) In the event that all conditions in Article VI have been satisfied or waived other than those that by their nature are to be satisfied at the Closing (but only to the extent such conditions would be satisfied if the Closing were to occur at such time), Buyer shall use its reasonable best efforts to cause the parties to the Financing Commitment to fund at the Closing the Equity Financing required to consummate the transactions contemplated by this Agreement. In furtherance thereof, Buyer shall use its reasonable best efforts (A) to maintain in full force and effect the Financing Commitment, (B) to satisfy on a timely basis all conditions to receipt of the Equity Financing in the Financing Commitment and, upon satisfaction of the conditions set forth in the Financing Commitment, to consummate the Equity Financing at or prior to Closing, (C) to enforce its rights under the Financing Commitment to cause the Equity Financing to be funded at the Closing and (D) to comply with its obligations under the Financing Commitment. Buyer shall not, without the prior written consent of Seller, permit any amendment, modification or supplement to be made to, or any waiver of any provision under, the Financing Commitment if such amendment, modification, supplementation or waiver (i) would reasonably be expected to reduce the aggregate amount of the proceeds of the Equity Financing to be funded on the Closing Date below an amount necessary to fund the payment obligations of Buyer hereunder and all related fees and expenses in connection with the transactions contemplated by this Agreement, (ii) imposes additional, or would permit the imposition of additional, conditions precedent to the availability of the Equity Financing or amends or otherwise modifies any of the existing conditions to the funding of the Equity Financing, (iii) would reasonably be expected to impair, delay or

prevent the consummation of all or any portion of the Equity Financing on the Closing Date in an amount sufficient to fund the payment obligations of Buyer hereunder and all related fees and expenses in connection with the transactions contemplated by this Agreement, (iv) is materially adverse to the Seller or less favorable to Buyer (including with respect to the certainty and timing of funding), taken as a whole, or (v) materially adversely impacts the ability of Buyer to enforce its rights against the other Persons party to the Financing Commitment. Buyer acknowledges and agrees that the Closing is not conditioned on the availability of the Equity Financing or any alternative financing arrangement. Accordingly, Buyer acknowledges and agrees that a failure by Buyer to consummate the Closing and the transactions contemplated hereby when otherwise required pursuant to Section 2.3 that results from a failure to consummate the Equity Financing shall constitute a material breach of Buyer's obligations under this Agreement and Seller shall be entitled to specific performance of Buyer's obligations under this Section 5.10(b), including Buyer's obligation to enforce its rights under the Financing Commitment to cause the Equity Financing to be funded at the Closing, in each case, pursuant to and in accordance with Section 9.12.

(c) None of Buyer, the Equity Commitment Provider nor any of their respective Affiliates shall obtain any debt financing in connection with the transactions contemplated by this Agreement and the other Transaction Documents; *provided*, that the foregoing shall not prohibit any equity holder loan or similar financing between Buyer, the Equity Commitment Provider or any Affiliate thereof, on the one hand, and any direct or indirect equity holder of any such Person, on the other hand so long as such loan or similar financing is not secured by, and is in all respects non-recourse to, the Purchased Interests and the Company Entities.

Section 5.11 Termination of Affiliate Contracts. At or prior to the Closing, each Affiliate Contract (other than the Loan Agreement) shall be terminated without any further force or effect, such that the Company Entities, on the one hand, and Seller and its Affiliates (excluding the Company Entities), on the other hand, do not have any further Liability to one another in respect thereof from and after the Closing.

Section 5.12 Other PSA. To the extent permitted or required under applicable Law, this Agreement, the Other PSA or the other Transaction Documents, Buyer shall use (and shall cause its Affiliates to use) reasonable best efforts to cooperate with Seller and the Other Buyer in connection with Seller's and the Other Buyer's performance of their obligations pursuant to the Other PSA to consummate and make effective the transactions contemplated by the Other PSA as soon as practicable (but no later than the Termination Date). In the event that the Other PSA is terminated in accordance with its terms, Seller shall promptly (and in any event within ten (10) Business Days thereafter), provide written notice to Buyer of such termination (the "Other PSA Notice"), and if neither Party exercises its right to terminate this Agreement in accordance with Section 8.1(h) prior to the tenth (10th) Business Day after delivery of the Other PSA Notice, then the conditions set forth in Section 6.1(c) shall be deemed irrevocably waived by the Parties.

ARTICLE VI. CONDITIONS TO CLOSING

Section 6.1 Conditions Precedent to Obligations of Buyer and Seller. The respective obligations of each Party to consummate the transactions contemplated by this Agreement are

subject to the satisfaction (or, if permissible, waiver by such Party) at or prior to the Closing Date of each of the following conditions:

(a) No Adverse Law. No Governmental Authority shall have issued, enacted, entered, promulgated or enforced any Law, restraining, enjoining or otherwise prohibiting the transactions contemplated hereby.

(b) Required Regulatory Approvals. The Consents listed on Schedule B (the “Required Regulatory Approvals”) shall have been obtained at or prior to the Closing, and such approvals shall have become Final Orders.

(c) Concurrent Closing. The transactions contemplated by the Other PSA shall have been consummated or shall be consummated substantially concurrently with the Closing hereunder.

(d) Required Consents. All Consents and amendments listed in Schedule C (the “Required Consents”) shall have been obtained.

Section 6.2 Conditions Precedent to Obligations of Seller. The obligation of Seller to consummate the transactions contemplated by this Agreement is subject to the satisfaction (or waiver by Seller) at or prior to the Closing Date of each of the following additional conditions:

(a) Accuracy of Buyer’s Representations and Warranties. The representations and warranties of Buyer contained in this Agreement, disregarding all qualifications contained herein relating to materiality or Material Adverse Effect, shall be true and correct in each case on and as of the Closing Date with the same force and effect as though such representations and warranties had been made on the Closing Date (except, in either case, for such representations and warranties which by their express provisions are made as of an earlier date, in which case, only as of such earlier date), except to the extent that the failure of such representations and warranties to be true and correct would not, individually or in the aggregate, have a Material Adverse Effect on Buyer; *provided*, that (i) the Fundamental Representations of Buyer shall be true and correct in all material respects and (ii) the representations and warranties set forth in Section 4.6 shall be true and correct in all respects.

(b) Covenants and Agreements of Buyer. Buyer shall have performed and complied in all material respects with all of the covenants and agreements hereunder required to be performed and complied with by it prior to the Closing; *provided*, that Buyer shall have performed and complied in all respects with the covenants and agreements set forth in Section 5.4(i) required to be performed and complied with by it prior to the Closing.

(c) Preliminary Purchase Price. Buyer shall have paid the Preliminary Purchase Price to Seller pursuant to Section 2.2.

(d) Closing Documents. Buyer shall have delivered, or caused to be delivered, all agreements, instruments and documents required to be delivered by Buyer under Section 2.4(b).

Section 6.3 Conditions Precedent to Obligations of Buyer. The obligation of Buyer to consummate the transactions contemplated by this Agreement is subject to the satisfaction (or waiver by Buyer) at or prior to the Closing Date of each of the following additional conditions:

(a) **Accuracy of Seller's Representations and Warranties.** The Fundamental Representations (other than the Fundamental Representations set forth in Section 3.5) made by Seller shall be true and correct in all material respects and the Fundamental Representations set forth in Section 3.5 shall be true and correct in all respects.

(b) **Covenants and Agreements of Seller.** Seller shall have performed and complied in all material respects with all of the covenants and agreements hereunder required to be performed and complied with by Seller prior to the Closing.

(c) **No Material Adverse Effect.** From the date of this Agreement there shall not have occurred and be continuing a Material Adverse Effect with respect to the Company Entities.

(d) **Membership into the Company.** At or immediately following the Closing, Buyer shall be admitted as a member of the Company and Buyer's ownership of the Purchased Interests shall be registered in the books of the Company maintained for such purpose in accordance with the LLC Agreement, and evidence of the foregoing shall have been provided to Buyer.

(e) **Closing Documents.** On or prior to the Closing Date, Seller shall have delivered, or caused to be delivered, all agreements, instruments and documents required to be delivered by Seller pursuant to Section 2.4(a).

Section 6.4 Frustration of Closing Conditions. A Party may not rely on the failure of any condition set forth in Section 6.1, Section 6.2 or Section 6.3, as the case may be, to be satisfied if such failure was caused by such Party's failure to use its reasonable best efforts to consummate the transactions contemplated hereby pursuant to Section 5.3, or due to the failure of such party to perform any of its other obligations under this Agreement.

ARTICLE VII. SURVIVAL, RECOURSE LIMITATION

Section 7.1 Survival. Each and every Fundamental Representation made by Seller and Buyer in this Agreement and in any Closing Certificate shall survive the Closing for a period of one (1) year thereafter. Each and every representation and warranty (other than the Fundamental Representations) shall expire at the Closing. Each and every covenant contained in this Agreement (other than the covenants which by their terms are to be performed by the Parties following the Closing, including, for the avoidance of doubt, Section 5.4(l) (collectively, the "Surviving Covenants") contained in this Agreement (collectively, the "Pre-Closing Covenants") shall expire at the Closing. Each Surviving Covenant shall survive the Closing Date until fully performed. Subject to the final sentence of this Section 7.1, none of Seller, Buyer or any of their respective Affiliates shall have any Liability whatsoever with respect to any such representation, warranty or covenant from and after the time that such representation, warranty or covenant ceases to survive hereunder. Notwithstanding the foregoing, any representation, warranty or covenant that would otherwise terminate in accordance with this Section 7.1 at the end of its survival period shall continue to survive if a Claim Notice or Indemnity Notice (as applicable) shall have been timely

given in accordance with Section 7.3 on or prior to such termination date, until the related claim for indemnification has been satisfied or otherwise resolved as provided in Section 7.3.

Section 7.2 Indemnification.

(a) Subject to the other provisions of this Article VII, from and after the Closing, Seller shall indemnify the Buyer Indemnified Parties in respect of, and hold each of them harmless from and against, any and all Damages suffered, incurred or sustained by any of them resulting from, arising out of or relating to (i) any breach or inaccuracy of any Fundamental Representation made by Seller herein or in Seller's Closing Certificate (disregarding all qualifications contained herein relating to materially or Material Adverse Effect (both with respect to the amount of Damages and whether a breach or inaccuracy has occurred)) or (ii) any breach or failure to perform any covenant on the part of Seller contained in this Agreement.

(b) Subject to the other provisions of this Article VII, from and after the Closing, Buyer shall indemnify the Seller Indemnified Parties in respect of, and hold each of them harmless from and against, any and all Damages suffered, incurred or sustained by any of them resulting from, arising out of or relating to (i) any breach or inaccuracy of any Fundamental Representation made by Buyer herein or in Buyer's Closing Certificate (disregarding all qualifications contained herein relating to materially or Material Adverse Effect (both with respect to the amount of Damages and whether a breach or inaccuracy has occurred)) or (ii) any breach of or failure to perform any covenant on the part of Buyer contained in this Agreement.

(c) Seller's liability for Damages under this Agreement resulting from, arising out of, or relating to any breach or inaccuracy of any Fundamental Representation made by Seller or any breach of or failure to perform any Pre-Closing Covenant or Surviving Covenant on the part of Seller contained in this Agreement shall be limited to, in the aggregate, an amount equal to the Purchase Price.

(d) The amount which an Indemnifying Party is or may be required to pay to an Indemnified Party in respect of Damages for which indemnification is provided under this Agreement shall be reduced by any amounts actually received (including amounts received under insurance policies) by or on behalf of any Indemnified Party or its Affiliates from third parties and any Tax benefit to the Indemnified Party or its Affiliates arising in connection with the payment of any such Damages (such amounts and benefits are collectively referred to herein as "Indemnity Reduction Amounts"). If any Indemnified Party or its Affiliates receives any Indemnity Reduction Amounts in respect of a claim for which indemnification is provided under this Agreement after the full amount of such claim has been paid by an Indemnifying Party or after an Indemnifying Party has made a partial payment of such claim and such Indemnity Reduction Amounts exceed the remaining unpaid balance of such claim, then the Indemnified Party shall promptly remit to the Indemnifying Party an amount equal to the excess (if any) of (i) the amount theretofore paid by the Indemnifying Party in respect of such claim, less (ii) the amount of the indemnity payment that would have been due if such Indemnity Reduction Amounts in respect thereof had been received before the indemnity payment was made. An insurer or other third party who would otherwise be obligated to pay any claim shall not be relieved of the responsibility with respect thereto or, solely by virtue of the indemnification provisions hereof, have any subrogation rights with respect thereto, it being expressly understood and agreed that no insurer or any other third

party shall be entitled to any benefit they would not be entitled to receive in the absence of the indemnification provisions by virtue of the indemnification provisions hereof. Each of Seller and Buyer, as appropriate, shall or shall cause each Indemnified Party to, use its reasonable best efforts to mitigate Damages. For purposes of this Section 7.2(d), any Indemnified Party will be deemed to realize a Tax benefit if and to the extent that in the taxable period in which any Damages are incurred by such Indemnified Party the cumulative liability for Taxes of the Indemnified Party for such taxable period, calculated with such Damages and indemnity payment in respect of such Damages excluded, exceeds the actual cumulative liability for Taxes of the Indemnified Party for such taxable period through the end of such taxable period, calculated with such Damages and indemnity payment in respect of such Damages included.

(e) No Buyer Indemnified Party shall be entitled to indemnification for any Damages which would not have arisen but for any alteration, repeal or enactment of any Law after the Closing Date.

Section 7.3 Method of Asserting Claims. All claims for indemnification by any Indemnified Party under this Agreement shall be asserted and resolved as follows:

(a) In the event that any Action is asserted against or sought to be collected from any Indemnified Party by any Person other than a Party in respect of which an Indemnified Party intends to make a claim for indemnification under this Agreement (a “Third-Party Claim”), then such Indemnified Party shall promptly deliver a Claim Notice to the Indemnifying Party in accordance with Section 7.3(b). In the event that any such Third-Party Claim is asserted against any Indemnified Party, the Indemnifying Party shall be entitled to assume and control the defense of such Third-Party Claim, with counsel reasonably satisfactory to such Indemnified Party, and, after delivering written notice to such Indemnified Party of its election to assume and control the defense of such Third-Party Claim, the Indemnifying Party shall not be liable to such Indemnified Party for any legal or other expenses subsequently incurred by such Indemnified Party in connection therewith; *provided*, that in the event that the Indemnifying Party elects to assume and control the defense thereof, the Indemnified Party may participate in such defense at the Indemnified Party’s expense. If the Indemnifying Party does not elect to assume and control the defense of any Third-Party Claim, then it shall not be obligated to pay the fees and expenses of more than one counsel for the Indemnified Parties with respect to such Third-Party Claim, unless the Indemnified Parties shall have been advised by outside legal counsel that representation of any such Indemnified Parties by the same counsel would be inappropriate under applicable standards of professional conduct due to actual or potential conflicts of interest between them, in which case, the Indemnifying Party shall be obligated to pay the fees and expenses of such additional counsel as is necessary to address such conflicts. No Indemnifying Party shall consent to entry of any judgment or enter into any settlement of any Third-Party Claim of which it has assumed and controls the defense hereunder without the consent of the Indemnified Party, to the extent such judgment or settlement would have an adverse impact on the Indemnified Party, which consent shall not be unreasonably withheld or delayed; *provided*, that such consent shall not be required if (i) the settlement agreement contains a full and unconditional release by all parties asserting the Third-Party Claim of all Indemnified Parties affected by such Third-Party Claim and (ii) the settlement is for money damages only. No Indemnifying Party shall be subject to any Liability for any settlement of any Third-Party Claim made without its consent, which consent shall not be unreasonably withheld, conditioned or delayed.

(b) In the event that any Indemnified Party intends to make a claim (including with respect to any Third-Party Claim) for indemnification under this Agreement, such Indemnified Party shall deliver an Indemnity Notice promptly to the Indemnifying Party; *provided*, that the failure by any Indemnified Party to deliver such Indemnity Notice shall not impair such Indemnified Party's rights hereunder except to the extent that any Indemnifying Party has been prejudiced thereby, and then only to the extent of such prejudice. The Indemnifying Party shall notify the Indemnified Party within thirty (30) days after its receipt of such Indemnity Notice as to whether the Indemnifying Party disputes its Liability for any claim set forth in the Indemnity Notice. If the Indemnifying Party notifies the Indemnified Party that it does not dispute the claim set forth in the Indemnity Notice, or fails to notify the Indemnified Party within such thirty (30)-day period whether the Indemnifying Party disputes such claim, then the Indemnifying Party shall be deemed to be liable hereunder for indemnifying the Indemnified Party for indemnifiable Damages in respect of such claim, subject to the other provisions of this Article VII, when such Damages have been finally determined or when the Indemnifying Party and the Indemnified Parties have mutually agreed in writing as to the amount of such Damages, if earlier.

(c) The Parties shall cooperate with one another with respect to resolving any claim or Liability with respect to which one Party is obligated to provide indemnification hereunder.

(d) Notwithstanding anything contained in this Agreement, any amounts payable pursuant to this Article VII shall be paid without duplication, and in no event shall any Indemnified Party be indemnified under different provisions of this Agreement for the same Damages.

Section 7.4 Exclusivity of Representations and Warranties.

(a) EXCEPT FOR ANY REPRESENTATIONS AND WARRANTIES EXPRESSLY SET FORTH IN ARTICLE III OR SELLER'S CLOSING CERTIFICATE, THE PURCHASED ASSETS ARE BEING ACQUIRED "AS IS, WHERE IS," AND EACH OF SELLER AND ITS AFFILIATES EXPRESSLY DISCLAIMS ANY REPRESENTATION OR WARRANTY OF ANY KIND OR NATURE, EXPRESS OR IMPLIED, AS TO THE PURCHASED ASSETS OR THE BUSINESS, OPERATIONS, ASSETS OR CONDITION (FINANCIAL OR OTHERWISE) OF THE COMPANY ENTITIES, AND EACH OF SELLER AND ITS AFFILIATES EXPRESSLY DISCLAIMS, AND BUYER HEREBY WAIVES, ANY REPRESENTATION OR WARRANTY OF QUALITY, MERCHANTABILITY, NON-INFRINGEMENT, USAGE, OR SUITABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE WITH RESPECT TO THE ASSETS OF THE COMPANY ENTITIES, OR ANY PART THEREOF, OR AS TO THE WORKMANSHIP THEREOF, OR THE ABSENCE OF ANY DEFECTS THEREIN, WHETHER LATENT OR PATENT, OR COMPLIANCE WITH AND LIABILITIES ARISING UNDER ENVIRONMENTAL LAWS (INCLUDING WITH RESPECT TO THE USE, PRESENCE, DISPOSAL OR RELEASE OF HAZARDOUS MATERIALS AND ANY LIABILITIES ARISING UNDER OR WITH RESPECT TO THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT OR ANY OTHER ANALOGOUS LAW), OR AS TO THE CONDITION OF THE ASSETS OF THE COMPANY ENTITIES, OR ANY PART THEREOF, INCLUDING WHETHER THE COMPANY ENTITIES POSSESS SUFFICIENT REAL PROPERTY OR PERSONAL PROPERTY TO OPERATE THE BUSINESS OF THE COMPANY ENTITIES, IN EACH CASE, EXCEPT AS EXPRESSLY SET FORTH HEREIN.

(b) Without limiting the generality of the foregoing, Seller has not made any representation or warranty with respect to any projections, estimates or budgets, future revenues, future results from operations, future cash flows, the future condition of the Purchased Assets, any Company Entity or the businesses or assets thereof.

Section 7.5 Limitation on Recourse.

(a) Except for the express obligations of each Party under this Agreement (and subject to the express limitations on such obligations set forth herein), from and after the Closing, (i) each Party, on behalf of itself and its direct and indirect equity holders and Subsidiaries, Affiliates, Representatives and each of the respective heirs, executors, administrators, successors and assigns of any of the foregoing (each, a “Releasor”), hereby absolutely and unconditionally releases, acquits and forever discharges, to the fullest extent permitted by Law, the other Party, its Affiliates, any past, present and future direct or indirect partner, member, owner or other equityholder or upstream affiliate of such other Party, any operating or portfolio companies of such other Party or any such partner, member, owner or other equityholder or upstream affiliate of such other Party, any investment fund or vehicle, investee company, trustee or manager of such other Party, any such partner, member, owner or other equityholder or upstream affiliate of such other Party, any employee or director of any of the foregoing, and each of the respective heirs, executors, administrators, successors and assigns of any of the foregoing (each, a “Releasee”) of, from and against any and all Actions (including all claims, demands and causes of action for contribution and indemnity under statute or common law), Damages and Liabilities of every kind, nature and description whatsoever, whether known or unknown, both in law and in equity, in each case to the extent arising out of or resulting from Seller’s or such Releasee’s ownership and/or operation of the Purchased Assets or the assets, business, operations, conduct, services, products and/or employees (including former employees) of any of the Company Entities (or its predecessors), whether related to any period of time before or after the Closing, including any Liabilities under Environmental Law. Each Party agrees not to, and agrees to cause the other Releasors not to, assert any claim with respect to any such Actions, Damages or Liabilities against the Releasees; *provided, however*, that notwithstanding the foregoing, neither Party nor any other Releasor releases any of its rights and interests under this Agreement.

(b) None of the Seller Indemnified Parties and none of the Buyer Indemnified Parties shall be entitled to any recovery under this Agreement or any other Transaction Document following Closing for any of its or its Affiliates’ special, exemplary, punitive, consequential, incidental or indirect damages, lost profits (including any damages on account of lost opportunities or lost or delayed power generation) or losses based on diminution of value or calculated by reference to any multiple of earnings or earnings before interest, tax, depreciation or amortization (or any other valuation methodology); *provided*, that the foregoing shall not apply to (i) Third-Party Claims for which any Party is obligated to provide indemnification hereunder and (ii) any consequential or indirect damages that are a reasonably foreseeable consequence of the applicable breach, inaccuracy or failure to perform (including, to the extent reasonably foreseeable, diminution of value of the Purchased Assets and, if applicable, lost Distributions (*provided* that, for purposes of this Section 7.5(b), all references to Seller in such definition and any related definitions shall be deemed to refer to Buyer) with respect to the Purchased Assets.

Section 7.6 Exclusive Remedies. From and after the Closing, except for Intentional Fraud, the remedies set forth in any Buyer Regulatory Costs Indemnity, the last two sentences of Section 5.2(a), in Section 5.4(l) and this Article VII shall be the sole and exclusive remedy with respect to any and all claims relating, directly or indirectly, to the subject matter of this Agreement. Without limiting the generality of the foregoing and subject to any Buyer Regulatory Costs Indemnity, the last two sentences of Section 5.2(a), Section 5.4(l), Section 5.10(b), Section 9.12, this Article VII and Article VIII, Buyer and Seller hereby waive, to the fullest extent permitted under applicable Law, any and all rights, claims and causes of action (except for Intentional Fraud) that it or any of its respective Affiliates may have against any other Party or any of its Affiliates with respect to the subject matter of this Agreement, whether in law or equity.

ARTICLE VIII. TERMINATION

Section 8.1 Termination Events. Without prejudice to other remedies which may be available to the Parties by Law or this Agreement, this Agreement may be terminated and the transactions contemplated hereby may be abandoned at any time prior to the Closing:

(a) by mutual written consent of Seller and Buyer;

(b) by Seller, on the one hand, or Buyer, on the other hand, by giving written notice to Buyer or Seller, as the case may be, if the Closing shall not have occurred by the date that is eighteen (18) months following the date hereof (the "Termination Date"); *provided*, that (A) such Termination Date may be extended by written agreement of Seller and Buyer and (B) that a Party shall not be permitted to terminate pursuant to this subsection (b) if such Party has breached any of its covenants, agreements or other obligations hereunder in a manner that would reasonably be expected to cause any condition of the terminating Party set forth in Article VI not to be satisfied or the failure of the Closing to have occurred by the Termination Date;

(c) by Seller by giving written notice to Buyer if Buyer has breached any of its covenants, agreements or other obligations hereunder in a manner that would reasonably be expected to cause any condition of Seller set forth in Article VI not to be satisfied and, except in the case of any breach of Buyer's obligation to effect the Closing and pay the Preliminary Purchase Price in accordance with the terms of Article II, such breach has not been cured within the earlier of (x) thirty (30) days after written notification thereof and (y) five (5) Business Days prior to the Termination Date; *provided*, that Seller shall not be permitted to terminate this Agreement pursuant to this subsection (c) if Seller is in breach hereunder;

(d) by Seller by giving written notice to Buyer if (i) all the conditions set forth in Section 6.1 and Section 6.3 have been satisfied (and continue to be satisfied) or irrevocably waived (other than any such conditions which by their terms are not capable of being satisfied until the Closing Date, each of which shall be capable of being satisfied at the Closing if the Closing were to occur), (ii) Seller has delivered to Buyer an irrevocable notice on or after the date that the Closing is to occur pursuant to Section 2.3, that all conditions set forth in Section 6.1 and Section 6.3 have been satisfied or irrevocably waived (other than those conditions that by their terms are to be satisfied at the Closing, each of which shall be capable of being satisfied if the Closing were to occur) and Seller stands ready, willing and able to consummate the Closing in accordance with

Section 2.3 and (iii) Buyer does not consummate the transactions contemplated hereby within three (3) Business Days of the day the Closing is required to occur pursuant to Section 2.3 after the Seller's delivery of such notice (or, if sooner, the Termination Date);

(e) by Buyer by giving written notice to Seller if Seller has breached any of its covenants, agreements or other obligations hereunder in a manner that would reasonably be expected to cause any condition of Buyer set forth in Article VI not to be satisfied and such breach has not been cured within the earlier of (x) thirty (30) days after written notification thereof and (y) five (5) Business Days prior to the Termination Date; *provided*, that Buyer shall not be permitted to terminate pursuant to this subsection (e) if Buyer is in breach hereunder;

(f) by either Seller, on the one hand, or Buyer, on the other hand, by giving written notice to Buyer or Seller, as the case may be, if any Governmental Authority shall have issued, enacted, entered, promulgated or enforced any Law or taken any other action permanently restraining, enjoining or otherwise prohibiting the transactions contemplated hereby, and such Law shall not be subject to appeal or shall have become final and non-appealable; *provided*, that the right to terminate this Agreement under this subsection (f) shall not be available to any Party if the action of the Governmental Authority was primarily due to the failure of such Party to perform any of its obligations hereunder;

(g) by Seller by giving written notice to Buyer:

(i) if a Non-Monetary Other Condition or a Non-Monetary WUTC Condition (other than a Buyer Non-Monetary WUTC Condition) is imposed or required by a Governmental Authority for the consummation of the transactions contemplated hereby, and the affected Person has not provided its written consent pursuant to the last sentence of Section 5.4(c) or Section 5.4(d)(iv)(C), in each case, at the end the applicable period prescribed thereby;

(ii) if the aggregate amount of Regulatory Costs is greater than the Regulatory Costs Cap; *provided*, that (A)(x) such notice shall not be effective for a period of ten (10) days and (y) if prior to the date such notice becomes effective, Buyer and/or the Other Buyer deliver to Seller the Buyer Regulatory Costs Indemnity to indemnify Seller for the excess Regulatory Costs (the "Indemnified Regulatory Costs"), such notice of termination shall be deemed null and void and this Agreement shall continue in full force and effect in accordance with its terms, and Buyer shall indemnify and hold harmless Seller from and against any and all Indemnified Regulatory Costs;

(iii) pursuant to and in accordance with Section 5.4(j) or Section 5.4(k); or

(iv) pursuant to and in accordance with Section 5.4(d)(ii);

(h) in the event that the Other PSA is terminated in accordance with its terms, by either Party from the time the Other PSA is terminated and until the tenth (10th) Business Day following delivery of the Other PSA Notice by Seller by giving written notice to the other Party; or

(i) by Buyer, by giving written notice to Seller, pursuant to and in accordance with Section 5.4(d)(iv)(E).

Section 8.2 Effect of Termination. In the event of any termination of this Agreement pursuant to Section 8.1, all rights and obligations of the Parties hereunder shall terminate without any Liability on the part of either Party, any Company Entity or any Affiliate of any of the foregoing in respect thereof, except that (a) provisions, and the obligations of Buyer and Seller, as the case may be, under the last two sentences of Section 5.2(a), under Section 5.5, this Article VIII and Article IX of this Agreement shall remain in full force and effect and (b) subject to Section 8.3(c) and Section 8.4(c), such termination shall not relieve any Party of any Liability for Intentional Fraud or any intentional and willful breach of this Agreement prior to such termination.

Section 8.3 Buyer Termination Fee.

(a) In the event that this Agreement is terminated (i) by Seller pursuant to Section 8.1(c) based on a failure by Buyer to perform its covenants or agreements under Section 5.4, or (ii) by (A) Seller pursuant to Section 8.1(b) or (B) Seller or Buyer pursuant to Section 8.1(f), in each case of clause (A) or (B), in circumstances in which Seller could terminate this Agreement pursuant to Section 8.1(c) based on a failure by Buyer to perform its covenants or agreements under Section 5.4, or (iii) by Seller pursuant to Section 8.1(g)(iii) or Section 8.1(g)(iv) (solely to the extent set forth in the last sentence of Section 5.4(d)(ii)) Buyer shall, no later than five (5) Business Days following such termination, pay, or cause to be paid, in immediately available funds by wire transfer, an amount equal to \$24,400,000 (such amount, the “Buyer Termination Fee”), in each case, to Seller (or its designees) to an account or accounts that have been designated by Seller to Buyer in writing.

(b) If Buyer fails to promptly pay the Buyer Termination Fee when due and, in order to obtain such payment, Seller commences an Action to recover the Buyer Termination Fee that results in a final judgment against Buyer for the Buyer Termination Fee, Buyer shall pay to Seller, together with the Buyer Termination Fee, (i) interest on the Buyer Termination Fee from (and including) the date of termination of this Agreement until (and including) the date of payment of the Buyer Termination Fee at a rate per annum equal to the Prime Rate in effect on the date of termination of this Agreement plus two percent (2%) and (ii) any fees, costs and expenses (including legal fees) incurred by Seller, the Company Entities or their respective Affiliates in connection with any such Action.

(c) Without limiting any rights of Seller under Section 9.12, prior to the termination of this Agreement pursuant to Section 8.1, if this Agreement is terminated under circumstances in which Buyer is obligated to pay the Buyer Termination Fee under Section 8.3(a), then upon payment of the Buyer Termination Fee and, if applicable, the costs and expenses of Seller pursuant to Section 8.1(b) in accordance therewith, none of Buyer or any of its Affiliates shall have any further liability with respect to this Agreement or the transactions contemplated hereby to Seller, and payment of the Buyer Termination Fee and such costs and expenses by or on behalf of Buyer shall be Seller’s sole and exclusive remedy for any Damages suffered or incurred by Seller, the Company Entities or any of their respective Affiliates or Representatives in connection with this Agreement, the transactions contemplated hereby (and the termination thereof) or any matter forming the basis for such termination; *provided*, that nothing in this Section 8.3(c) shall release Buyer from liability for intentional and willful breach of this Agreement prior to such termination. The Parties acknowledge and agree that in no event will Buyer be required to pay the Buyer Termination Fee on more than one occasion.

(d) Each of the Parties acknowledges and agrees that in the circumstances where the Buyer Termination Fee is payable, Seller's damages would be difficult or impossible to quantify with reasonable certainty and accordingly the payment provided for in this Section 8.3 is a payment of liquidated damages (and not penalties) and the agreements contained in this Section 8.3 are an integral part of this Agreement and the transactions contemplated hereby, and that without these agreements, Seller would not enter into this Agreement.

Section 8.4 Seller Termination Fee.

(a) In the event this Agreement is terminated by Seller pursuant to Section 8.1(g)(ii), assuming there exists no circumstance or condition that would give rise to an obligation on Buyer to pay the Buyer Termination Fee under Section 8.3, and at the time of such termination, Buyer has not delivered to Seller the Buyer Regulatory Costs Indemnity, Seller shall, no later than ten (10) days following such termination, pay, or cause to be paid, in immediately available funds by wire transfer, an amount equal to \$5,000,000 (such amount, the "Seller Termination Fee") to Buyer (or its designees) to an account or accounts that have been designated by Buyer to Seller in writing.

(b) If Seller fails to promptly pay the Seller Termination Fee when due and, in order to obtain such payment, Buyer commences an Action to recover the Seller Termination Fee that results in a final judgment against Seller for the Seller Termination Fee, Seller shall pay to Buyer, together with the Seller Termination Fee, (i) interest on the Seller Termination Fee from (and including) the date of termination of this Agreement until (and including) the date of payment of the Seller Termination Fee at a rate per annum equal to the Prime Rate in effect on the date of termination of this Agreement plus two percent (2%) and (ii) any fees, costs and expenses (including legal fees) incurred by Buyer or its Affiliates in connection with any such Action.

(c) Without limiting any rights of Buyer under Section 9.12 prior to the termination of this Agreement pursuant to Section 8.1, if this Agreement is terminated under circumstances in which Seller is obligated to pay the Seller Termination Fee under Section 8.4(a), then upon payment of the Seller Termination Fee and, if applicable, the costs and expenses of Buyer pursuant to Section 8.4(b) in accordance therewith, Seller shall not have any further liability with respect to this Agreement or the transactions contemplated hereby to Buyer, and payment of the Seller Termination Fee and such costs and expenses by Seller shall be Buyer's sole and exclusive remedy for any Damages suffered or incurred by Buyer or any of its Affiliates or Representatives in connection with this Agreement, the transactions contemplated hereby (and the termination thereof) or any matter forming the basis for such termination; *provided*, that nothing in this Section 8.4(c) shall release Seller from liability for intentional and willful breach of this Agreement up to the Commitment Amount. The Parties acknowledge and agree that in no event will Seller be required to pay the Seller Termination Fee on more than one occasion.

(d) Each of the Parties acknowledges and agrees that in the circumstances where the Seller Termination Fee is payable, Buyer's damages would be difficult or impossible to quantify with reasonable certainty and accordingly the payment provided for in this Section 8.4 is a payment of liquidated damages (and not penalties) and the agreements contained in this Section 8.4 are an integral part of this Agreement and the transactions contemplated hereby, and that without these agreements, Buyer would not enter into this Agreement.

ARTICLE IX.
MISCELLANEOUS

Section 9.1 Parties in Interest. This Agreement shall be binding on, and solely for the benefit of, the Parties and their respective successors and permitted assigns, and nothing set forth in this Agreement, express or implied, shall be construed to confer, directly or indirectly, upon or give to any Person other than the Parties any benefits, rights or remedies under or by reason of, or any rights to enforce or cause to enforce, any provisions of this Agreement; *provided*, that each of the following Persons shall be third-party beneficiaries hereof, as set forth in the following provisions hereof: (a) the Indemnified Parties, as set forth in Article VII, (b) the directors, managers, committee members and officers of the Company Entities, as set forth in Section 5.8 (c) the Releasees, as set forth in in Section 7.5 and (d) the Non-Party Affiliates, as set forth in Section 9.11.

Section 9.2 Assignment. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns. No Party may assign (by contract, stock sale, operation of Law or otherwise) either this Agreement or any of its rights, interests, or obligations hereunder without the express prior written consent of the other Parties (which consent shall not be unreasonably withheld, conditioned or delayed), and any attempted assignment, without such consent, shall be null and void.

Section 9.3 Notices. All notices and other communications required or permitted to be given by any provision of this Agreement (or in connection with the matters contemplated hereby) shall be in writing and mailed (certified or registered mail, postage prepaid, return receipt requested) or sent by hand, electronic mail (without any “bounce back” or similar undeliverable error message received), or overnight courier (with acknowledgment received), charges prepaid and addressed to the intended recipient as follows, or to such other addresses or numbers as may be specified by a Party from time to time by like notice to the other Parties:

If to Seller:

CPP INVESTMENT BOARD (USRE II) INC.
c/o Canada Pension Plan Investment Board
One Queen Street East, Suite 2500
Toronto, Ontario, Canada
M5C 2W5
Attention: Scott Lawrence, Managing Director, Head
of Infrastructure
E-mail: legalnotice@cppib.com

with a copy to:

Sullivan & Cromwell LLP
125 Broad Street
New York, New York 10004
Attention: Inosi Nyatta
Tia S. Barancik
E-mail: nyattai@sullcrom.com
barancikt@sullcrom.com

If to Buyer:

2848926 Ontario Limited
c/o Ontario Teachers' Pension Plan Board
5650 Yonge Street
Toronto, Ontario M2M 4H5 Canada
Attention: Kevin Kerr; Christopher Parker
Email: Kevin_Kerr@otpp.com;
Christopher_Parker@otpp.com
law_investments@otpp.com

with a copy to:

Kirkland & Ellis LLP
601 Lexington Avenue
New York, NY 10022
Attention: Kristin Mendoza
Allan Kirk

Email: kristin.mendoza@kirkland.com
allan.kirk@kirkland.com

All notices and other communications given in accordance with the provisions of this Agreement shall be deemed to have been given and received when delivered by hand or transmitted by electronic mail (without any "bounce back" or similar undeliverable error message received), three (3) Business Days after the same are sent by certified or registered mail, postage prepaid, return receipt requested or one (1) Business Day after the same are sent by a reliable overnight courier service, with acknowledgment of receipt.

Section 9.4 Amendments and Waivers.

(a) This Agreement may not be amended, supplemented or otherwise modified except in a written instrument executed by each of the Parties.

(b) No delay or omission in the exercise of any right, power or remedy by any Party as a result of any breach or default by any other Party under this Agreement shall impair any such right, power or remedy, nor shall it be construed as a waiver of, or acquiescence in, any such breach or default, or of any similar breach or default occurring later, nor shall any such delay, omission or waiver of any single breach or default be deemed a waiver of any other breach occurring before or after that waiver. No waiver by any of the Parties of any of the provisions hereof shall be effective unless explicitly set forth in writing and executed by the Party sought to be charged with such waiver.

(c) To the extent that any Party is (i) entitled to grant any agreement, consent, waiver or approval to, or (ii) required to obtain the agreement, consent, waiver or approval of, or provide notice to, any other Party (or the Company) under any provision of the LLC Agreement for the execution and delivery of this Agreement, the performance of any obligations hereunder, or the consummation of the transactions contemplated hereby, such Party hereby grants such agreement, consent, waiver or approval (including approval of Buyer as the transferee of the Purchased

Interests), and each other Party hereby waives (and hereby exercises its Seller Company Rights or Buyer Company Rights, as applicable, in such manner consistent with permitting the Company to waive) compliance by the applicable Party with such requirement of the LLC Agreement (but not, for the avoidance of doubt, compliance with any requirement under any related provision of this Agreement) with respect to the transactions contemplated by this Agreement.

Section 9.5 Exhibits and Schedules.

(a) All Exhibits and Schedules and the Disclosure Schedules attached hereto are hereby incorporated herein by reference and made a part hereof.

(b) The Seller Disclosure Schedule shall qualify the numbered sections corresponding to the sections of this Agreement; however, each section of the Seller Disclosure Schedule will also be deemed to incorporate by reference each disclosure in any other section of the Seller Disclosure Schedule to the extent the relevance of such disclosure to such other section of the Seller Disclosure Schedule is reasonably apparent on its face (without further investigation).

Section 9.6 Headings. The table of contents and section headings contained in this Agreement are for reference purposes only and shall not be deemed a part of this Agreement or affect in any way the meaning or interpretation of this Agreement.

Section 9.7 Construction. The Parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement 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 of the provisions of this Agreement.

Section 9.8 Entire Agreement. This Agreement (including the Schedules and the Exhibits hereto), the other Transaction Documents and the Confidentiality Agreement constitute the entire agreement among the Parties with respect to the subject matter hereof and thereof and supersede any prior understandings, negotiations, agreements, statements or representations among the Parties, the Company Entities or any of their respective Affiliates of any nature, whether written or oral, to the extent they relate in any way to the subject matter hereof or thereof.

Section 9.9 Severability. If any provision of this Agreement or the application of any such provision to any Person or circumstance shall, under applicable Laws, be declared by any court of competent jurisdiction to be invalid, illegal, void or unenforceable in any respect, all other provisions of this Agreement, or the application of such provision to Persons or circumstances other than those as to which it has been held invalid, illegal, void or unenforceable, shall nevertheless remain in full force and effect and shall in no way be affected, impaired or invalidated thereby. Upon such determination that any provision, or the application of any such provision, is invalid, illegal, void or unenforceable under applicable Laws, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible to the fullest extent permitted by applicable Law in an acceptable manner to the end that the transactions contemplated hereby are fulfilled to the greatest extent possible. Notwithstanding anything contained herein, under no circumstance shall the obligation of Seller to deliver any of

the Purchased Assets be enforceable absent enforceability of the obligation of Buyer to pay the Purchase Price, and vice versa.

Section 9.10 Expenses.

(a) Buyer shall be obligated to pay any and all reasonable out-of-pocket costs of any audit of any Company Entity as may be required to enable Buyer to complete and file any filing by Buyer or an Affiliate of Buyer with any Governmental Authority or otherwise.

(b) Unless otherwise provided herein, including as provided in Section 2.2, Section 5.4(l) and any Buyer Regulatory Costs Indemnity, (i) each Party agrees to pay, without right of reimbursement from any other Party, all costs and expenses incurred by such Party incident to the performance of its obligations hereunder, including the fees and disbursements of counsel, accountants, financial advisors, experts and consultants employed by the respective Parties in connection with the transactions contemplated hereby, and (ii) Seller agrees to pay, without right of reimbursement from Buyer, all Transaction Expenses incurred by any of the Company Entities, in the case of each of clauses (i) and (ii), whether or not the transactions contemplated by this Agreement are consummated. Seller shall ensure that the payment or reimbursement of Transaction Expenses contemplated by clause (ii) of this Section 9.10(b) shall be paid by the Seller to the applicable Persons or reimbursed to the Company at or prior to the Closing.

Section 9.11 No Recourse Against Non-Party Affiliates; Several Liability. Other than pursuant to and to the extent provided in the Financing Commitment, each of the Parties covenants, agrees and acknowledges that all claims, obligations, Liabilities, or causes of action (whether in contract or in tort, in equity or at Law, or granted by statute) that may be based upon, in respect of, arise under, out or by reason of, be connected with, or relate in any manner to this Agreement, or the negotiation, execution, or performance of this Agreement (including any representation or warranty made in, in connection with, or as an inducement to, this Agreement), may be made only against (and are those solely of) the entities that are expressly identified as parties in the preamble to this Agreement (the "Contracting Parties"). Other than pursuant to and to the extent provided in the Financing Commitment, no Person who is not a Contracting Party, including any (a) past, present or future Representative or Affiliate of such Contracting Party (other than any such Affiliate that is also a Contracting Party, and then solely with respect to such Affiliate Contracting Party's Liability hereunder, and not the Liability of any other Contracting Party), (b) incorporator, Controlling person or direct or indirect holder of any Equity Interests or securities of any Contracting Party (whether such holder is a limited or general partner, member, stockholder or otherwise), or (c) Representative, Affiliate, incorporator, Controlling person or direct or indirect holder of any Equity Interests or securities of any of the foregoing (the "Non-Party Affiliates") shall have any Liability (whether in contract or in tort, in equity or at Law, or granted by statute) for any claims, causes of action, obligations, or Liabilities arising under, out of, in connection with, or related in any manner to this Agreement or based on, in respect of, or by reason of this Agreement or in its negotiation, execution, performance, or breach; and, to the maximum extent permitted by applicable Law, each Contracting Party hereby waives and releases all such Liabilities, claims, causes of action and obligations against any such Non-Party Affiliates. Without limiting the generality of the foregoing, to the maximum extent permitted by applicable Law, other than pursuant to and to the extent provided in the Financing Commitment, (i) each Contracting Party hereby waives and releases any and all rights, claims, demands, or causes of action that may

otherwise be available in equity or at Law, or granted by statute, to avoid or disregard the entity form of a Contracting Party or otherwise impose Liability of a Contracting Party on any Non-Party Affiliate, whether granted by statute or based on theories of equity, agency, control, instrumentality, alter ego, domination, sham, single business enterprise, piercing the veil, unfairness, undercapitalization, or otherwise; (ii) each Contracting Party disclaims any reliance upon any Non-Party Affiliates with respect to the performance of this Agreement or any representation or warranty made in, in connection with, or as an inducement to this Agreement; and (iii) each Party hereby waives and releases the Non-Party Affiliates from any personal liability under this Agreement or any documents or instruments delivered in connection herewith or with the transactions contemplated hereby for any claim based on, in respect of or by reason of such obligations or by their creation.

Section 9.12 Specific Performance.

(a) Notwithstanding anything in this Agreement to the contrary, but subject to Section 8.3 and Section 8.4, each Party recognizes and acknowledges that irreparable damage would occur in the event that any covenant herein were not to be performed in accordance with its terms. Accordingly, each Party shall be entitled to seek one or more injunctions to prevent any breach of covenant and to enforce specifically this Agreement in the Chosen Courts, in addition to any other remedy to which such Party may be entitled at law or in equity.

(b) Notwithstanding Section 9.12(a), the Parties hereby further acknowledge and agree that prior to the Closing, Seller shall be entitled to specific performance to enforce specifically the Buyer's obligation to cause the amounts committed to be funded under the Financing Commitment to be funded and consummate the Closing only in the event that (i) all of the conditions set forth in Section 6.1 and Section 6.3 have been satisfied (and continue to be satisfied) or irrevocably waived (other than those conditions that, by their terms, are to be satisfied at the Closing, each of which shall be capable of being satisfied at the Closing if the Closing were to occur) as of the time when Closing is required to have occurred pursuant to Section 2.3, (ii) Buyer has failed to consummate the Closing on the date that the Closing is to occur pursuant to Section 2.3 and (iii) Seller has delivered to Buyer an irrevocable notice on or after the date the Closing is to occur pursuant to Section 2.3 that all of the conditions set forth in Section 6.1 and Section 6.3 have been satisfied or irrevocably waived (other than those conditions that by their terms are to be satisfied at the Closing, each of which shall be capable of being satisfied if the Closing were to occur) and Seller stands ready, willing and able to consummate the Closing in accordance with Section 2.3 if specific performance is granted and the amounts contemplated to be funded under the Financing Commitment are funded in accordance with its terms.

Section 9.13 No Partnership or Agency; No Voting Agreement. Nothing in the Agreement shall constitute a partnership between the Parties or any of them or constitute any Party as agent of any other Party for any purpose whatsoever. Nothing in this Agreement shall be deemed to constitute a voting agreement among the Parties or between any of them.

Section 9.14 Governing Law. This Agreement, and all Actions (whether in contract, tort or statute) that may be based upon, arise out of or relate to this Agreement, or the negotiation, execution or performance of this Agreement (including any claim or cause of action based upon, arising out of or related to any representation or warranty made in or in connection with this

Agreement or as an inducement to enter into this Agreement), shall be governed by, and enforced in accordance with, the Laws of the State of Delaware, including its statutes of limitations, without giving effect to applicable principles of conflicts of law to the extent that the application of the laws of another jurisdiction (whether of the State of Delaware or any other jurisdiction) would be required thereby.

Section 9.15 Consent to Jurisdiction; Waiver of Jury Trial.

(a) Each Party agrees that it shall bring any Action in respect of any claim based upon, arising out of or relating to this Agreement or the transactions contemplated by this Agreement exclusively in the courts of the State of Delaware and the federal courts of the United States of America located in the State of Delaware (the “Chosen Courts”) and solely in connection with claims arising under or relating to this Agreement (i) irrevocably submits to the exclusive jurisdiction of the Chosen Courts, (ii) waives any objection to the laying of venue in any such Action in the Chosen Courts, (iii) waives any objection that the Chosen Courts are an inconvenient forum or do not have jurisdiction over any Party hereto and (iv) agrees that mailing of process or other papers in connection with any such Action in the manner provided in Section 9.3 or in such other manner as may be permitted by Law shall be valid and sufficient service thereof. However, the foregoing shall not limit the right of a Party to effect service of process on another Party by any other legally available method. Notwithstanding the foregoing, each Party agrees that a final judgment in any Action or proceeding so brought shall be conclusive and may be enforced by suit on the judgment in any jurisdiction or in any other manner provided in law or in equity.

(b) EACH PARTY HERETO IRREVOCABLY AND UNCONDITIONALLY WAIVES TO THE FULLEST EXTENT PERMITTED BY LAW ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY ACTION BASED UPON, ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY. EACH PARTY HEREBY ACKNOWLEDGES AND CERTIFIES (I) THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF THE OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF ANY ACTION, SEEK TO ENFORCE THE FOREGOING WAIVER, (II) IT UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (III) IT MAKES THIS WAIVER VOLUNTARILY AND (IV) IT HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE TRANSACTIONS CONTEMPLATED HEREBY BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS CONTAINED IN THIS SECTION 9.15(B).

Section 9.16 Counterparts. This Agreement may be executed in any number of counterparts (including by telecopy and electronic imaging scans), each of which shall be deemed an original but all of which together shall constitute one and the same instrument. Delivery of an executed counterpart of this Agreement by facsimile or other electronic method of transmission shall be equally effective as delivery of an original executed counterpart.

[Signature pages follow.]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the date first above written.

SELLER:

CPP INVESTMENT BOARD (USRE II) INC.

By:  _____

Name: Andrew Morris
Title: Authorized Signatory

By:  _____

Name: Scott Lawrence
Title: Authorized Signatory

BUYER:

2848926 ONTARIO LIMITED

By: _____

Name: Christopher Parker
Title: Authorized Signatory

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the date first above written.

SELLER:

CPP INVESTMENT BOARD (USRE II) INC.

By: _____

Name:

Title:

By: _____

Name:

Title:

BUYER:

2848926 ONTARIO LIMITED

By:  _____

Name: Christopher Parker

Title: Authorized Signatory

SCHEDULE A

Target Distribution Amount

Projected Distributions (@ 31.5677%)									
US\$	3/31/21	6/30/21	9/30/21	12/31/21	3/31/22	6/30/22	9/30/22	12/31/22	
Shareholder Loans	\$7,186,018	\$7,265,862	\$6,268,293	\$6,268,293	-	-	\$6,268,293	\$6,268,293	
Ord. Dividends	-	-	-	-	-	-	-	-	
Total	\$7,186,018	\$7,265,862	\$6,268,293	\$6,268,293			\$6,268,293	\$6,268,293	

SCHEDULE B

Required Regulatory Approvals

1. FERC approval pursuant to Section 203 of the Federal Power Act.
2. WUTC approval pursuant to Chapter 80.12 of the Revised Code of Washington on terms and conditions that are not materially different from those set forth in the application for approval and any related settlements or stipulations entered into by Seller and Buyer as contemplated by Section 5.4 of this Agreement with any other parties to the WUTC's proceeding on this transaction.
3. If required, approval by the European Commission under Council Regulation (EC) No. 139/2004 of 20 January 2004 on the Control of Concentrations Between Undertakings or alternatively by the EU Member States that have jurisdiction.
4. State Administration for Market Regulation of the People's Republic of China ("SAMR") has granted clearance with respect to the transaction contemplated hereby; provided that such the approval from SAMR shall be deemed obtained if (x) SAMR has declined jurisdiction over the proposed transaction or (y) the applicable waiting periods in respect of the review of the transaction have expired or been terminated.
5. Any additional antitrust/competition approvals of or from any Governmental Authority as any Party may reasonably determine is required to be obtained in connection with the transactions contemplated by this Agreement and of which such Party notifies in writing the other Party.
6. CFIUS Approval.

SCHEDULE C

Required Consents

1. The Consent of Puget Intermediate Holdings Inc. pursuant to Section 10.6(b) of the Loan Agreement with respect to the sale, grant, conveyance, assignment, transfer and delivery to Buyer of all or any portion of the Loan (as defined in the Loan Agreement) owing at the Closing to Seller thereunder.
2. If and to the extent required, consents under or amendments to each of (i) the Term Loan Agreement, dated as of September 26, 2019, between Puget Energy Inc. as borrower, the lenders party thereto and Mizuho Bank, Ltd. as administrative agent; (ii) the Amended and Restated Credit Agreement, dated as of October 25, 2017, between Puget Energy as borrower, those lenders party thereto and JP Morgan Chase Bank, N.A. as administrative agent and (iii) the Credit Agreement, dated October 25, 2017, between Puget Sound Energy, Inc. as borrower, the lenders party thereto, and Mizuho Bank, Ltd. such that the transaction contemplated hereby and by the other Transaction Documents shall not constitute a Change of Control (in each case, as defined therein) thereunder.

BUYER DISCLOSURE SCHEDULE

to

PURCHASE AND SALE AGREEMENT

between

CPP INVESTMENT BOARD (USRE II) INC., as Seller

and

2848926 ONTARIO LIMITED, as Buyer

dated as of July 6, 2021

This document and any annexes and attachments hereto constitute the Buyer Disclosure Schedule (this “**Buyer Disclosure Schedule**”) referred to in the Purchase and Sale Agreement, dated as of July 6, 2021 (the “**Agreement**”), by and between CPP Investment Board (USRE II) Inc., a Canadian corporation (“**Seller**”), and 2848926 Ontario Limited, a corporation organized under the laws of the Province of Ontario (“**Buyer**”). Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Agreement.

This Buyer Disclosure Schedule is qualified in its entirety by reference to the respective specific provisions of the Agreement to which it relates and is not intended to constitute, and shall not be construed as constituting, representations and warranties, covenants or agreements of Buyer. This Buyer Disclosure Schedule is intended only to qualify and limit the representations, warranties, covenants and agreements of Buyer contained in the Agreement and shall not be deemed or construed to expand in any way the scope or effect of any such representations, warranties, covenants and agreements.

No reference to, or disclosure of, any item in this Buyer Disclosure Schedule shall be construed as an admission or indication that such item (a) individually or in the aggregate, has had, or would reasonably be expected to have, a Material Adverse Effect (nor shall such information be deemed to establish a standard of materiality or the basis for interpreting terms such as “material,” “materially,” or “Material Adverse Effect”) or (b) meets or exceeds a monetary or other threshold specified for disclosure in the Agreement.

No disclosure of any matter in this Buyer Disclosure Schedule relating to any possible noncompliance, breach, default or violation of any applicable Law or of any contract or similar document or instrument, shall be construed as an agreement or acknowledgment that any such noncompliance, breach, default, or violation exists, has actually occurred or may occur. Nothing in this Buyer Disclosure Schedule shall constitute an admission of any liability or obligation of Buyer or any of its Affiliates to any Person nor shall confer or give to any Person any remedy, claim, reimbursement, cause of action or other right against Buyer or any of its Affiliates. Matters disclosed in this Buyer Disclosure Schedule are not necessarily limited to matters required to be disclosed by the Agreement. Such additional matters are disclosed for informational purposes only and do not necessarily include other matters of a similar nature or impose any duty or obligation to disclose any information beyond what is required by the Agreement, and disclosure of such additional matters shall not affect, directly or indirectly, the interpretation of the Agreement or the scope of the disclosure obligations thereunder.

Section headings and numbers used in this Buyer Disclosure Schedule refer to the corresponding sections of the Agreement, and these and other headings and numbers are for convenience of reference only and are not to be used to modify or influence the interpretation of any provision of the Agreement or any information contained in this Buyer Disclosure Schedule. The disclosure of an item in one section of this Buyer Disclosure Schedule as an exception to a particular covenant, agreement, representation or warranty contained in the Agreement will be deemed disclosed as an exception with respect to all other covenants, agreements, representations and warranties contained in the Agreement to which the relevance of such item is reasonably apparent on its face (without further investigation).

Any descriptions of agreements, instruments or other documents set forth in this Buyer Disclosure Schedule are summaries only and are qualified in their entirety by the specific terms of such agreements, instruments or other documents. Any agreement, instrument or statute defined or referred to in this Buyer Disclosure Schedule means such agreement, instrument or statute as from time to time amended, modified or supplemented, including (in the case of agreements or instruments) by waiver or consent and (in the case of statutes) by succession of comparable successor statutes.

The information contained in this Buyer Disclosure Schedule is as of the date of the Agreement. Buyer expressly disclaims, and does not undertake, any duty or obligation to update, supplement or otherwise modify information disclosed in this Buyer Disclosure Schedule.

The matters disclosed in this Buyer Disclosure Schedule: (1) constitute Confidential Information, as such term is defined in the Confidentiality Agreement; (2) are being disclosed in this Buyer Disclosure Schedule in accordance with the terms and subject to the conditions of the Confidentiality Agreement in all respects; and (3) shall be treated by Seller, its Affiliates and its and their Representatives strictly in accordance with the terms of the Confidentiality Agreement and the Agreement.

In disclosing the information contained in this Buyer Disclosure Schedule, Buyer also expressly does not waive any attorney-client privilege associated with such information or any protection afforded by the work-product doctrine or similar privileges or protections with respect to any of the matters disclosed herein.

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Section 1.1(a) — Knowledge Parties.

1. Christopher Parker
2. Kevin Kerr

SELLER DISCLOSURE SCHEDULE

to

PURCHASE AND SALE AGREEMENT

between

CPP INVESTMENT BOARD (USRE II) INC., as Seller

and

2848926 ONTARIO LIMITED, as Buyer

dated as of July 6, 2021

This document and any annexes and attachments hereto constitute the Seller Disclosure Schedule (this “**Seller Disclosure Schedule**”) referred to in the Purchase and Sale Agreement, dated as of July 6, 2021 (the “**Agreement**”), by and between CPP Investment Board (USRE II) Inc., a Canadian corporation (“**Seller**”), and 2848926 Ontario Limited, a corporation organized under the laws of the Province of Ontario (“**Buyer**”). Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Agreement.

This Seller Disclosure Schedule is qualified in its entirety by reference to the respective specific provisions of the Agreement to which it relates and is not intended to constitute, and shall not be construed as constituting, representations and warranties, covenants or agreements of Seller. This Seller Disclosure Schedule is intended only to qualify and limit the representations, warranties, covenants and agreements of Seller contained in the Agreement and shall not be deemed or construed to expand in any way the scope or effect of any such representations, warranties, covenants and agreements.

No reference to, or disclosure of, any item in this Seller Disclosure Schedule shall be construed as an admission or indication that such item (or any non-disclosed item or information of comparable or greater significance) (a) represents a material exception or material fact, event or circumstance, (b) individually or in the aggregate, has had, or would reasonably be expected to have, a Material Adverse Effect (nor shall such information be deemed to establish a standard of materiality or the basis for interpreting terms such as “material,” “materially,” or “Material Adverse Effect”), (c) is required to be referred to or disclosed in accordance with the Agreement, (d) is not in the ordinary course of business or (e) meets or exceeds a monetary or other threshold specified for disclosure in the Agreement.

No disclosure of any matter in this Seller Disclosure Schedule relating to any possible noncompliance, breach, default or violation of any applicable Law or of any contract or similar document or instrument, shall be construed as an agreement or acknowledgment that any such noncompliance, breach, default, or violation exists, has actually occurred or may occur. Nothing in this Seller Disclosure Schedule shall constitute an admission of any liability or obligation of Seller or any of its Affiliates to any Person nor shall confer or give to any Person any remedy, claim, reimbursement, cause of action or other right against Seller or any of its Affiliates. Matters disclosed in this Seller Disclosure Schedule are not necessarily limited to matters required to be disclosed by the Agreement. Such additional matters are disclosed for informational purposes only and do not necessarily include other matters of a similar nature or impose any duty or obligation to disclose any information beyond what is required by the Agreement, and disclosure of such additional matters shall not affect, directly or indirectly, the interpretation of the Agreement or the scope of the disclosure obligations thereunder.

Section headings and numbers used in this Seller Disclosure Schedule refer to the corresponding sections of the Agreement, and these and other headings and numbers are for convenience of reference only and are not to be used to modify or influence the interpretation of any provision of the Agreement or any information contained in this Seller Disclosure Schedule. The disclosure of an item in one section of this Seller Disclosure Schedule as an exception to a particular covenant, agreement, representation or warranty contained in the Agreement will be deemed disclosed as an exception with respect to all other covenants, agreements, representations and warranties contained in the Agreement to which the relevance of such item is reasonably apparent on its face, notwithstanding the presence or absence of a specific cross-reference thereto.

Any descriptions of agreements, instruments or other documents set forth in this Seller Disclosure Schedule are summaries only and are qualified in their entirety by the specific terms of such agreements, instruments or other documents. Any agreement, instrument or statute defined or referred to in this Seller Disclosure Schedule means such agreement, instrument or statute as from time to time amended, modified

or supplemented, including (in the case of agreements or instruments) by waiver or consent and (in the case of statutes) by succession of comparable successor statutes.

The information contained in this Seller Disclosure Schedule is as of the date of the Agreement. Seller expressly disclaims, and does not undertake, any duty or obligation to update, supplement or otherwise modify information disclosed in this Seller Disclosure Schedule.

The matters disclosed in this Seller Disclosure Schedule: (1) constitute Confidential Information, as such term is defined in the Confidentiality Agreement; (2) are being disclosed in this Seller Disclosure Schedule in accordance with the terms and subject to the conditions of the Confidentiality Agreement in all respects; and (3) shall be treated by Buyer, its Affiliates and its and their Representatives strictly in accordance with the terms of the Confidentiality Agreement and the Agreement.

In disclosing the information contained in this Seller Disclosure Schedule, Seller also expressly does not waive any attorney-client privilege associated with such information or any protection afforded by the work-product doctrine or similar privileges or protections with respect to any of the matters disclosed herein.

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Section 1.1(a) — Alternative Proposal.

The balance sheet recapitalization strategy approved by the Board of Managers of the Company and described in the minutes of the PIH Board of Directors dated May 6, 2021, howsoever it may be effectuated, including any intermediate steps undertaken by the Members (including Seller), the Company and any Company Entity to implement and effectuate such recapitalization strategy, including issuance of new Class A Interests, modification of the Class A Interests held by each Member, reduction of the amount of the Loan (as defined in the Loan Agreement), entry into contracts or arrangements regarding the purchase, redemption, acquisition or transfer of the interests in the Company Entities, *provided, that*, the consummation thereof shall not modify Seller's Investor Percentage set forth in Section 3.5(c) of this Disclosure Schedule, or the amount of Loan except on a pro rata basis with the other Members (such recapitalization strategy, the "**Recapitalization Strategy**"), and any result, change, impact or effect that arises solely therefrom or in connection therewith.

Section 1.1(b) — Knowledge Parties.

1. Christopher Hind
2. Andrew Morris
3. Palak Trivedi

Section 1.1(c) — Current Regulatory Commitments.

All Commitments set forth in Docket U-180680, Final Order 06 (Corrected), Approving Multiparty Settlement; Authorizing Proposed Transactions (dated March 11, 2019) (“**2019 Acquisition Order**”) at Attachment A (“**Settlement Stipulation**”).

Section 1.1(d) — Material Adverse Effect.

1. Non-receipt of permits with respect to the Tacoma LNG facility as further described in Puget Sound Energy's 2020 annual report on Form 10-K.
2. Adverse impact of potentially conflicting legal compliance requirements and standards and requirements under the laws of the State of Washington and the laws of the State of Montana with respect to the ownership and operation of the Colstrip, Montana coal-fired steam electric generation facility.
3. Cost overruns or scheduling delays related to the Lower Baker Dam grouting project as further described in the minutes of the telephonic Board of Directors Meeting of Puget Sound Energy on August 6, 2020.

Section 2.4(a)(ii) — Seller Appointees.

1. Christopher Hind
2. Tom King
3. Mary McWilliams

Section 3.3 — Noncontravention.

The Consent of Puget Intermediate Holdings Inc. pursuant to Section 10.6(b) of the Second Amended and Restated Senior Secured Loan Agreement, dated as of January 20, 2015, as amended by that First Amendment thereto, dated as of December 12, 2019, by and between Puget Intermediate Holdings Inc., as the borrower therein, and Seller, as the lender therein (the “**Loan Agreement**”), with respect to the sale, grant, conveyance, assignment, transfer and delivery to Buyer of all or any portion of the Loan (as defined in the Loan Agreement) owing at the Closing to Seller thereunder.

Section 3.4 — Governmental Consents.

1. FERC approval pursuant to Section 203 of the Federal Power Act.
2. WUTC approval pursuant to Chapter 80.12 of the Revised Code of Washington on terms and conditions that are not materially different from those set forth in the application for approval and any related settlements or stipulations entered into by Seller and Buyer as contemplated by Section 5.4 of this Agreement with any other parties to the WUTC's proceeding on this transaction.
3. If required, approval by the European Commission under Council Regulation (EC) No. 139/2004 of 20 January 2004 on the Control of Concentrations Between Undertakings or alternatively by the EU Member States that have jurisdiction.
4. Any additional antitrust/competition approvals of or from any Governmental Authority as any Party may reasonably determine is required to be obtained in connection with the transactions contemplated by this Agreement and of which such Party notifies in writing the other Party.
5. CFIUS Approval

Section 3.5 — Title to Purchased Assets; Subsidiaries.

(c)

Member	Class A Interests	Investor Percentage
CPP Investment Board (USRE II) Inc.	31,039.8310	31.5677%
Moby Canada Limited Partnership	23,541.2717	23.9416%
6860141 CANADA INC. as Trustee for Padua Investment Trust	20,518.2014	20.8671%
Mount Rainier Utility Holdings LLC	9,856.1933	10.0238%
PIP2PX (Pad) Ltd.	4,624.7390	4.7034%
PIP2GV (Pad) Ltd.	2,834.5174	2.8827%
PIP6PX (Pad) Ltd.	5,885.3230	5.9854%
PIP6GV (Pad) Ltd.	27.7916	0.0283%
Total	98,327.8684	100.0000%

(c)(ii) Section 3.5(c) of the Agreement is qualified by the Recapitalization Strategy.

(d) The second sentence of Section 3.5(d) of the Agreement is qualified by the Recapitalization Strategy.

(e) Subsidiaries of the Company:

- Puget Intermediate Holdings Inc.
- Puget Equico LLC
- Puget Energy, Inc.
- Puget Sound Energy, Inc.
- Puget LNG, LLC
- Puget Western, Inc.

Section 5.1 — Conduct of the Company Entities.

- (a) Implement and effectuate (1) the Recapitalization Strategy and (2) the Approved Business Plan, and to take all actions necessary or desirable in connection therewith as determined by the Board of Managers of the Company.
- (b) Implement and effectuate the Recapitalization Strategy and to take all actions necessary or desirable in connection therewith as determined by the Board of Managers of the Company.

EXHIBIT A

Form of Assignment Agreement

This ASSIGNMENT AND ASSUMPTION AGREEMENT (this “Agreement”) is entered into as of [•], by and between CPP Investment Board (USRE II) Inc., a Canadian corporation (“Seller”), and 2848926 Ontario Limited, a corporation organized under the laws of the Province of Ontario (“Buyer”). The parties to this Agreement shall be individually referred to as a “Party” and collectively referred to as the “Parties.” All capitalized terms used but not defined herein shall have the meanings given to them in the Purchase Agreement (as defined below).

RECITALS

WHEREAS, as of the date hereof, Seller owns 31.5677% of the issued and outstanding Class A Interests (the “Company Interests”) of Puget Holdings LLC, a Delaware limited liability company (the “Company”);

WHEREAS, Seller is party to that certain Second Amended and Restated Senior Secured Loan Agreement, dated as of January 20, 2015, as amended by that First Amendment thereto, dated as of December 12, 2019, and that Second Amendment thereto, dated as of June 23, 2021, by and between Puget Intermediate Holdings Inc., as the borrower therein, and Seller, as the lender therein (as amended, the “Loan Agreement”); and

WHEREAS, Seller and Buyer have entered into that certain Purchase and Sale Agreement, dated as of July 6, 2021 (the “Purchase Agreement”), pursuant to which, among other things, Seller has agreed to sell, grant, convey, assign, transfer and deliver to Buyer, and Buyer has agreed to purchase, acquire, assume and accept from Seller, (a) all of Seller’s right, title and interest in and to (i) 15.78385% of the issued and outstanding Company Interests (the “Purchased Interests”) and (ii) the Pro Rata Portion of the Loan (as defined in the Loan Agreement) owing under the Loan Agreement to Seller at the Closing (clauses (i) and (ii), collectively, the “Purchased Assets”), and (b) all of Seller’s obligations, liabilities, covenants, duties and agreements arising out of, under or relating to, the Purchased Assets, in each case, upon the terms and subject to the conditions set forth in the Purchase Agreement.

AGREEMENT

NOW THEREFORE, in consideration of the mutual covenants and agreements set forth herein and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Buyer and Seller hereby agree as follows:

1. Assignment and Assumption. In accordance with the terms of the Purchase Agreement, (a) Seller hereby sells, grants, conveys, assigns, transfers and delivers to Buyer, free and clear of any and all Liens (other than Liens arising under the LLC Agreement or the Loan Agreement, as the case may be, and restrictions on sales of securities under applicable securities Laws), (i) all of Seller’s right, title and interest in and to the Purchased Assets and (ii) all of Seller’s obligations, liabilities, covenants, duties and agreements arising out of, under or relating to, the Purchased Assets, and (b) Buyer hereby accepts such sale, grant, conveyance, assignment, transfer and delivery, and assumes and

agrees to pay, perform and discharge all of Seller's obligations, liabilities, covenants, duties and agreements arising out of, under or relating to, the Purchased Assets; *provided*, that Buyer is not assuming (i) any of the obligations, liabilities, covenants, duties or agreements arising under the Other PSA, and (ii) except as expressly provided for in Section 5.4(l) of the Purchase Agreement or otherwise constituting Indemnified Regulatory Costs, any of Seller's obligations, liabilities, covenants, duties or agreements under Section 7.04(f) of the LLC Agreement with respect to any of the Required Regulatory Approvals in connection with the transactions contemplated by the Purchase Agreement or the Other PSA.

2. Terms of the Purchase Agreement. The Parties acknowledge and agree that the Purchase Agreement shall not be superseded hereby but shall remain in full force and effect to the full extent provided therein. In the event of any conflict or inconsistency between the terms of the Purchase Agreement and the terms hereof, the terms of the Purchase Agreement shall govern.

3. Amendments. This Agreement may not be amended, supplemented or otherwise modified except in a written instrument executed by each of the Parties.

4. Severability. If any provision of this Agreement or the application of any such provision to any Person or circumstance shall, under applicable Laws, be declared by any court of competent jurisdiction to be invalid, illegal, void or unenforceable in any respect, all other provisions of this Agreement, or the application of such provision to Persons or circumstances other than those as to which it has been held invalid, illegal, void or unenforceable, shall nevertheless remain in full force and effect and shall in no way be affected, impaired or invalidated thereby. Upon such determination that any provision, or the application of any such provision, is invalid, illegal, void or unenforceable under applicable Laws, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible to the fullest extent permitted by applicable Law in an acceptable manner to the end that the transactions contemplated hereby are fulfilled to the greatest extent possible. Notwithstanding anything contained herein, under no circumstance shall the obligation of Seller to deliver any of the Purchased Assets be enforceable absent enforceability of the obligation of Buyer to pay the Purchase Price, and vice versa.

5. Governing Law. This Agreement, and all Actions (whether in contract, tort or statute) that may be based upon, arise out of or relate to this Agreement, or the negotiation, execution or performance of this Agreement (including any claim or cause of action based upon, arising out of or related to any representation or warranty made in or in connection with this Agreement or as an inducement to enter into this Agreement), shall be governed by, and enforced in accordance with, the Laws of the State of Delaware, including its statutes of limitations, without giving effect to applicable principles of conflicts of law to the extent that the application of the laws of another jurisdiction (whether of the State of Delaware or any other jurisdiction) would be required thereby.

6. Consent to Jurisdiction; Waiver of Jury Trial.

(a) Each Party agrees that it shall bring any Action in respect of any claim based upon, arising out of or relating to this Agreement or the transactions contemplated by this Agreement exclusively in the courts of the State of Delaware and the federal courts of the United States of America located in the State of Delaware (the "Chosen Courts") and solely in connection with claims arising under or relating to this Agreement (i) irrevocably submits to the exclusive jurisdiction of the Chosen Courts, (ii) waives any objection to the laying of venue in any such Action in the Chosen Courts, (iii) waives any objection that the Chosen Courts are an inconvenient forum or do not have jurisdiction over any Party hereto and (iv) agrees that mailing of process or other papers in connection with any such Action in the manner provided in Section 9.3 of the Purchase Agreement or in such other manner as may be permitted by Law shall be valid and sufficient service thereof. However, the foregoing shall not limit the right of a Party to effect service of process on another Party by any other legally available method. Notwithstanding the foregoing, each Party agrees that a final judgment in any Action or proceeding so brought shall be conclusive and may be enforced by suit on the judgment in any jurisdiction or in any other manner provided in law or in equity

(b) EACH PARTY HERETO IRREVOCABLY AND UNCONDITIONALLY WAIVES TO THE FULLEST EXTENT PERMITTED BY LAW ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY ACTION BASED UPON, ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY. EACH PARTY HEREBY ACKNOWLEDGES AND CERTIFIES (I) THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF THE OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF ANY ACTION, SEEK TO ENFORCE THE FOREGOING WAIVER, (II) IT UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (III) IT MAKES THIS WAIVER VOLUNTARILY AND (IV) IT HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE TRANSACTIONS CONTEMPLATED HEREBY BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS CONTAINED IN THIS SECTION 6(B).

7. Entire Agreement. This Agreement, together with the Purchase Agreement and each of the other Transaction Documents and the Confidentiality Agreement, constitute the entire agreement among the Parties with respect to the subject matter hereof and thereof and supersede any prior understandings, negotiations, agreements, statements or representations among the Parties, the Company Entities or any of their respective Affiliates of any nature, whether written or oral, to the extent they relate in any way to the subject matter hereof or thereof.

8. Assignment. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns. No Party may assign (by contract, stock sale, operation of Law or otherwise) either this Agreement or any of its rights, interests, or obligations hereunder without the express prior written consent of the

other Party (which consent shall not be unreasonably withheld, conditioned or delayed), and any attempted assignment, without such consent, shall be null and void.

9. Counterparts. This Agreement may be executed in any number of counterparts (including by telecopy and electronic imaging scans), each of which shall be deemed an original but all of which together shall constitute one and the same instrument. Delivery of an executed counterpart of this Agreement by facsimile or other electronic method of transmission shall be equally effective as delivery of an original executed counterpart.

[Signature pages follow.]

IN WITNESS WHEREOF, the Parties execute and deliver this Agreement, effective as of the date first above written.

SELLER:

CPP INVESTMENT BOARD (USRE II)
INC.

By:

By: _____
Name:
Title:

By: _____
Name:
Title:

BUYER:

2848926 ONTARIO LIMITED

By:

By: _____

Name:

Title:

By: _____

Name:

Title:

EXHIBIT B

Form of FIRPTA Certificate

Section 1445 of the Internal Revenue Code (“IRC”) and the regulations thereunder provide that the transferee of a United States real property interest must withhold tax if the transferor is a foreign person. Under Treas. Reg. § 1.1445-2(b)(2), the term “foreign person” does not include a qualified foreign pension fund (“QFPF”) or an entity all of the interests of which are held by a QFPF.

To inform _____, a _____ (“Transferee”) that no withholding is required upon the transactions contemplated by that certain Purchase and Sale Agreement, dated as of _____, 2021, by and between the Transferee and CPP Investment Board (USRE II) Inc., a Canadian corporation (“Transferor”), the undersigned hereby certifies the following on behalf of Transferor:

1. Transferor is:

[CHECK ONE]

_____ a QFPF as defined by IRC § 897(l)

OR

✓ _____ a non-US entity all of the interests of which are held by a QFPF as defined in IRC § 897(l)

and is therefore not a foreign corporation, foreign partnership, foreign trust, or foreign estate for purposes of IRC § 1445;

2. Transferor is not a disregarded entity as defined in Treas. Reg. § 1.1445-2(b)(2)(iii);

3. Transferor’s U.S. employer identification number is _____; and

4. Transferor’s office address is:

Transferor understands that this certification may be disclosed to the Internal Revenue Service by Transferee and that any false statement contained herein could be punished by fine, imprisonment, or both.

Under penalties of perjury I declare that I have examined this certification and to the best of my knowledge and belief it is true, correct, and complete, and I further declare that I have authority to sign this document on behalf of Transferor.

CPP INVESTMENT BOARD (USRE II) INC.

By:

By: _____
Name:
Title: [Authorized Signatory]

By: _____
Name:
Title: [Authorized Signatory]