IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re	Chapter 11
Optim Energy, LLC, *et al.*,[1]	Case No. 14-10262 (BLS)
Debtors.	(Jointly Administered)
	Hearing Date: March 13, 2014, at 10:00 a.m. (ET) **Objection Deadline: Thursday, March 6, 2014, at 4:00 p.m. (ET)**

DEBTORS' MOTION FOR ENTRY OF ORDER AUTHORIZING THE DEBTORS TO CONTINUE PERFORMANCE UNDER A PREPETITION AGREEMENT WITH COMPETITIVE POWER VENTURES, INC. REGARDING THE OUTSOURCING OF MANAGEMENT SERVICES, *NUNC PRO TUNC* TO THE PETITION DATE

Optim Energy, LLC ("***Optim Energy***") and its affiliated debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "***Debtors***") hereby move (the "***Motion***") for entry of an order, substantially in the form attached hereto as **Exhibit A**, authorizing the Debtors to continue performance under a prepetition agreement with Competitive Power Ventures, Inc. regarding the outsourcing of management services pursuant to the terms of the CPV Management Agreement (as defined below), *nunc pro tunc* to the Petition Date (as defined below), and to pay outstanding prepetition amounts, if any, under the CPV Management Agreement. In support of this Motion, the Debtors respectfully represent:

[1] The Debtors in these chapter 11 cases are: Optim Energy, LLC; OEM 1, LLC; Optim Energy Cedar Bayou 4, LLC; Optim Energy Altura Cogen, LLC; Optim Energy Marketing, LLC; Optim Energy Generation, LLC; Optim Energy Twin Oaks GP, LLC; and Optim Energy Twin Oaks, LP. The Debtors' main corporate and mailing address for purposes of these chapter 11 cases is: c/o Competitive Power Ventures, Inc., 8403 Colesville Road, Suite 915, Silver Spring, MD 20910.

Jurisdiction

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2).

2. Venue in this Court is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

3. The bases for the relief requested herein are sections 105(a) and 363(b) of title 11 of the United States Code (the "***Bankruptcy Code***"), Rule 6004 of the Federal Rules of Bankruptcy Procedure (the "***Bankruptcy Rules***") and Rule 9013-1 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "***Local Rules***").

Background

4. On February 12, 2014 (the "***Petition Date***"), each of the Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. The Debtors are power plant owners principally engaged in the production of energy in Texas' deregulated energy market through three power plants with an aggregate output of more than 1250 megawatts. The depressed and changing economic environment of the electric power industry—particularly with respect to coal-fired plants—and the Debtors' continuous liquidity constraints have culminated into aggregated and continuing losses requiring the Debtors to file these chapter 11 cases.

5. The Debtors continue to operate their business as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee, examiner, or official committee of unsecured creditors has been appointed in the Debtors' cases.

6. A full description of the Debtors' business, corporate structure, prepetition indebtedness, and events leading to these chapter 11 cases is set forth in the *Declaration of Nick Rahn, Chief Executive Officer of Optim Energy, LLC, in Support of Chapter 11 Petitions and*

First Day Pleadings (D.I. 4) (the "***First Day Declaration***"),[2] which was filed on the Petition Date and incorporated herein by reference.

The Power Plants

7. The Debtors own and operate three power plants in eastern Texas: the Twin Oaks Plant, the Altura Cogen Plant and the Cedar Bayou Plant.

8. Twin Oaks Plant: The Twin Oaks Plant is a coal-fired electric power generating facility capable of producing 305 megawatts. The plant is owned by Debtor Optim Energy Twin Oaks LP ("***Twin Oaks***") and is located in Robertson County, Texas, and sells energy into the Electric Reliability Council of Texas ("***ERCOT***") market. Twin Oaks owns both the plant and underlying real property.

9. Altura Cogen Plant: The Altura Cogen Plant is a natural-gas powered plant capable of producing 600 megawatts located in Harris County, Texas and sells its energy into the ERCOT market. The plant is owned by Debtor Optim Energy Altura Cogen, LLC ("***Altura Cogen***"). The Altura Cogen Plant has been commercially operating since 1985 and is located within a complex of petrochemical facilities owned by Lyondell Chemical Company ("***Lyondell***"). Altura Cogen leases the property at which the power plant is situated from Lyondell pursuant to the Amended and Restated Lease and Easement Agreement, dated as of September 6, 2005 (as amended, the "***Altura Lease***").

10. Cedar Bayou Plant: The Cedar Bayou Plant is a natural-gas powered plant capable of producing 550 megawatts located in Chambers County, Texas and operates in ERCOT's Houston Zone. Debtor Optim Energy Cedar Bayou 4, LLC ("***Cedar Bayou***") owns a 50% undivided interest in the Cedar Bayou Plant and NRG Cedar Bayou Development

[2] All capitalized terms used but not defined herein shall have the meaning ascribed to them in the First Day Declaration.

Company, LLC ("***NRG Cedar Bayou***") owns the remaining 50% undivided interest. The Cedar Bayou Plant began operating in 2009. The Cedar Bayou Plant is located within a complex of electric generation facilities owned by NRG Texas Power LLC ("***NRG Texas***"), which owns the real property upon which the Cedar Bayou Plant is situated. The Cedar Bayou Plant is operated by NRG Texas in accordance with an Amended and Restated Joint Ownership Agreement, dated August 1, 2007 between Cedar Bayou and NRG Cedar Bayou, as amended.

The CPV Management Agreement

11. The Debtors' management is outsourced to, and performed by, CPV pursuant to a prepetition asset management agreement dated as of October 31, 2011 (as amended, the "***CPV Management Agreement***").[3] CPV provides for executive management, contract administration, accounting, treasury, regulatory compliance and other services and specializes in the energy sector. The CPV Management Agreement shall expire by its terms on December 31, 2015 (if not earlier terminated), but the maturity can be extended for up to an additional year.

A. Management Services

12. CPV provides the Debtors' management and senior management, including their officers and certain directors, pursuant to the CPV Management Agreement. The primary officer and director provided by CPV is Nick Rahn, who currently serves as Chief Executive Officer. Other CPV employees provide additional management services to the Debtors pursuant to the CPV Management Agreement.

13. CPV currently provides "***Asset Management Services***"[4] to Optim Energy pursuant to the CPV Management Agreement, including the following:

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[3] A copy of the CPV Management Agreement is attached hereto as **Exhibit B.**

[4] Capitalized terms not otherwise defined in this section shall have the meaning ascribed to them in the CPV Management Agreement. To the extent the terms of the CPV Management Agreement conflict with the summary provided in this Motion, the terms of the CPV Management Agreement shall govern.

(i) performs all bookkeeping, record-keeping and accounting tasks on behalf of the Debtors, including, in conjunction with an independent public accounting firm, the preparation and filing of tax returns and other filings required to be made under applicable laws, regulations and ordinances;

(ii) procures and maintains all governmental approvals required for the Debtors to carry out their business affairs;

(iii) engages and supervises independent contractors that CPV deems necessary;

(iv) purchases any materials, supplies and equipment necessary for the performance of the services set forth in the CPV Management Agreement;

(v) supervises and monitors the Debtors' and the counterparties' compliance with the terms of all contracts under which the Debtors have any obligations or rights;

(vi) prepares all documents required to be submitted pursuant to the Debtors loan facilities; and

(vii) performs duties as directed in writing by the Debtors for the management of the Facility.

See CPV Management Agreement, Section 2.2.

14. CPV also currently provides "***Additional Services***" to Optim Energy pursuant to the CPV Management Agreement, including the following:

(i) services related to the occurrence of bankruptcy proceedings or similar proceeding with respect to the Debtors, or any incremental work associated with managing the Power Plants during this period;

(ii) leadership of or material support for a process with respect to arranging for or negotiating the terms of any material financings, refinancings or restructurings related to Power Plants or the Debtors, other than in the ordinary course of business;

(iii) the management of any litigation, arbitration or material dispute between the Debtors, the Power Plants and any third party; and

(iv) additional management or administrative services on behalf of the Debtors or the Power Plants that goes beyond the scope of work reasonably contemplated by the CPV Management Agreement, including any services required or requested to be provided in connection with events occurring outside the ordinary course of business of the Debtors.

See CPV Management Agreement, Section 2.3.

B. Payment of Fees and Expenses

15. CPV is paid a flat Monthly Fee[5] for providing Asset Management Services to Optim Energy. The Monthly Fee consists of: (a)(i) $[redacted] for any month in which CPV has provided services to all Power Plants; or (ii) a reduced amount, to be agreed upon by the parties, for any month in which CPV is providing Asset Management Services for fewer than all of the Power Plants; plus (b) an additional $[redacted] per month to the extent that a Non-Recourse Financing has consummated and initial funding thereunder has occurred. *See* CPV Management Agreement, Section 4.1.

16. CPV is also paid Additional Fees for providing the Additional Services to Optim Energy at the following hourly billing rates:

Position	Hourly Rate
Sr. Vice President/Corporate Controller	$325.00
Vice Presidents	$244.00
Directors/Managers/Controller	$191.00
Analysts/Accounts	$108.00
Administrative	$65.00

See CPV Management Agreement, Section 4.3. The Additional Fees have averaged approximately $[redacted] per month for the three months prior to the Petition Date, due to the extensive work load for bankruptcy related work.

17. CPV also receives reimbursement for reasonable out-of-pocket expenses incurred by CPV pursuant to the CPV Management Agreement, including reimbursement for: (a) travel and accommodation costs of CPV personnel; (b) business meals with third parties; (c) express delivery changes; (d) itemized conference call charges; and (e) off-site records storage charges

[5] The Monthly Fee and Additional Fees (as defined herein), if any, are subject to annual escalation (or de-escalation) based on changes in the Consumer Price Index (the "***CPI***").

for Optim Energy records. Optim Energy has no obligation to reimburse CPV for the following expenses: (a) clerical support, rent, utilities, furniture, computers, basic phone service, copying or other routine expenses related to the normal administration of CPV's office; or (b) first-class or business-class airfare. *See* CPV Management Agreement, Section 4.2.

18. CPV may also earn a Bonus of up to $[redacted] per calendar year, pursuant to the terms of the CPV Management Agreement. The Bonus is payable within 30 days following the calculation by CPV, and presentment of an invoice, to the Optim Energy Board of Directors no later than February 1 following the year for which the payment is calculated. *See* CPV Management Agreement, Section 4.4.

19. Finally, CPV is entitled to receive payments in the event: (a)(i) of early termination of the agreement, or (ii) no Exit Transaction is achieved during the term of the agreement (*See* CPV Management Agreement, Section 4.5); and/or (b)(i) a Plant Sale Transaction or (ii) an Exit Transaction is achieved (*See* CPV Management Agreement, Sections 4.6 (a) and (b)).

20. The Debtors paid CPV a total of $[redacted] under the CPV Management Agreement for calendar year 2012. For calendar year 2011, the Debtors paid CPV a total of $[redacted] under the CPV Management Agreement.

21. As of the Petition Date, the Debtors estimate they do not owe any amounts under the CPV Management Agreement on account of the prepetition period. Out of an abundance of caution, however, the Debtors seek authority in the proposed order to pay prepetition amounts, if any, outstanding under the CPV Management Agreement on the Petition Date.

C. Indemnification of CPV

22. Pursuant to the CPV Management Agreement, both Optim Energy and CPV agree to indemnify and hold harmless the other for conduct in connection with the agreement. With respect to Optim Energy's indemnification obligation:

> 6.2. Optim [Energy] shall defend, indemnify, save and hold harmless [CPV] and its Affiliates, and all of its and their respective members, shareholders, partners, directors, manager, officers, agents, employees and representatives (collectively, the "***Asset Manager Indemnitees***"), from and against any and all Losses arising out of any of the following by Optim [Energy] or its Affiliates or their respective members, shareholders, partners, directors, managers, officers (other than [CPV]'s personnel) and employees: (i) any willful breach under this [CPV Management] Agreement, (ii) any fraud, gross negligence or willful misconduct in connection with the performance of Optim [Energy]'s obligations under this [CPV Management] Agreement, or (iii) any claims or liabilities asserted by any third party (other than an Asset Manager Indemnitee) arising out of, in connection with or related to this [CPV Management] Agreement, the provision of the Asset Management Services in Accordance with this [CPV Management] Agreement or any action or inaction by [CPV] with the scope of the agency provisions hereof; provided, however, that Optim [Energy] shall not be required to reimburse or indemnify any Asset Manager Indemnitee for any Losses to the extent such Losses are due to the fraud, gross negligence or willful misconduct of any Asset Manager Indemnitee, or any action by any Asset Manager Indemnitee that results in a breach or default under this [CPV Management] Agreement by [CPV], and provided, further, that nothing in this Article VI shall affect any other remedies which [CPV] may have at law or in equity, though such other remedies shall not affect any limit of liability set forth in this [CPV Management] Agreement.

See CPV Management Agreement, Sections 6.1 and 6.2.

Relief Requested

23. By this Motion, the Debtors respectfully request entry of an order, substantially in the form attached hereto as **Exhibit A**, authorizing the Debtors to continue to perform pursuant to the terms of the CPV Management Agreement, *nunc pro tunc* to the Petition Date, and to pay outstanding prepetition amounts, if any, under the CPV Management Agreement.

24. This Motion is a request to continue in the ordinary course of business the same management team at the same levels of compensation that were in place on a permanent basis for over two years prior to the Petition Date. It is critical to the stability of the Debtors' operations and their value as a going concern during this critical time during the Debtors' reorganization proceeding that the existing relationship with CPV remains in place.

Basis for Relief Requested

25. Section 363(b) of the Bankruptcy Code authorizes the Debtors to "use . . . other than in the ordinary course of business, property of the estate" after notice and a hearing. 11 U.S.C. § 363(b)(l). Courts routinely have held that transactions should be approved under section 363(b) when they are supported by the reasonable business judgment of the debtor's management. *See, e.g., In re Martin,* 91 F.3d 389, 395 (3d Cir. 1996) (stating that the court generally defers to the trustee's judgment so long as there is a legitimate business justification); *In re Montgomery Ward Holding Corp.*, 242 B.R. 147, 153 (D. Del. 1999) (noting that courts have applied the "sound business purpose" test to evaluate motions brought pursuant to section 363(b)); *In re Delaware & Hudson R.R. Co.*, 124 B.R. 169, 175-76 (D. Del. 1991) (same).

26. Once the debtor articulates a valid business justification, "the business judgment rule 'is a presumption that in making a business decision the directors of a corporation acted on an informed basis, in good faith and in the honest belief that the action was in the best interests of the company.'" *In re Integrated Res., Inc.*, 147 B.R. 650, 656 (S.D.N.Y. 1992) (quoting *Smith v. Van Gorkom*, 488 A.2d 858, 872 (Del. 1985)). The business judgment rule has vitality in chapter 11 cases and shields a debtor's management from judicial second-guessing. *Id.*; *see also In re Johns-Manville Corp.*, 60 B.R. 612, 615 (Bankr. S.D.N.Y. 1986) ("The Code favors the

continued operation of a business by a debtor and a presumption of reasonableness attaches to a debtor's management decisions.").

27. Indeed, it is well established that a debtor, pursuant to section 363(b) of the Bankruptcy Code, may employ professionals to act as their managers. *See e.g., In re LSP Energy Limited Partnership*, Case No. 12-10460 (MFW) (Bankr. D. Del. April 12, 2012); *In re MSR Resort Golf Course LLC*, Case No. 11-10372 (SHL) (Bankr. S.D.N.Y. Feb. 1, 2011); and *In re Tokheim Corp.*, Case No. 02-13437 (RJN) (Bankr. D. Del. Feb. 25, 2003).[6]

28. The Debtors submit that the continuation of CPV's services under the CPV Management Agreement during these bankruptcy cases would greatly benefit the Debtors' estates and creditors. The Debtors have determined, in the exercise of their sound business judgment, that services under the CPV Management Agreement are necessary to ensure a smooth entry into chapter 11 and to preserve the value of the Debtors' assets on a going-forward basis, maximizing the value of the Debtors' estates for the benefit of their creditors and all parties in interest.

29. The Debtors believe that their business model offers the best and most efficient way to operate their business. Given CPV's specialized knowledge of the Debtors' operations and various plants, the Debtors would be unable to find a suitable replacement for CPV in a timely fashion. The Debtors also would lose a wealth of institutional knowledge if they were to re-source their management services, and any new manager would face hurdles in becoming familiar with the Debtors' business. Even if suitable replacement management were available to replace the entire team of CPV professionals, the disruption caused by an abrupt change in management would be both an unnecessary and a wasteful disruption of the Debtors' operations. The cost to the Debtors' estates of such disruption would be far greater than any better terms

[6] Because of the voluminous nature of the orders cited herein, such orders are not attached to this Motion. Copies of these orders are available upon request to the Debtors' counsel.

available for employment of such replacement management. Meanwhile, the Debtors' urgent need to find replacement managers would grant replacement parties considerable negotiating leverage, and the Debtors could face substantial difficulty obtaining terms as favorable as those contained in the existing CPV Management Agreement. It is the Debtors' business judgment that the retention of CPV should be approved, and the Debtors believe that the relief requested is more than justified.

30. In the unlikely event there are outstanding prepetition amounts due under the CPV Management Agreement, the Debtors submit payment of these amounts are authorized under section 105(a) of the Bankruptcy Code and by the "doctrine of necessity."

31. Section 105(a) provides that the "court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title." 11 U.S.C. § 105(a). Section 105(a) of the Bankruptcy Code "supplements courts' specifically enumerated bankruptcy powers by authorizing orders necessary or appropriate to carry out provisions of the Bankruptcy Code." *In re Joubert*, 411 F.3d 452, 455 (3d Cir. 2005) (quoting *In re Cont'l Airlines*, 203 F.3d 203, 211 (3d Cir. 2000)). Such orders are appropriate where they are essential to the Debtors' reorganization efforts and do not pose a burden on the Debtors' creditors. *See Advisory Info. and Mgmt. Sys., Inc. v. Prime Computer, Inc.*, 40 B.R. 1001, 1006 (M.D. Tenn. 1984) ("Section 105 [of the Bankruptcy Code] may be applied by a bankruptcy court to avoid termination of contracts or business relations where such relief is indispensable to reorganization and necessary to prevent retaliation for exercising rights under Chapter 11, and where the relief imposes no substantial burden or hardship on those in contractual relations with a debtor.").

32. The "doctrine of necessity" provides an independent basis for paying prepetition amounts, if any, under the CPV Management Agreement. The United States Court of Appeals

for the Third Circuit recognized the doctrine of necessity in *In re Lehigh & New England Ry. Co.*, 657 F.2d 570, 581 (3d Cir. 1981). In *Lehigh*, the Third Circuit held that a court could authorize the payment of prepetition claims if such payment was essential to the continued operation of the debtor. *Id.* (stating that a court may authorize payment of prepetition claims when there "is the possibility that the creditor will employ an immediate economic sanction, failing such payment"); *see also In re Penn Cent. Transp. Co.*, 467 F.2d 100, 102 n.1 (3d Cir. 1972) (holding that the necessity of payment doctrine permits "immediate payment of claims of creditors where those creditors will not supply services or material essential to the conduct of the business until their pre-reorganization claims have been paid"); *In re Just for Feet, Inc.*, 242 B.R. 821, 824-25 (Bankr. D. Del. 1999) (noting that debtors may pay prepetition claims that are essential to continued operation of the business); *In re Columbia Gas Sys., Inc.*, 171 B.R. 189, 191-92 (Bankr. D. Del. 1994) (same).

33. Today, the rationale for the necessity of payment rule—the rehabilitation of a debtor in reorganization cases—is "the paramount policy and goal of Chapter 11." *In re Ionosphere Clubs, Inc.*, 98 B.R. 174, 176; *see also Just For Feet*, 242 B.R. at 826 (finding that payment of prepetition claims to certain trade vendors was "essential to the survival of the debtor during the chapter 11 reorganization."); *In re Quality Interiors, Inc.*, 127 B.R. 391, 396 (Bankr. N.D. Ohio 1991) ("[P]ayment by a debtor-in-possession of pre-petition claims outside of a confirmed plan of reorganization is generally prohibited by the Bankruptcy Code" but "[a] general practice has developed . . . where bankruptcy courts permit the payment of certain pre-petition claims, pursuant to 11 U.S.C. §105, where the debtor will be unable to reorganize without such payment.").

34. The Debtors believe that payment of outstanding prepetition amounts, if any, under the CPV Management Agreement, pursuant to section 105(a) of the Bankruptcy Code and the necessity of payment doctrine embraced by this Court, is necessary to entice CPV to continue performing its obligations under the CPV Management Agreement during the course of these chapter 11 cases. The Debtors strongly believe that payment of outstanding prepetition amounts is essential for the Debtors' business operations to continue in the ordinary course.

Nunc Pro Tunc Relief is Appropriate

35. The Debtors request that the relief requested herein be granted *nunc pro tunc* to the Petition Date. Such relief is warranted by the circumstances presented by these cases. The Third Circuit has identified "time pressure to begin service" and absence of prejudice as factors favoring *nunc pro tunc* retention. *See In re Arkansas Co.*, 798 F.2d 645, 650 (3d Cir. 1986); *see also In re Indian River Homes, Inc.*, 108 B.R. 46, 52 (D. Del. 1989). Any interruption in the services provided by CPV would have caused irreparable harm to the Debtors. Moreover, in addition to managing the Debtors CPV has had to focus its attention and expend considerable resources in connection with preparing for the Debtors' transition into chapter 11. For all of these reasons, the brief *nunc pro tunc* relief requested herein is warranted by the circumstances and will cause no prejudice to any party in interest.

Waiver of Bankruptcy Rules Regarding Notice and Stay of an Order

36. To implement the foregoing successfully, the debtors seek a waiver of the notice requirements under Bankruptcy Rule 6004(a) and any stay of an order granting the relief requested herein pursuant to Bankruptcy Rule 6004(h), 7062, 9014 or otherwise.

The Debtors' Reservation of Rights

37. Nothing contained herein is intended or should be construed as an admission as to the validity of any claim against the Debtors, a waiver of the Debtors' rights to dispute any claim

or an approval or assumption of the CPV Management Agreement or other agreement, contract or lease under section 365 of the Bankruptcy Code. Additionally, nothing contained herein is intended or should be construed as an admission as to the validity of any claim against the Debtors or a waiver of the Debtors' rights to dispute any claims regarding escheatment. The Debtors expressly reserve their rights to contest any claim or billing dispute. Likewise, if this Court grants the relief sought herein, any payment made pursuant to the Court's order is not intended and should not be construed as an admission as to the validity of any claim or a waiver of the Debtors' rights to subsequently dispute such claim.

Notice

38. The Debtors have provided notice of this Motion to: (a) the Office of the United States Trustee for the District of Delaware; (b) the entities listed on the Consolidated List of Creditors Holding the 30 Largest Unsecured Claims; (c) counsel to Cascade Investment, L.L.C. and ECJV Holdings, LLC; and (d) the general service list established in these cases pursuant to Bankruptcy Rule 2002. In light of the nature of the relief requested in this Motion, the Debtors respectfully submit that no further notice is necessary.

No Prior Request

39. No prior motion for the relief requested herein has been made to this or any other court.

[*Remainder of Page Intentionally Left Blank*]

WHEREFORE, the Debtors respectfully request that the Court grant the relief requested herein and such other and further relief as is just and proper.

Dated: February 20, 2014
Wilmington, Delaware

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

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Proposed Counsel For The Debtors And Debtors In Possession

Exhibit A

Proposed Order

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re	Chapter 11
Optim Energy, LLC, *et al.*,	Case No. 14-10262 (BLS)
Debtors.[1]	(Jointly Administered)
	Re: D.I. _____

ORDER AUTHORIZING THE DEBTORS TO CONTINUE PERFORMANCE UNDER A PREPETITION AGREEMENT WITH COMPETITIVE POWER VENTURES, INC. REGARDING THE OUTSOURCING OF MANAGEMENT SERVICES, *NUNC PRO TUNC* TO THE PETITION DATE

Upon the Motion[2] of the Debtors for entry of an order (this "***Order***") pursuant to sections 105(a) and 363(b) of the Bankruptcy Code authorizing the Debtors to continue performance pursuant to the terms of the CPV Management Agreement with Competitive Power Ventures, Inc. ("***CPV***") *nunc pro tunc* to the Petition Date, and to pay outstanding prepetition amounts, if any, under the CPV Management Agreement, all as more fully described in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334; and consideration of the Motion and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and venue being proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion being adequate and appropriate under the particular circumstances; and a hearing having been held to consider the relief requested in the Motion (the "***Hearing***"); and upon consideration of the First Day Declaration, the record of the Hearing and all proceedings had before the Court; and the

[1] The Debtors in these chapter 11 cases are: Optim Energy, LLC; OEM 1, LLC; Optim Energy Cedar Bayou 4, LLC; Optim Energy Altura Cogen, LLC; Optim Energy Marketing, LLC; Optim Energy Generation, LLC; Optim Energy Twin Oaks GP, LLC; Optim Energy Twin Oaks, LP. The Debtors' main corporate and mailing address for purposes of these chapter 11 cases is: c/o Competitive Power Ventures, Inc., 8403 Colesville Road, Suite 915, Silver Spring, MD 20910.

[2] Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Motion.

Court having found and determined that the relief sought in the Motion is in the best interests of the Debtors' estates, their creditors and other parties in interest; and that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and any objections to the requested relief having been withdrawn or overruled on the merits; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED as set forth herein.

2. The Debtors are hereby authorized, pursuant to sections 105(a) and 363(b) of the Bankruptcy Code, to continue performance pursuant to the terms of the CPV Management Agreement, *nunc pro tunc* to the Petition Date, and to pay outstanding prepetition amounts, if any, under the CPV Management Agreement.

3. Notwithstanding the relief granted herein and any actions taken hereunder, nothing contained in this Order or any payment made pursuant to this Order shall constitute, nor is it intended to constitute, an admission as to the validity or priority of any claim against the Debtors, a waiver of the Debtors' rights to subsequently dispute such claim or the assumption or adoption of the CPV Management Agreement or other agreement, contract or lease under section 365 of the Bankruptcy Code.

4. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion.

5. Notwithstanding the possible applicability of Bankruptcy Rules 6004(h), 7062, 9014 or otherwise, this Order shall be immediately effective and enforceable upon its entry.

6. The Court retains jurisdiction with respect to all matters arising from or related to the interpretation or implementation of this Order.

Date: _____, 2014
Wilmington, Delaware

THE HONORABLE BRENDAN L. SHANNON
UNITED STATES BANKRUPTCY JUDGE

Exhibit B

CPV Management Agreement

EXECUTION VERSION

ASSET MANAGEMENT AGREEMENT

By and Between

OPTIM ENERGY, LLC

and

COMPETITIVE POWER VENTURES, INC.

as Manager

Dated as of October 31, 2011

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ASSET MANAGEMENT AGREEMENT

This Asset Management Agreement (this "Agreement"), dated as of October 31, 2011, is by and between COMPETITIVE POWER VENTURES, INC., a corporation formed under the laws of Delaware (the "Manager"), and OPTIM ENERGY, LLC, a limited liability company formed under the laws of the State of Delaware ("Optim").

RECITALS

WHEREAS, Manager and ECJV Holdings, LLC ("Holdings") are parties to that certain Transition Services Agreement (the "Transition Services Agreement"), dated July 1, 2011 through which Manager is assisting Holdings with the preparation for a potential transition to the use by Optim of a third-party asset manager for the overall management of Optim, three power projects and other assets and businesses owned by Optim;

WHEREAS, as of the date of this Agreement, Optim owns each of (a) Optim Energy Generation, LLC, which owns (i) Optim Energy Altura Cogen, LLC, the owner of the Altura Cogen facility ("Altura"), an approximately 600 MW gas-fired electric and steam cogenerating facility located in Channelview, Texas, (ii) together with Optim Energy Twin Oaks GP, LLC, Optim Energy Twin Oaks LP, the owner of the Twin Oaks plant ("Twin Oaks"), an approximately 305 megawatt circulating fluidized bed coal-fired generating facility located in Bremond, Texas, and (iii) Optim Energy Cedar Bayou 4, LLC, the owner of Cedar Bayou 4 ("CB4"), a 50% joint venture ownership in an approximately 550 MW combined cycle generating facility located in Chambers County, Texas (Altura, Twin Oaks and CB4 each being a "Project" and together the "Projects"); and (b) Optim Energy Marketing, LLC ("Marketing"), which owns OEM 1, LLC.

WHEREAS, Optim desires to engage Manager to provide, under Optim's direction and pursuant to the terms of this Agreement, certain asset management services in respect of Optim, each Project, Marketing and the other businesses and assets owned by Optim; and

WHEREAS, Manager is in the business of providing asset management services.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties to this Agreement agree as follows:

ARTICLE I: AGREEMENT AND DEFINITIONS

1.1 Definitions. Except as otherwise expressly provided herein, capitalized terms used in this Agreement shall have the following meanings:

"Additional Fees" has the meaning given in Section 4.3.

"Additional Services" has the meaning given in Section 2.3.

"Administrative Agent" means any administrative agent for the Lenders under the Credit Documents or, to the extent such an administrative agent has not been designated thereunder, the Lenders.

"Affiliate" means, with respect to a specified Person, any other Person that directly, or indirectly through one or more intermediaries, controls, is controlled by or is under common control with such specified Person. For the purposes of this definition, "control" shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ability to exercise voting power, by contract or otherwise. "Controlled" and "controls" shall have the meanings correlative thereto.

"Agreement" has the meaning given to such term in the first paragraph of this agreement.

"Altura" has the meaning given in the Recitals hereto.

"Appraised Enterprise Value" means the enterprise value of Optim as of the Early Termination Date determined in accordance with Appendix A.

"Asset Management Services" has the meaning given in Section 2.2.

"Asset Manager Indemnitees" has the meaning given in Section 6.2.

"Bankruptcy Event" shall be deemed to occur with respect to any Person if (a) such Person shall institute a voluntary case seeking liquidation or reorganization under bankruptcy law, or shall consent to the institution of an involuntary case thereunder against it; (b) such Person shall file a petition or consent or shall otherwise institute any similar proceeding under any other applicable Federal or state law, or shall consent thereto; (c) such Person shall apply for, or by consent there shall be an appointment of, a receiver, liquidator, sequestrator, trustee or other officer with similar powers for itself or any substantial part of its assets; (d) such Person shall make an assignment for the benefit of its creditors; (e) such Person shall admit in writing its inability to pay its debts generally as they become due; (f) an involuntary case shall be commenced seeking liquidation or reorganization of such Person under bankruptcy law or any similar proceedings shall be commenced against such Person under any other applicable Federal or state law and (i) the petition commencing the involuntary case is not timely controverted, (ii) the petition commencing the involuntary case is not dismissed within 60 days of its filing, (iii) an interim trustee is appointed to take possession of all or a portion of the property, or to operate all or any part of the business of such Person and such appointment is not vacated within 60 days, or (iv) an order for relief shall have been issued or entered therein; (g) a decree or order of a court having jurisdiction in the premises for the appointment of a receiver, liquidator, sequestrator, trustee or other officer having similar powers of such Person or all or a part of its property shall have been entered; or (h) any other similar relief shall be granted against such Person under any applicable Federal or state law.

"Base Amount" means [redacted]

"Base Termination Amount" means an amount equal to:

(a) 1.25% of the lesser of: (i) the Early Termination Value or (ii) $400,000,000, plus

(b) 0.25% of any portion of the Early Termination Value that exceeds $400,000,000, minus

(c) any fee previously paid to Manager under Section 4.6(a);

provided that if such calculation results in a negative number, the Base Termination Amount shall be zero.

"Board" means the board of directors of Optim as established under the Optim LLC Agreement.

"Budgets" shall mean any budget with respect to the Optim Companies and/or the Projects that has been approved by the Board.

"Business Day" means any day other than a Saturday, Sunday or other day on which banks are authorized or required by law to be closed in the State of New York.

"Cascade" means Cascade Investment, L.L.C., the sole member of Holdings.

"CB4" has the meaning given in the Recitals hereto.

"Controlling Interest" means ownership or control (directly or indirectly) of over [redacted] of the ownership interests and voting rights of a Person.

"Covered Parties" means, with respect to a Person, such Person's partners, lenders, shareholders, members, managers, partners, directors, officers, employees, contractors, subcontractors, agents and other representatives. For clarification, none of the Optim Companies and their Affiliates, on the one hand, shall be considered "Covered Parties" with respect to Manager and its Affiliates, on the other hand (and vice versa).

"CPI" means a factor representing the change in the Consumer Price Index, All Urban Consumers for All Items (1982-84=100), in effect as of January 1 of each calendar year, as published by the United States Department of Labor, Bureau of Labor Statistics or any successor index thereof, or if such index is discontinued or unavailable and is not replaced, then another index published by the United States Department of Labor, Bureau of Labor Statistics as mutually agreed.

"Credit Documents" means the Credit Agreement between Optim and the Lender, dated as of June 1, 2007, as amended as of October 17, 2008 and December 31, 2010, and as may be further amended, supplemented or restated from time to time, together with all related note, security, pledge, guaranty, reimbursement, account control, and other documents and agreements related thereto, as may be amended, supplemented or restated from time to time, or any new, replacement or successor agreements or documents as may be entered into in place or in lieu thereof.

"Credit Facility" means the Amended and Restated Revolving Line of Credit Note in the Amount of $1,250,000,000, dated as of October 17, 2008, from Lender to Optim, as may be further amended, supplemented or restated from time to time, or any new, replacement or successor agreement as may be entered into in place or in lieu thereof.

"Debt Guarantee Payments" means the guarantee fees paid by Optim to Cascade as Collateral Agent under Section 2.2 of the June 1, 2007 Guarantee Reimbursement Agreement between (a) Optim and certain of its subsidiaries, and (b) Cascade and ECJV, as amended October 7, 2008.

"Direct Member Payments" means the aggregate principal amount of indebtedness for borrowed money (excluding, for the avoidance of doubt, interest and/or fees) of any Optim Company that is paid by or on behalf of a Member of Optim, which amount is not treated as a capital contribution to Optim by such Member.

"Dispute Notice" has the meaning given in Section 8.1.

"Distributions" means the aggregate amount of any distributions made by Optim to the Members.

"Early Termination Date" means the effective date of any termination of this Agreement for convenience pursuant to Section 5.2(b).

"Early Termination Value" means an amount equal to:

(a) the Appraised Enterprise Value, minus

(b) any Equity Contributions made between the Effective Date and the Early Termination Date, minus

(c) the aggregate principal amount of indebtedness for borrowed money (excluding, for the avoidance of doubt, interest and/or fees) incurred by the Optim Companies between the Effective Date and the Early Termination Date, plus

(d) the aggregate principal amount of indebtedness for borrowed money (excluding, for the avoidance of doubt, interest and/or fees) repaid by the Optim Companies between the Effective Date and the Early Termination Date, excluding any repayments that are Direct Member Payments, plus

(e) any Distributions between the Effective Date and the Early Termination Date, plus

(f) the Excess Debt Guarantee Amount, plus

(g) any Tax Payments made between the Effective Date and the Early Termination Date, plus

(h) any Excess Affiliate Payments made between the Effective Date and the Early Termination Date, minus

(i) the Base Amount;

provided that if such calculation results in a negative number, the Early Termination Value shall be zero.

"EBITDA" means, for any period (without duplication), an amount determined for Optim and its

subsidiaries on a consolidated basis equal to (a) the sum, without duplication, of the amounts for such period of (i) net income, calculated in accordance with GAAP (excluding any unrealized gains or losses on hedges or other derivative, to the extent such gains or losses are included in net income), (ii) interest income or expense, (iii) provisions for taxes based on income, (iv) total depreciation expense, (v) total amortization expense, and (vi) other non-cash items reducing net income (excluding any such non-cash item to the extent that it represents an accrual or reserve for potential cash items in any future period or amortization of a prepaid cash item that was paid in a prior period), minus (b) other non-cash items increasing net income for such period (excluding any such non-cash item to the extent it represents the reversal of an accrual or reserve for potential cash items in any prior period).

"Effective Date" means the date established in the Notice to Proceed from Optim.

"Energy Management Agreement(s)" means any energy management agreement, and other agreements related thereto, entered into by Optim with respect to a Project or the Projects or by a Project Company with respect to a Project.

"Energy Manager" means any energy manager identified in an Energy Management Agreement, and such successor or successors to any such energy manager as may arise under an Energy Management Agreement.

"Equity Contributions" means the aggregate amount of any equity contributions made to Optim.

"Excess Affiliate Payment" means any payment made by any Optim Company to an Affiliate that is not an Optim Company to the extent such payment was not made in good faith.

"Excess Debt Guarantee Amount" means (a) the aggregate amount of any Debt Guarantee Payments made between (i) the Effective Date and (ii) the Early Termination Date or the closing of the Exit Transaction or Plant Sale Transaction, as applicable, minus (b) the sum obtained by adding one quarter percent (0.25%) of the balance of Indebtedness as of each calendar quarter end for each calendar quarter occurring from (i) the Effective Date to (ii) the Early Termination Date or the closing of the Exit Transaction or Plant Sale Transaction, as applicable; provided that if such calculation results in a negative number, the Excess Debt Guarantee Amount shall be zero.

"Exit Transaction" means either of the following, in a single transaction or series of related transactions: (a) a voluntary sale, transfer or other disposition of a Controlling Interest in Optim, to a single Person or to Persons that knowingly form a group prior to the acquisition of such Controlling Interest for the purpose of acquiring such Controlling Interest, or (b) the voluntary sale, transfer or other disposition (whether by merger, consolidation or otherwise) of all or substantially all of the assets of Optim.

"Exit Transaction Value" means, with respect to any Exit Transaction, an amount equal to:

(a) the Transaction Proceeds received in connection with such Exit Transaction, minus

(b) any Equity Contributions made between the Effective Date and the closing of such Exit Transaction, minus

(c) the aggregate principal amount of indebtedness for borrowed money (excluding, for the avoidance of doubt, interest and/or fees) incurred by the Optim Companies between the Effective Date and the closing of such Exit Transaction, minus

(d) Transaction Costs with respect to such Exit Transaction, plus

(e) any Tax Payments made between the Effective Date and the closing of such Exit Transaction, plus

(f) the aggregate principal amount of indebtedness for borrowed money (excluding, for the avoidance of doubt, interest and/or fees) repaid by the Optim Companies between the Effective Date and the closing of such Exit Transaction, excluding any repayments that are Direct Member Payments, plus

(g) any Distributions between the Effective Date and the closing of such Exit Transaction, plus

(h) any Excess Affiliate Payments made between the Effective Date and the Early Termination Date, plus

(i) the Excess Debt Guarantee Amount, minus

(j) the Base Amount;

provided that if such calculation results in a negative number, the Exit Transaction Value shall be zero.

"Expense Estimate" has the meaning given in Section 4.2.

"Force Majeure" means an event or circumstance that wholly or partly prevents Manager from performing its obligations under this Agreement, that is not within the reasonable control of, or the result of the fault or negligence of, Manager, and that, by the exercise of due diligence, Manager is unable to overcome or avoid or cause to be avoided. "Force Majeure" shall include, if and to the extent that the requirements of the first sentence of this definition are met in each instance, acts of God, acts of the public enemy, blockades, insurrections, strikes, lockouts, or other difference with workmen, riots, disorders, civil disturbances, fires, explosions, storms, lightning, floods, landslides, washouts, labor or material shortages, boycotts, embargoes, acts of military authorities, acts of local, state, or federal agencies or regulatory bodies, court actions, arrests, restraints, the interruption of network transmission service, material failures of major equipment, substantial delays or interference caused by any act or failure to act by any third party related to a Project (excluding Manager and its Affiliates), any denial of or delay in obtaining any permits or licenses necessary in connection with the administration or operation of any Project.

"GAAP" means generally accepted accounting principles in the United States.

"Holdings" has the meaning given in the Recitals hereto.

"Indebtedness" means any amounts then outstanding under the Credit Documents, including interest.

"Indemnitee" has the meaning given in Section 6.4.

"Indemnitor" has the meaning given in Section 6.4.

"Inventions" has the meaning given in Section 9.12.

"Lender" means Wells Fargo Bank, National Association.

"Losses" means liabilities, obligations, damages, demands, costs, expenses, losses (excluding loss of anticipated profits), penalties, claims (including claims involving liability in tort, strict or otherwise), suits, judgments, actions or proceedings (including reasonable legal fees and expenses and costs of investigation) of any kind or nature whatsoever.

"Management Costs" means the amounts payable by Optim to Manager for the Asset Management Services pursuant to Section 4.2.

"Manager" has the meaning given to such term in the first paragraph of this Agreement.

"Manager Personnel" has the meaning given to such term in Section 2.4(c).

"Manager Representative" has the meaning given to such term in Section 2.4(b).

"Marketable Securities" means debt or equity securities traded on a national securities exchange.

"Marketing" has the meaning given in the Recitals hereto.

"Member Indemnitees" has the meaning given to such term in Section 6.1.

"Members" means the members of Optim as reflected from time to time in the Optim LLC Agreement.

"Monthly Fee" has the meaning given to such term in Section 4.1.

"Nondisclosure Agreement" means the Nondisclosure Agreement, by and between Holdings and Manager, dated March 4, 2011.

"Non-Recourse Financing" means a financing that is secured solely by the assets of a Project and the revenues of the related Project Company without recourse to the members of such Project Company or the direct or indirect owners of such Project Company.

"Notice to Proceed" means a notice from Optim to Manager instructing Manager to commence the Asset Management Services hereunder.

"O&M Agreement" means any operations and maintenance agreement entered into by Optim or its Affiliates with respect to a Project or the Projects.

"Operator" means the operator of a Project pursuant to an O&M Agreement.

"Optim" has the meaning given to such term in the first paragraph of this Agreement.

"Optim Companies" means Optim, Marketing and the Project Companies.

"Optim LLC Agreement" means that certain Amended and Restated Limited Liability Company Operating Agreement of Optim Energy, LLC dated September 23, 2011, as amended or restated from time to time.

"Optim Representative" has the meaning given to such term in Section 2.1.

"Person" means any natural person, corporation, partnership, limited liability company, firm, association, governmental authority or any other entity whether acting in an individual, fiduciary or other capacity.

"Plant Sale Transaction" means either of the following, in a single transaction or series of transactions: (a) the voluntary sale, transfer or other disposition of all the equity interests in any two of the Project Companies, or (b) the voluntary sale, transfer or other disposition (whether by merger, consolidation or otherwise) of all or substantially all of the assets of any two of the Project Companies. For clarification, (i) a "Plant Sale Transaction" shall occur upon the satisfaction of either (a) or (b) above, regardless of whether the sale, transfer or other disposition with respect to the first applicable Project Company occurs in a separate transaction (which could occur at a different time, with a different buyer, and upon different terms) than the sale, transfer or other disposition with respect to the second applicable Project Company, and (ii) when used in this Agreement, the term "Plant Sale Transaction" shall be deemed to refer to the sale, transfer or other disposition transactions with respect to both applicable Project Companies, taken together as a whole.

"Plant Sale Transaction Value" means, with respect to any Plant Sale Transaction, an amount equal to:

(a) the Transaction Proceeds received in connection with such Plant Sale Transaction, minus

(b) any Equity Contributions made between the Effective Date and the closing of such Plant Sale Transaction, minus

(c) the aggregate principal amount of indebtedness for borrowed money (excluding, for the avoidance of doubt, interest and/or fees) incurred by the Optim Companies between the Effective Date and the closing of such Plant Sale Transaction, minus

(d) Transaction Costs with respect to such Plant Sale Transaction, plus

(e) any Tax Payments made between the Effective Date and the closing of such Plant Sale Transaction, plus

(f) the aggregate principal amount of indebtedness for borrowed money (excluding, for

the avoidance of doubt, interest and/or fees) repaid by the Optim Companies between the Effective Date and the closing of such Plant Sale Transaction, excluding any repayments that are Direct Member Payments, plus

(g) any Distributions between the Effective Date and the closing of such Plant Transaction, plus

(h) any Excess Affiliate Payments made between the Effective Date and the Early Termination Date, plus

(i) the Excess Debt Guarantee Amount, minus

(j) the Base Amount;

provided that if such calculation results in a negative number, the Plant Sale Transaction Value shall be zero.

"PNMR" means PNM Resources, Inc., which as of the Effective Date is a fifty percent (50%) owner of Optim.

"Project Company" means the entity(ies) that directly own each Project.

"Project Documents" means the O&M Agreements, the Energy Management Agreements, and, with respect to each of the Optim Companies at any time, all of the contracts and agreements to which such Optim Company is a party, other than the Credit Documents, this Agreement, and the Transition Services Agreement, as such may be or have been amended from time to time.

"Project(s)" has the meaning given in the Recitals hereto.

"Prudent Utility Practices" means those practices, methods, equipment, specifications and standards of safety and performance, as are commonly used by non-utility electric generation stations utilizing comparable fuels as good, safe and prudent engineering practices would dictate in connection with the design, construction, operation, maintenance, repair and use of electrical and other equipment, facilities and improvements of such electrical generation station, with commensurate standards of safety, performance, dependability (including the implementation of procedures that shall not adversely affect the long term reliability of the Projects, in favor of short term performance), efficiency and economy, in each such case as the same may evolve from time to time, consistent with applicable law and considering the state in which a Project is located and the type and size of such Project. Prudent Utility Practices as defined herein does not necessarily mean one particular practice, method, equipment specification or standard in all cases, but is instead intended to encompass a broad range of acceptable practices, methods, equipment specifications and standards.

"Rahn Expenses" has the meaning given in Section 4.2.

"Risk Management Policy" has the meaning given in Section 2.2(o).

"Tax Payments" means any payments made by Optim (other than payments made to another

Optim Company) under tax sharing or similar agreements in respect of income or capital gains taxes payable by, or tax exposures of, the Members; provided, however that such amounts shall not include any such payments made upon (a) Optim electing to be classified as an association taxable as a corporation for United States federal income tax purposes or taking any action that results in Optim being subject to United States federal income tax at the entity level under Section 7704 of The United States Internal Revenue Code of 1986, as amended from time to time, or any successor statute thereto, or (b) Optim becoming subject to such taxes as a result of a change in law or regulation.

"Transaction Costs" means the transaction costs and expenses (including taxes, other than income, capital gains or similar taxes, and fees and expenses paid by or on behalf of any Optim Company to third parties, including financial advisors and legal counsel), incurred by any Optim Company in completing a Plant Sale Transaction or an Exit Transaction; provided however, that in the case of an Exit Transaction that involves the transfer of less than 100% of the equity interests in Optim, this amount shall be divided by the percent of equity interests transferred in such Exit Transaction.

"Transaction Proceeds" means, with respect to any Exit Transaction or Plant Sale Transaction, (a) the cash consideration received by Optim or the Members in such Exit Transaction or Plant Sale Transaction (including in such transactions any price adjustment for working capital and any cash consideration received by Optim or the Members as a result of the release of cash consideration placed in escrow at the closing of such transaction), plus (b) the amount of indebtedness of Optim, the Members or any Project Company assumed or paid by the acquirer in the Exit Transaction or Plant Sale Transaction, plus (c) the value of any Marketable Securities received by Optim or the Members in such transaction, without duplication, if applicable; provided, that the value of any such Marketable Securities shall be equal to the volume-weighted average closing price of such securities during the five days before and the five days after the closing of such transaction; provided however, that in the case of an Exit Transaction that involves the transfer of less than 100% of the equity interests in Optim, the sum of (a) plus (b) plus (c) shall be divided by the percent of equity interests transferred in such Exit Transaction.

"Transition Services Agreement" has the meaning given to such term in the Recitals hereto.

"Twin Oaks" has the meaning given to such term in the Recitals hereto.

"Work Product" has the meaning given in Section 9.12.

1.2 Rules of Interpretation. The meanings set forth for defined terms in Section 1.1 shall be equally applicable to both the singular and plural forms of the terms defined and the masculine, feminine or neuter gender shall include all genders. References in this Agreement to any statute, decree, regulation or other applicable law shall be construed as a reference to such statute, law, decree, regulation or other applicable law as re-enacted, re-designated, amended or extended from time to time, except as otherwise provided in this Agreement. References in this Agreement to any document, agreement, contract or understanding shall be construed as a reference to such document, agreement, contract or understanding as amended or supplemented from time to time. The table of contents and the headings of the several sections and subsections of this Agreement are intended for convenience only and shall not in any way affect

the meaning or construction of any provision herein. References to the words "include" or "including" shall be deemed to be followed by "without limitation" or "but not limited to", whether or not they are followed by such phrases or words of similar import. The words "hereof," "herein" and "hereunder" and words of similar import when used in this Agreement shall refer to such document as a whole and not to any particular provision of this Agreement. References to "or" shall be deemed to be disjunctive but not necessarily exclusive (*i.e.*, unless the context dictates otherwise, "or" shall be interpreted to mean "and/or" rather than "either/or"). This Agreement is the result of negotiations between, and has been reviewed by Optim and Manager and their respective counsel. Accordingly, this Agreement shall be deemed to be the product of all parties hereto, and no ambiguity shall be construed in favor of or against Optim or Manager.

ARTICLE II: SERVICES

2.1 Appointment. Optim hereby appoints and retains Manager to provide the Asset Management Services from and after the Effective Date on the terms and conditions set forth in this Agreement. Manager hereby accepts such appointment and agrees to perform the Asset Management Services in accordance with the terms and conditions set forth in this Agreement. Manager shall report to the Board except to the extent that the applicable powers and authority of the Board have been delegated as set forth herein or subsequently through a resolution or other action of the Board to an individual or entity designated by the Board in writing from time to time (the "Optim Representative"), who as of the date hereof is designated to be Quinn Cornelius.

2.2 Asset Management Services. Subject to Sections 2.6, 2.7 and 2.8, with respect to each Optim Company and each Project, Manager shall perform, or cause to be performed, the services described herein relating to the oversight, administration and management of each Optim Company and each Project, including the review of operations and identification of ways to improve the performance, reliability, availability, safety, environmental compliance and profitability of each of the Projects (collectively, the "Asset Management Services"), consistent with Prudent Utility Practices and subject to the terms of this Agreement and the exclusions from the Asset Management Services enumerated in this Agreement. In rendering the Asset Management Services, Manager's objectives shall include: (i) maximizing the market value, net profits and energy production of each of the Projects, (ii) optimizing the useful life of each of the Projects and (iii) minimizing Project downtime and operating costs related to each of the Projects.

Optim shall deliver to Manager a Notice to Proceed no later than three (3) Business Days (or such shorter time period as is mutually agreed by the parties hereto) prior to the date on which Optim desires Manager to begin providing Asset Management Services hereunder. Optim shall take such limited liability company or limited partnership action (as the case may be) with respect to each Optim Company as is necessary for Optim to authorize Manager to perform the Asset Management Services set forth herein. Subject to Sections 2.6, 2.7 and 2.8, the Asset Management Services shall include the following:

(a) Administration of Project Documents. The Manager shall represent each of the Optim Companies and shall administer obligations and responsibilities of each of the

Optim Companies under each of the Project Documents. Without limiting the generality of the foregoing, Manager shall be responsible for supervising, monitoring and administering the compliance by each Optim Company and the counterparties with the terms and conditions of the Project Documents, and for performing on behalf of such Optim Company all of the supervisory responsibilities thereunder, including the authorizing of payments and the giving of any notices required under such Project Documents. Subject in each case to the direction of the Optim Representative, Manager shall be authorized to negotiate with counterparties to the O&M Agreement(s) and Energy Management Agreement(s). Subject to the limitations in paragraph (b) of this Section, Manager shall be authorized to otherwise deal directly with the counterparties under the Project Documents on behalf of the relevant Optim Company with respect to any negotiations under or renegotiation of any Project Document. Manager shall be authorized to receive notifications from such counterparties pursuant to the Project Documents. Manager shall not knowingly cause any Optim Company to contravene any of its obligations under the Project Documents without the consent of the Board in each instance. The terms of this Agreement shall not vary or amend the obligations of any Optim Company under any Project Document to which such Optim Company is a party.

(b) Administration of Credit Facility. To the extent applicable, the Manager shall:

(i) in consultation with and subject to the overall strategic direction of the Board, represent the relevant Optim Companies and administer their obligations and responsibilities under and consistent with the Credit Documents, including (A) preparing for the approval of the Optim Representative all draw and letter of credit requests and (B) subject to the overall strategic direction of the Board: (1) preparing notifications to the Administrative Agent, (2) implementing interest rate and loan type selections or elections, (3) preparing certificates required of the relevant Optim Companies thereunder, and (C) administering the compliance by the relevant Optim Companies with all other covenants and obligations thereunder;

(ii) receive notifications pursuant to the Credit Documents and communicate those notifications to the Optim Representative and otherwise communicate with the Administrative Agent in accordance with the overall strategic direction of the Board;

(iii) provide such administrative support services as Optim may request in connection with the refinancing of the Projects to the extent such refinancings are guaranteed by Holdings and are not Non-Recourse Refinancings of one or more Project Companies;

(iv) cooperate with the Administrative Agent and any independent consultants appointed in connection with the Credit Documents; and

(v) not knowingly cause any of the relevant Optim Companies to contravene their obligations under the Credit Documents.

The terms of this Agreement shall not vary or amend the rights or obligations of any party to any Credit Document.

(c) Bank Accounts and Disbursement of Funds. Manager shall maintain, and at the direction of the Optim Representative, establish, on behalf of and in the name of each

Optim Company one or more bank accounts as may be required by the Optim LLC Agreement, the Project Documents or the Credit Documents, or otherwise, as required or convenient in connection with the business of such Optim Company and permitted by the Credit Documents. The Manager shall have the authority to inform the relevant Optim Company (and promptly thereafter the Administrative Agent, if applicable, and the Optim Representative) of the need to make deposits to and withdrawals from any such Optim Company's accounts and otherwise to inform such Optim Company (and promptly thereafter the Administrative Agent, if applicable, and the Optim Representative) of disbursements of funds that need to be approved or authorized from any other accounts of such Optim Company in order to pay all of such Optim Company's operating and other expenses, including any payments required under any of the Project Documents and any insurance premiums, accountants' fees, legal fees and other professional services fees, taxes, license fees, property taxes, assessments or other Optim Company expenses. Manager shall administer any escrow arrangements to which an Optim Company is a party, as well as any letters of credit, bonds or other similar support instruments posted by Optim, Marketing or a Project Company relating to the Projects.

(d) Accounting and Documentation. Manager shall provide bookkeeping, accounting (including tax accounting, accounting and reporting systems and internal controls), and record keeping services with respect to each Optim Company as required from time to time, and will prepare and maintain appropriate books and records for each Optim Company and, to the extent pertaining to matters within the knowledge and control of Manager, shall, upon request by the Board or the Optim Representative, prepare and submit on behalf of the relevant Optim Company necessary documentation, certifications and notices required to be submitted or maintained by such Optim Company pursuant to the Optim LLC Agreement, the Project Documents or the Credit Documents. Manager shall manage the provision of accounting services in accordance with GAAP and the provisions of the Optim LLC Agreement, including: (i) preparation of trial balances, (ii) providing periodic and ad hoc management reports and other reports, (iii) defining and maintaining a general ledger structure, (iv) providing cash management services, (v) creating and implementing accounting procedures and overseeing research with respect to accounting matters, (vi) implementing and maintaining billing and collections procedures in respect of all accounts receivable and other amounts due to an Optim Company under the Project Documents and render invoices as required under the Project Documents, and (vii) providing payables and purchase accounting services. Manager shall maintain tax records, documents and other papers on behalf of each Optim Company, and Manager shall assist in the preparation and filing by an accounting firm designated by the Board, on a timely basis, federal, state and local income tax returns and related information and filings required to be filed by an Optim Company. Manager shall cause financial statements relating to the Optim Companies to be prepared and delivered to the Board (or its designees) and the Lender in the forms and at the times required by the Credit Documents, the Project Documents or the Optim LLC Agreement. Manager shall prepare such other reports, notices of events, occurrences and conditions and certificates for execution by an Optim Company as are required by the Optim LLC Agreement, the Credit Documents or the Project Documents and shall coordinate with the relevant Optim Company and the Optim Representative, the execution and delivery of such reports, certificates and notices to those Persons required by the Optim LLC Agreement, Credit Documents or the Project Documents. Manager shall oversee any audit or compliance requirements set forth in the Optim LLC Agreement, the Credit Documents or the Project Documents for services performed by third party professionals. In the preparation of such financial reports, Manager shall be

entitled to reasonably rely on the accuracy and completeness of any financial and operations information provided to it by or on behalf of an Optim Company by any other third party provider. Manager shall retain all books and records in a safe, secure and proper manner in accordance with a written record retention policy approved by the Board.

(e) Insurance. Manager (with the assistance of a qualified insurance broker) shall propose to the Board insurance programs for each Optim Company, and shall implement the programs approved by the Board, including procuring at the expense of the relevant Optim Company and maintaining any and all insurance required to be maintained by an Optim Company pursuant to any Project Document or any Credit Document or as directed by the Board or the Optim Representative. Manager (with the assistance of a qualified insurance broker and in consultation with the Optim Representative) also shall be responsible for administering all claims and making all collections on behalf of Optim under insurance policies covering Optim with respect to each Optim Company and on behalf of each Optim Company. Manager shall be named as an additional insured under each of the liability insurance policies that include any Optim Company as an additional insured. When applicable, Manager shall implement and maintain any insurance required by applicable law.

(f) Licenses, Permits and Regulatory Affairs. Manager shall coordinate with Optim's legal counsel to review all applicable laws, rules, regulations or the rules of any authority having jurisdiction over the Optim Companies (including all applicable environmental laws and regulations and the rules of the relevant reliability and power market organizations), containing or establishing compliance requirements in connection with the Projects or Marketing. Manager shall, on behalf of Optim and in coordination with the Operator, Holdings and Cascade, obtain, maintain and comply with all federal, state and local permits, licenses, approvals and other authorizations that are required to be obtained, maintained and complied with by any Optim Company for or in connection with the operation of the Projects or Marketing. Manager shall prepare, on behalf of the Optim Companies, any application, filing or notice related to the permits required by any Optim Company for or in connection with the operation of the Projects or Marketing, shall cause such materials to be submitted to the appropriate governmental authority, and shall perform all ministerial or administrative acts necessary for the timely issuance and the continued effectiveness thereof. Manager shall monitor and administer each Optim Company's compliance with any authorizations, permits, licenses and governmental approvals required and obtained by or for an Optim Company in connection with the ownership, construction, administration or operation of the Projects or Marketing, and monitor the compliance by Operator or any other party to a Project Document with any requirements of such parties to obtain and maintain any permits under the relevant Project Document. Unless otherwise instructed by the Board, Manager shall not take any actions that could reasonably be expected to revoke a Project Company's market-based rate authority and shall take all actions that are reasonably necessary or appropriate to avoid the loss of such authority. Manager shall, unless otherwise requested by the Board or the Optim Representative, prepare or cause the preparation of any application, filing or notice related thereto, shall cause such materials to be submitted to, and shall represent each Optim Company in contacts with, all appropriate governmental agencies, and shall perform all ministerial or administrative acts necessary for timely issuance and the continued effectiveness thereof. Copies of all permits, licenses and governmental approvals obtained by or for an Optim Company pursuant to this Section 2.2(f) shall be maintained by Manager at its offices or at the respective Project sites.

Manager shall, in coordination with the Operator, maintain and manage environmental and reliability compliance tracking systems to monitor the status of all relevant applications, filings, reports, forms and governmental approvals. Manager shall coordinate with Optim's legal resources, to the extent necessary, to manage on behalf of each Optim Company the required authorizations, permits, licenses and governmental approvals relating to the Projects and all regulatory affairs on behalf of each Optim Company.

(g) Public and Investor Relations. Manager shall, in coordination with the Operator and in consultation with the Optim Representative, be responsible for all public and community relations matters with respect to the Projects and procurement and management of third-party professional providers of government and community relations' services and shall coordinate and manage the public affairs activities of the Operator with respect to each Project. Notwithstanding the foregoing, Manager shall not issue any press release or similar public statement regarding any Optim Company or a Project without the prior consent of the Optim Representative.

(h) Regulatory and Legislative Affairs. Manager shall manage and coordinate representation of the interests of the Optim Companies with respect to, and monitor on behalf of the Optim Companies, potential changes in state and federal legislation, regulatory rules, ISO and RTO market rules, gas tariffs and other rules and regulations impacting the operations of the Projects and the Optim Companies, including environmental rules and regulations. Subject to the prior consent of the Board or the Optim Representative, Manager may, from time to time, procure services (solely for the benefit of Optim, or as a part of a group of generating companies) of consultants, advisors or third-party professional providers to assist in the representation and monitoring of regulatory and legislative affairs with respect to the Projects and the Optim Companies.

(i) Additional Contracts. Manager shall (upon the direction of the Board or the Optim Representative or otherwise as necessary in the normal course of business for each Optim Company) solicit proposals for, negotiate, and administer any additional contracts or replacement contracts that are necessary for, or benefit, the administration or operation of any or all of the Projects. To the extent that such additional contracts constitute Credit Documents or Project Documents, Manager shall comply with its obligations regarding Credit Documents and Project Documents as set out herein. Manager shall also negotiate (upon the direction of the Board or the Optim Representative) and administer any amendment or waiver to any Project Document or Credit Document that is necessary for, or benefits, the administration or operation of any or all of the Projects.

(j) Reporting Requirements. Manager shall prepare and distribute, or cause to be prepared and distributed, on behalf of each Optim Company, financial or other reports, budgets, estimates, tax returns and other information reasonably requested by the Board or the Optim Representative or otherwise required to be prepared and distributed pursuant to the Optim LLC Agreement, the Project Documents, and Credit Documents, in each case in accordance with the requirements set forth in such document and with a copy to Optim no later than the date on which such information is due pursuant to the terms of such document or such earlier time as may be reasonably requested by the Optim Representative. In coordination with the Optim Representative, Manager shall periodically provide reports and presentations regarding the

Manager's efforts to improve the safety, environmental compliance, performance, reliability, availability and profitability of each of the Projects at such times and places as may be reasonably requested. In addition, Manager shall furnish, or cause to be furnished to the Board within thirty (30) days following the end of each month and, if requested by the Board or the Optim Representative, forty-five (45) days following the end of each calendar year, an asset manager report in a form reasonably acceptable to the Optim Representative with such changes as reasonably requested from time to time by the Board or the Optim Representative, which report shall include, with respect to each Project, a numerical and narrative assessment of (i) the Project's compliance with each category in its annual operating budget, (ii) electrical production and delivery, (iii) fuel deliveries and use, including heat rate, (iv) plant and unit availability, including scheduled and unscheduled outages, (v) cash receipts and disbursements, including balances in the accounts, provided, however, that reporting with respect to equity distributions and debt service payments shall be only with respect to Optim, (vi) major maintenance activity, (vii) material casualty losses (whether or not covered by insurance), (viii) disputes with any contractor, supplier or other Person and any related claims against any Optim Company or its Affiliates, or their respective Covered Parties, (ix) compliance with the governmental permits for the Project and Manager's strategy for ensuring compliance with any reasonably anticipated future permit requirements, (x) compliance with each Project Company's reporting requirements pursuant to applicable law and Manager's strategy for ensuring compliance with any reasonably anticipated future reporting requirements, (xi) company performance against key operating and financial metrics and the Risk Management Policy, (xii) market conditions for power and gas in regions relevant to the Projects, (xiii) key activities of Manager, (xiv) detailed statement of profits, losses, and capital expenditures (xv) any other information or analysis reasonably requested by Optim. Notwithstanding the foregoing, Manager shall promptly inform the Optim Representative of any dispute that is reasonably likely to result in claims or losses in excess of $100,000.

(k) Energy Management Agreement Services. The Manager shall oversee the Energy Management Agreements and be the designated representative for the relevant Optim Company pursuant to each Energy Management Agreement, including (i) providing and receiving notices, (ii) reviewing reports, analyses and other data submitted or made available by each Energy Manager, (iii) conducting meetings and telephone conferences with each Energy Manager, (iv) reviewing each Energy Manager's monthly settlement statements, (v) supervising any necessary audits of each Energy Manager's books and records, (vi) recommending short-term commodity risk management strategies to the Board for implementation through an Energy Management Agreement (or otherwise); (vii) monitoring collateral requirements and managing the posting and receipt of collateral with respect to the Energy Management Agreements; and (viii) except to the extent Section 2.3 applies, participating in any dispute resolution processes, provided that Manager shall regularly consult with and report to the Optim Representative in the provision of these services, but shall not have authority to approve any transaction proposed by an Energy Manager under an Energy Management Agreement, unless such authority is granted to Manager under the Risk Management Policy, nor shall Manager have the authority to hire, dismiss or replace an Energy Manager, without the Board's consent. In addition, Manager shall assist the Optim Representative, in evaluating and negotiating the Energy Management Agreements with the existing or replacement Energy Managers.

(l) Information Technology. Manager shall manage, support, and maintain appropriate information technology systems, including e-mail, office support, enterprise resource program, up to date software programs, or separate finance and accounting software, necessary for Manager to provide the Asset Management Services and Additional Services. As soon as reasonably practicable after the Effective Date, Manager shall establish a virtual data room with material documentation for each Project, which virtual data room would be suitable for use to support financings or responses to information requests in connection with an Exit Transaction and shall provide the Optim Representative with a written assessment of what additional documentation is required for such virtual data room, including any data that may have been retained by PNMR. Manager shall maintain such virtual data room throughout the term of this Agreement and for ninety (90) days after this Agreement expires or is terminated. Manager shall coordinate with and support as necessary the Operator regarding Operator's information technology scope of services. Manager shall create and implement an information technology business continuity plan and appropriate data retention policies for Optim and for each Project.

(m) Services Performed by Operator. Manager shall be a designated representative for Optim (or the Project Company, as the case may be) to the Operator for each of the Projects and shall administer the O&M Agreement(s), pursuant to which the Operator shall be responsible for, among other services, the following: (i) complete care, custody and control of the Project, (ii) Project staffing, management and training, (iii) the development and implementation of operations and maintenance procedures manuals specifically appropriate to each Project, (iv) procurement of all materials and services delivered to or provided on each Project site, (v) development of a budget reflecting the operating costs of each Project, (vi) the maintenance of an appropriate on-site inventory of spare parts, chemicals, etc., (vii) the management of a facility maintenance management system, (viii) the maintenance of an on-site library and database of design drawings, technical and operating data, and vendor manuals, (ix) identifying, evaluating and implementing capital projects and asset improvements, and (x) the delegation of responsibilities for onsite reliability, environmental and safety compliance. Manager will be responsible to supervise and manage the Operator, who will be responsible for day-to-day compliance at the project site with the Project's environmental, health and safety program and its authorizations, permits, licenses and governmental approvals, including (x) maintaining and monitoring compliance at the site with all applicable laws and regulatory requirements of any authorizations, permits, licenses or governmental approvals and any governmental authorities; and (y) preparing all reports, forms, filings and submittals required by authorizations, permits, licenses and governmental approvals or applicable law and which utilize data maintained by the Operator. Subject to the Board's approval, Manager shall designate Manager Representatives who will be empowered to sign regulatory documents on behalf of the Project Company.

(n) Capital Project Management. Manager shall provide capital project management in coordination with Operator to projects initially estimated to involve less than five million dollars ($5,000,000) in expenditures and not more than two-hundred fifty (250) man-hours of project management time from Manager personnel (with an aggregate time for all projects not exceeding five hundred (500) man-hours in any year). Section 2.3 shall apply to the support of capital projects that require a greater expenditure or man-hour amount.

(o) Hedging Strategy and Policy. Manager shall prepare for approval by the Board a risk management policy governing the sale and purchase of all commodities to be used during Project operations, including electricity, natural gas, capacity, ancillary services and emissions allowances ("Risk Management Policy"), which shall address the risk reduction approaches to be taken by Manager (whether implemented through an Energy Manager or undertaken directly by Manager) in selling and purchasing the aforementioned commodities, including the use of both physical and financial derivatives, the time periods for forward contracting, and delegation of authority, and shall, as necessary, from time to time recommend to the Board updates to the Risk Management Policy. Manager shall regularly consult with and report to the Optim Representative with respect to the Risk Management Policy and shall be responsible for implementing the Risk Management Policy, including preparing and distributing any required risk management reports; provided, however, that the origination, structuring and negotiation of medium and long-term power sale and hedging transactions shall be Additional Services; provided further, that until such a Risk Management Policy is approved by the Board, Manager shall regularly consult with and report to the Optim Representative with respect to any risk management policies then in effect with respect to the Optim Companies and shall be responsible for implementing such policies.

(p) Development of Operational Strategy. Manager shall periodically review the trading and operations of Marketing and each Project Company to identify opportunities for improving the earnings, performance, reliability and availability of each Project and Optim, and shall deliver the results of such reviews to the Board. Such review shall specifically address Manager's strategy with respect to compliance with current and reasonably anticipated laws, rules and regulations, including environmental laws, rules and regulations.

(q) Budgeting and Forecasting. Manager, in coordination with the Operator , shall prepare an annual budget for the Projects (and any amendments thereto) for the forthcoming year period, which annual budget shall be submitted to the Board for approval on a schedule and in a form to be agreed that meets all reasonable requirements of the Optim Companies and the Credit Documents. As part of the annual budget process, Manager shall, in consultation with Operator(s), develop a strategy for commodity risk management, operation, and maintenance of the Projects that is in alignment with Optim's goals and objectives, based on the cost-benefit trade-offs in the budget process for discretionary expenditures, capital improvements and operating options. Manager shall also prepare a monthly reforecast of the current year expected gross margin and a quarterly reforecast of the current year expected free cash flow and EBITDA, in comparison to budget and to the prior quarter's forecast, along with an explanation of the changes. Twice annually, Manager shall prepare for the Board's review a three (3)-year forecast of gross margin, free cash flow and EBITDA.

(r) Materials. Manager shall provide all materials necessary for the performance of the services described in this Section 2.2 (other than the materials to be provided to Manager by Optim pursuant to this Agreement), and shall provide appropriate office space and information technology for its personnel performing such services; provided that Optim shall provide Manager with office space at the Project sites at no cost to Manager.

(s) Emergencies. In the event of an emergency, Manager shall, in coordination with the Operator, as soon as practicable notify the Board and take, or cause to be

taken, such action as is reasonably necessary (and within Manager's control) to attempt to minimize the effect, or remove the existence, of the emergency.

(t) Corporate Records and Qualifications. Manager shall, in coordination with Optim's legal resources, physically keep and maintain the corporate records of Optim and the Project Companies and shall maintain the qualifications of Optim and the Project Companies to do business in all applicable jurisdictions, including arranging the payment by Optim of franchise and similar taxes, the filing of annual reports and other acts or filings necessary to maintain the Optim and each Project Company in good standing in all applicable jurisdictions.

2.3 Additional Services. At any time during the Term, the Board or the Optim Representative may request on Optim's behalf, and Manager shall then provide, additional services (collectively, the "Additional Services"), which may include: (i) any incremental work associated with the detailed planning for or occurrence of an act of insolvency or similar proceeding with respect to any Project Company; (ii) the management of capital projects that are initially estimated to involve greater than five million dollars ($5,000,000) in expenditures and more than two-hundred fifty (250) man-hours of project management time from Manager personnel (or involving aggregate time exceeding five hundred (500) man-hours in any year); (iii) management of material disputes to the extent that the Board or the Optim Representative determines that such disputes should be resolved through litigation, arbitration, or other formal mediated dispute resolution process, and the management of income tax audits and any disputes arising from such audits; (iv) management or material support of a Non-Recourse Financing (including a refinancing that is a Non-Recourse Financing) of Optim or any Project (which includes support of the process of seeking such financing and closing on such financing, with post-closing support addressed through the Monthly Fee in Section 4.1), or the origination and structuring of power sale or hedge contracts that are more than one (1) year in duration and are not traded on an exchange, and negotiation of related definitive agreements, or the administration of any such Non-Recourse Financing loans or hedges, and (v) management or material support of an Exit Transaction, including all functions normally carried out by the seller's management team, including management of the investment bank, preparation of an information memorandum, management presentation and question and answer responses, oversight of the development of expert reports, development and negotiation of a purchase and sale agreement and related disclosure schedules, conduct of management presentations and site visits, but not including the preparation and maintenance of a virtual data room, which is covered by Section 2.2(l). Compensation for such Additional Services shall be as set forth in Section 4.3.

2.4 Personnel.

(a) Provision of Personnel. Manager shall provide and make available sufficient professional, supervisory, managerial, administrative and other personnel as are necessary to perform the Asset Management Services, which personnel shall be employees of Manager or an Affiliate of Manager or retained as independent contractors by Manager; provided that any personnel provided or retained by Manager shall be retained solely as an employee, independent contractor or consultant of Manager or an Affiliate of Manager and shall not be an employee, contractor or consultant of any Optim Company. For clarification, without the Board's prior approval, Manager shall have no authority to cause any Optim Company to hire any employees to be employed directly by an Optim Company. All personnel performing Asset

Management Services shall be qualified and experienced in the duties to which they are assigned and shall have all applicable licenses necessary for the performance of such Asset Management Services. The Optim Representative shall be entitled by notice to Manager to object to any individual employed or utilized by Manager in the performance of the Asset Management Services who, in the reasonable opinion of the Optim Representative, is incompetent, abusive to other employees or personnel, or engages in other misconduct or fails to perform his or her responsibilities in a competent manner, and Manager shall immediately remove any such individual from performance of the Asset Management Services and appoint a suitable replacement. Manager shall have sole responsibility for all wages, benefits, withholding taxes, insurance, welfare plans, management, supervision and training, and all other matters relating to the employment or retention, of the individuals employed or retained by Manager or its Affiliates in the performance of the Asset Management Services, and the working hours and all other matters relating to the employment or retention of such individuals shall be determined solely by Manager or its respective Affiliates. In order to perform the Asset Management Services, Manager shall be authorized (subject to Section 2.6) to obtain on behalf of and in the name of Optim or a Project Company outside accounting, tax, legal, engineering, insurance brokerage and other professional services typically provided by outside expert professionals.

(b) Manager Representative. Subject to the approval of the Board, which may not be unreasonably denied or delayed, Manager shall appoint one or more representatives (each, a "Manager Representative") who are authorized and empowered to act for and on behalf of Manager on all matters concerning this Agreement and the Asset Management Services. Such appointment(s) shall remain in full force and effect until such Manager Representative(s) are replaced by Manager or removed pursuant to Section 2.4(c). The appointment of any such replacement Manager Representative(s) shall be subject to the prior approval in each instance of the Board, which approval may not unreasonably be denied or delayed.

(c) Meetings. At the reasonable request of the Board or the Optim Representative, Manager Representative(s) and other relevant personnel of Manager (collectively "Manager Personnel"), including any Manager Personnel serving as Officers pursuant to Section 2.4(d), shall make reasonable efforts to attend meetings of the Board, advisory board or equivalent governing body of any Optim Company in person, provided that such Manager Personnel shall receive reasonable prior notice thereof and such Manager Personnel shall not be required to travel to more than four (4) such meetings per year. If there are more than four (4) such meetings that would require travel, Manager Personnel may attend such additional meetings telephonically. If reasonably necessary, including if a Manager Representative becomes unable to consistently attend regularly scheduled meetings of the relevant body or is not performing his responsibilities under this Agreement in a competent manner, Manager shall, at the request of the , Optim Representative replace such Manager Representative with another senior executive officer of Manager reasonably acceptable to the Optim Representative.

(d) Officers. Subject to the request of the Board, and subject to the requirements of applicable law (including, without limitation, any authorization by the Federal Energy Regulatory Commission pursuant to Section 203 of the Federal Power Act or an approval of a state agency under the applicable laws and regulations of such state) and the agreement of the parties regarding scope and nature of any such appointment, (i) Manager shall designate one or more employees of Manager to serve as an officer of any Optim Company, which officer shall

(A) owe to such Optim Company such duties of loyalty as are owed by officers of a Delaware corporation to such corporation and (B) perform such duties as are required or authorized to be performed by such officer under the organizational documents of the relevant entity, and (ii) such Optim Company may empower such appointed officer to execute regulatory documents on its behalf.

2.5 Standards for Performance of Asset Management Services.

(a) Standards for Performance. Subject to Section 2.5(c), Manager shall perform the Asset Management Services in a safe (including in compliance with the safety program established by the applicable Operator when on a Project site), prudent, professional, businesslike and efficient manner in accordance with (i) applicable laws, regulations, codes, permits, licenses and standards (including all applicable environmental laws and regulations), (ii) the applicable terms and conditions of the Project Documents and the Credit Documents, (iii) Prudent Utility Practices and (iv) a degree of skill and judgment commensurate with that normally exercised by experienced firms performing similar services (which is not intended to be limited to the optimum or minimum practice or method to the exclusion of all others, but rather to be a spectrum of reasonable and prudent practices and methods). Without limiting the foregoing, Manager shall, subject to Section 2.5(c) or as otherwise directed by the Board or the Optim Representative, promptly notify the Board of, and use commercially reasonable efforts to cure, any violation by an Optim Company of laws, regulations, codes, permits, licenses or standards, or any breach by an Optim Company of any Project Document or Credit Document, or any failure by a Project Company to adhere to Prudent Utility Practices.

(b) Maintenance of Permits. Manager shall obtain and maintain in effect all authorizations, licenses and permits required for Manager to perform the Asset Management Services.

(c) Limitations on Performance. Notwithstanding anything herein to the contrary, none of the following shall result in a breach of Manager's obligations under this Agreement: (i) any event or condition that existed with respect to a Project prior to the Effective Date that limits Manager's ability to perform its obligations hereunder and could not have been discovered or overcome by Manager through the use of commercially reasonable efforts or Prudent Utility Practices, (ii) insufficient funds being available to Manager at any time to perform its obligations under this Agreement or for any Project Company to perform its obligations under the Project Documents or the Credit Documents, (iii) any restrictions or limitations imposed on Manager by Optim or a Project Company that materially limit Manager's ability to perform its obligations hereunder, (iv) an event of Force Majeure or (v) any failure by Optim to perform its obligations under this Agreement, or Optim's failure to provide necessary approvals or legal, accounting or other support required by Manager, but only to the extent that such failure materially adversely affects Manager's ability to perform its obligations hereunder and, in the case of (i) through (v) above, Optim shall have failed to cure within a reasonable time after notice thereof by Manager, which notice Manager shall provide to the Optim Representative within a reasonable time after becoming aware of such event or condition.

2.6 Authority of Manager. Manager is hereby granted the authority to do on behalf of the Optim Companies, in the name of the relevant Optim Company, all things that are necessary,

proper or desirable to carry out the duties and responsibilities of Manager under this Agreement, including the authority to perform on behalf of any Optim Company any agreement entered into by such company with respect to the Projects and to execute documents in the name of Optim subject in all cases to (w) the Budgets in effect from time to time, (x) any covenant or other restriction applicable to Optim or the relevant Optim Company under any Project Document or any Credit Document, (y) the requirements of applicable law (including an authorization by the Federal Energy Regulatory Commission pursuant to Section 203 of the Federal Power Act or an approval of a state agency under the applicable laws and regulations of such state, as may be deemed necessary by the Board or the Optim Representative) and (z) Sections 2.7, 2.8(a) and 2.9. Notwithstanding the foregoing, except as otherwise authorized by the Board or the Optim Representative, Manager shall not retain, without permission of the Board or the Optim Representative, any third-party services (including legal, consulting, accounting, engineering and technical services) where the cost of such services could reasonably be expected to materially exceed amounts available under the Budgets then in effect at the time of such retention.

2.7 Limitations on Authority of the Asset Manager. The authority granted to Manager in this Agreement is expressly limited by the provisions of this Section 2.7. In furtherance of the foregoing, unless the Board or the Optim Representative has given its prior written consent or has otherwise specifically given its approval to Manager in writing to take any such action, Manager shall have no authority to, and shall cause its agents, employees, representatives and contractors not to:

(a) enter into an Exit Transaction or sell, lease, pledge, mortgage, assign, convey or otherwise transfer or dispose of any asset or property, or any interest therein of an Optim Company other than the sale, lease or disposition of any electric power or other commodities pursuant to the Risk Management Policy or surplus materials and equipment not to exceed $300,000 on an individual basis or $750,000 in the aggregate in any calendar year;

(b) enter into, amend, take actions or provide notices under, modify or supplement in any material respect, or give or accept material waivers under, or cancel or terminate any material provision of any contract or agreement binding on an Optim Company in a manner that is not in accordance with the amounts related thereto in the current Budget, unless (i) such Optim Company's maximum liability in any calendar year (x) under such contract or agreement is $300,000 or less on an individual basis and (y) under all such contracts and agreements is $750,000 or less in the aggregate and (ii) to the extent the underlying contract or agreement involves aggregate payments in excess of $100,000, Manager provides prior written notice to the Optim Representative of such contract, amendment, action, notice, waiver, cancellation, or termination;

(c) directly or indirectly cause an Optim Company to create, incur, assume, guaranty or otherwise be or become liable for any indebtedness for borrowed money (except for accounts payable arising as a result of actions of Manager otherwise authorized hereunder) or create, assume, incur or suffer to exist any lien (other than any lien arising by operation of law as a result of actions taken by Manager otherwise authorized hereunder for obligations not yet due and payable) upon or with respect to any property now or hereafter owned or hereafter acquired by an Optim Company;

(d) purchase or acquire any assets or make or commit to make any expenditure on behalf of an Optim Company, except in accordance with the then approved Budget (or as otherwise permitted pursuant to Section 2.7(b)) or with respect to a budget for a capital project approved by the Board in connection with Manager's responsibilities for capital projects pursuant to Sections 2.2(n) or 2.3;

(e) make or permit to remain outstanding any investments on behalf of Optim Company, except in accordance with the relevant depository bank's overnight cash sweep procedures and associated investment options to the extent that such investments consist exclusively of investments in securities issued by the U.S. Treasury or explicitly guaranteed by the full faith and credit of the U.S. government;

(f) settle, compromise, assign, pledge, waive, transfer or release, or consent to the compromise, assignment, pledge, waiver, transfer or release of, any suit, debt, demand, claim or judgment against or due by, an Optim Company (including under any Project Document), or submit any dispute or controversy on behalf of an Optim Company to arbitration or judicial process, or stipulate in respect thereof to a judgment, or consent to do the same, or otherwise admit fault or liability on behalf of any Optim Company or commence or respond to any litigation, action, arbitration, or other proceeding on behalf of any Optim Company where the amount in dispute is reasonably estimated to be in excess of $100,000;

(g) exercise any rights specifically reserved to an Optim Company, the Members, the Board, the Optim Representative, or any Affiliates of the foregoing under this Agreement;

(h) sell or arrange for the sale of power from a Project or direct the dispatch, scheduling or operation of the Project other than as agent for the Project Company and then only as specifically directed or approved by the Board as set forth in an approved Budget or consistent with the Risk Management Policy, or as permitted within the authority of Manager under Section 2.2(k);

(i) do or cause anything to be done or take any action that may reasonably be expected to cause any member of Optim (A) to become subject to regulation by the Federal Energy Regulatory Commission as a "public utility" under §201(e) of the Federal Power Act, 16 U.S.C. §824 or any successor statutory provision, to the extent such member is not already subject to such regulation, or (B) to become subject to additional regulation by the Federal Energy Regulatory Commission as a "public utility" under §201(e) of the Federal Power Act, 16 U.S.C. §824 or any successor statutory provision, to the extent such member is already subject to certain regulation thereunder;

(j) commence or consent to any Bankruptcy Event with respect to any Optim Company; or

(k) amend, modify, waive or supplement any provision of, or trigger any right of Optim with respect to, this Agreement.

2.8 Modifications to and Exclusions from Asset Management Services.

(a) Scope, Manager Authority. Notwithstanding anything herein to the contrary, the Board or the Optim Representative may on behalf of Optim from time to time, effective upon notice to Manager, (x) revoke or rescind all or any part of the authority granted to Manager or reduce or restrict the scope of the Asset Management Services or (y) with the consent of Manager, increase the authority granted to Manager or the scope of the Asset Management Services. If the scope of the Asset Management Services is materially decreased or increased, the parties hereto shall negotiate in good faith an equitable adjustment to the Monthly Fee.

(b) Bankruptcy. Notwithstanding anything herein to the contrary, unless otherwise agreed by Manager and the Board, the Asset Management Services shall not include any incremental services that arise, directly or indirectly, as a result of a Bankruptcy Event or the contemplation of a Bankruptcy Event involving any Optim Company or any Affiliate of an Optim Company. Any such incremental services may be undertaken only at the direction of the Board, and Manager shall be compensated therefor as an Additional Service.

(c) Expenses. Except as may be otherwise provided herein and unless otherwise agreed by Manager, Manager shall not be required to incur for its own account any costs or expenses that are contemplated under a Budget or otherwise herein to be incurred directly by any Optim Company, or to take any actions on behalf of an Optim Company that could reasonably result in Manager incurring any such costs or expenses for its own account, and any election by Manager not to incur such costs or expenses on behalf of an Optim Company in accordance with this Section 2.8(c) shall not be a breach of Manager's obligations under this Agreement even if some Asset Management Services are not provided as a result thereof.

(d) Exclusions from Asset Management Services. For the avoidance of doubt, the Asset Management Services shall not include any operating services that are within the scope of the O&M Agreement or that otherwise require the performance of services by any Manager Personnel on a long-term basis at a Project site, in-house legal services or legal advice, energy management services typically provided for under an energy management agreement, Project development or expansion services, Project development feasibility assessments or studies, or capital project management to Projects initially estimated to involve twenty-five million dollars ($25,000,000.00) or more in expenditures per project.

2.9 Retention of Control by the Optim Companies. Notwithstanding anything in this Agreement to the contrary, Optim and Manager expressly acknowledge and agree that: (a) this Agreement does not convey ownership or control over the Projects from Optim to Manager; (b) Optim, acting by and through each Project Company and Marketing, retains ultimate decision-making authority and control with respect to the Projects, including ultimate decision-making authority and control relating to the operation of, and sale of electricity from, the Projects; and (c) Manager is acting in a purely agency capacity, without control over decisions affecting, and, except as expressly permitted herein, without discretion to enter into, modify or terminate, any contracts, transactions or arrangements that are made by an Optim Company or pursuant to any Optim Company's market-based rate tariff or otherwise subject to the jurisdiction of the Federal Energy Regulatory Commission.

ARTICLE III: ITEMS TO BE FURNISHED BY OPTIM OR AN OPTIM COMPANY

3.1 General. Optim or the relevant Optim Company, at their expense, shall promptly furnish, or cause to be furnished, to Manager such information, documentation, services and materials (including reasonable access to their officers, managers, employees, contractors, agents and representatives, including the Optim Representative, that are familiar with Marketing and the Projects) that are reasonably requested by Manager to perform the Asset Management Services or to fulfill its other obligations under this Agreement. All of the foregoing shall be made available at such times and in such manner as may be reasonably requested by Manager for the performance of the Asset Management Services or its other obligations under this Agreement.

3.2 Funding of Optim Company Accounts. Notwithstanding any provision in this Agreement to the contrary, Manager shall not be obligated to perform any Asset Management Services or other obligations under this Agreement, and Manager shall be excused from its obligations and responsibilities hereunder, if and to the extent that funds are not available from Optim or the relevant Optim Company to allow Manager to perform such Asset Management Services or such other obligations hereunder (including, without limitation, the funding of any third party expenses).

3.3 Further Assurances. Optim, at its expense, promptly shall provide, or cause to be provided by the relevant Optim Company, any other assistance reasonably requested by Manager, and shall promptly upon request by Manager cooperate reasonably and in good faith with Manager, in connection with the performance by Manager of the Asset Management Services and its other obligations hereunder.

ARTICLE IV: COMPENSATION

4.1 Monthly Fee. From the Effective Date through the expiration or earlier termination of this Agreement, Optim shall pay Manager a monthly fee in the amount of (a)(i) [redacted] subject to annual escalation (or de-escalation) based on changes in the CPI commencing on January 1, 2012, during any month in which Manager is providing Asset Management Services with respect to all of Twin Oaks, Altura and CB4; or (ii) a reduced amount, subject to annual escalation (or de-escalation) based on changes in the CPI commencing on January 1, 2012, to be agreed upon by the parties during any month in which Manager is providing Asset Management Services for fewer than three Projects; plus (b) to the extent that a Non-Recourse Financing with respect to any Optim Company or group of Optim Companies has been consummated and initial funding thereunder has occurred after the Effective Date, an additional [redacted] for such financing beginning in the month following the month that such initial funding occurred, subject to annual escalation (or de-escalation) based on changes in the CPI commencing on January 1, 2012 (together, the "Monthly Fee"). For purposes of determining the escalated (or de-escalated) Monthly Fee amount, the Monthly Fee for each calendar year commencing with the 2012 calendar year shall be equal to the product of (x) the Monthly Fee for the calendar year immediately preceding such additional year, *multiplied by* (y) a fraction, the numerator of which shall be the CPI as of January 1 of such year and the denominator of which shall be the CPI as of January 1 of the preceding year. The Monthly Fee shall be payable on the first Business Day of the month in which such Monthly Fee is due.

4.2 Other Costs and Expenses. All profits and internal costs and expenses, including expenses of employees, contractors, consultants and professionals (other than professionals hired in accordance with Section 2.6) utilized by Manager in performing the Asset Management Services or Additional Services, are contained within the Monthly Fee and the Additional Fees, and Manager shall receive no additional fees or payments under this Agreement with respect thereto. All (i) reasonable out-of-pocket expenses and costs actually incurred by Manager in compliance with the last sentence of Section 2.6 (including, for the avoidance of doubt, such costs incurred in the performance of the Asset Management Services), (ii) reasonable out-of-pocket costs actually incurred by Manager in the performance of the Asset Management Services, (iii) reasonable out-of-pocket costs actually incurred by Manager in the performance of the Additional Services, and (iv) travel and lodging costs incurred by Nick Rahn with respect to travel between Dallas, Texas and Silver Spring, Maryland or Braintree, Massachusetts (the "Rahn Expenses"), shall be reimbursed by Optim to Manager as soon as practicable (but in no event later than thirty days) after Optim's receipt of an invoice detailing the amounts owed to Manager; provided however, that Manager shall advise the Optim Representative prior to incurring any such expenses under (i) and (ii) exceeding $200,000 in the aggregate in any calendar year ("Expense Estimate") and shall not provide Additional Services that would result in aggregate annual expenses under (i) and (ii) exceeding the Expense Estimate by more than $50,000 without the prior written consent of the Board or the Optim Representative; provided however, that (x) Optim shall reimburse Manager for only 50% of the Rahn Expenses beginning the date that is the earlier of (A) six months following the Effective Date, and (B) the date that Nick Rahn relocates to Silver Springs, Maryland, and (y) Optim shall have no obligation to reimburse Manager for any portion of the Rahn Expenses incurred on or after the one-year anniversary of the Effective Date. For the avoidance of doubt, (1) Manager expressly acknowledges and agrees that expenses reimbursable hereunder shall not include: (a) clerical support, rent, utilities, furniture, computers, basic phone service, copying or other routine expenses related to the normal administration of Manager's office, or (b) first-class or business-class airfare (other than charges for "Business Select" on Southwest Airlines) and (2) Optim expressly acknowledges and agrees that expenses incurred by Manager in the performance of the Asset Management Services and Additional Services, and expenses otherwise incurred by Manager for the benefit of Optim pursuant to a Budget or the consent of the Board, that are reimbursable hereunder shall include reasonable out-of-pocket expenses actually incurred for (a) travel and accommodation costs of Manager personnel, (b) business meals with third parties, (c) express delivery charges, (d) itemized conference call charges, and (e) off-site records storage charges for Optim records.

4.3 Additional Fees. During the term of this Agreement, including any extension thereof pursuant to Section 5.4, and specifically subject to the provisions of Sections 4.4 and 4.5 below, in addition to the Monthly Fee, Manager shall be entitled to receive fees for Additional Services ("Additional Fees"). With respect to any Additional Services, Manager shall maintain reasonably detailed records of the time spent performing such Additional Services (including a statement of the hours worked and general services provided, by individual, by day) and Manager shall bill Optim and Optim shall pay Manager for such time on the basis of the following rates, which shall be escalated (or de-escalated) annually based on changes in the CPI commencing on January 1, 2012:

Senior Vice President/Corporate Controller	$325

Vice President	$244
Director/Manager/Controller	$191
Associate/Analyst/Accountant	$108
Administrative	$65

4.4 Bonuses. During 2011, Manager shall earn a fixed bonus of [redacted] and during each subsequent calendar year, Manager may earn a bonus of up to [redacted] in accordance with the formula set forth in Appendix B. Manager shall calculate the bonus amount in accordance with Appendix B and shall submit its calculation to the Board no later than February 1 following the year for which the payment is calculated, together with an invoice for the bonus, if any. Within 30 days after receipt of such invoice, the Board shall (a) notify Manager of any part of such invoice disputed by Optim, which dispute shall then be resolved pursuant to Article VIII and (b) cause to be paid any undisputed amounts.

4.5 Payments in the Event of Expiration or a Termination for Convenience. In the event that either: (x) there is an early termination of this Agreement pursuant to Section 5.2(b), or (y) no Exit Transaction is consummated before this Agreement expires pursuant to Section 5.1, Optim shall pay to Manager:

(a) all accrued but unpaid Monthly Fees and Additional Fees earned under Sections 4.1 and 4.3, plus

(b) all accrued but unpaid costs and expenses payable by Optim pursuant to Section 4.2, plus

(c) a one-time termination fee in an amount equal to 20% of the Base Termination Amount if such termination occurs on or before the first anniversary of the Effective Date, 40% of the Base Termination Amount if such termination occurs after the first anniversary of the Effective Date but on or before the second anniversary of the Effective Date, or 60% of the Base Termination Amount if such termination occurs after the second anniversary of the Effective Date; provided, however, that in no event will the amount of any such termination fee under this Section 4.5(c) exceed [redacted]

provided, that should an Exit Transaction occur within six (6) months following such termination of this Agreement pursuant to Section 5.2(b) or expiration of this Agreement pursuant to Section 5.1, as the case may be, and should the amount that Manager would have received pursuant to Section 4.6(b) as a result of such Exit Transaction had such termination not occurred exceed the amount that Manager received under this Section 4.5(c) as a result of such termination or expiration, Optim shall pay such difference to Manager. Examples of the calculation of fees under this Section 4.5 are included in Appendix C to this Agreement.

4.6 Payments in the Event of an Exit Transaction or Plant Sale Transaction.

(a) Plant Sale Transaction. Promptly following the consummation of a Plant Sale Transaction during the term of this Agreement, Optim shall pay Manager a fee in an amount equal to the greater of:

(i) $250,000; or

(ii) the sum of:

(A) 1.25% of the lesser of: (1) the Plant Sale Transaction Value resulting from such Plant Sale Transaction or (2) $400,000,000, plus

(B) 0.25% of any portion of such Plant Sale Transaction Value that exceeds $400,000,000;

provided that, to the extent that any portion of the Transaction Proceeds with respect to such Plant Sale Transaction is not actually received by the seller at the closing of the Plant Sale Transaction (due to post-closing adjustments for working capital or other items, placement of proceeds in escrow, or otherwise), the portion of the foregoing fee that is attributable to such portion of the Transaction Proceeds shall be paid by Optim to Manager promptly following the date that such portion of the Transaction Proceeds is actually received by the seller.

(b) Exit Transaction. Promptly following the consummation of any Exit Transaction during the term of this Agreement Optim shall pay Manager a fee in an amount equal to:

(i) 1.25% of the lesser of (1) the Exit Transaction Value or (2) $400,000,000, plus

(ii) 0.25% of any portion of the Exit Transaction Value that exceeds $400,000,000; minus

(iii) any fee previously paid to Manager under Section 4.6(a);

provided that if such calculation results in a negative number, such fee shall be zero and provided further that the total of the payments to Manager under Section 4.6(a) and (b) shall be no less than $250,000;

provided that, to the extent that any portion of the Transaction Proceeds with respect to such Exit Transaction is not actually received by the seller at the closing of the Exit Transaction (due to post-closing adjustments for working capital or other items, placement of proceeds in escrow, or otherwise), the portion of the foregoing fee that is attributable to such portion of the Transaction Proceeds shall be paid by Optim to Manager promptly following the date that such portion of the Transaction Proceeds is actually received by the seller.

(c) Examples. Examples of the calculation of fees resulting from Exit Transactions are included in Appendix C to this Agreement.

4.7 Adjustment for Losses Limited Under Section 7.2. Any amounts accrued but not yet paid by Optim to Manager under Sections 4.5(c) or 4.6 shall be reduced by the amount of any Losses that would have been payable by Manager to any Member Indemnitees if not for the limitation of liability set forth in Section 7.2.

4.8 Accounting and Audit Right. Manager shall keep and maintain all necessary books, records, accounts and other documents sufficient to accurately and completely reflect all Management Costs. Such records shall include receipts, memoranda, vouchers and accounts pertaining to the Asset Management Services and the Additional Services, as well as summaries and reports setting forth all reimbursable costs and expenses. Optim, its representatives and any firm of independent auditors retained by Optim, shall have access, upon not less than five (5) days' advance notice, to all such records maintained by Manager, for the purposes of auditing and verifying the Management Costs, costs of the Additional Services, or any other costs or payments paid or claimed to be due and payable hereunder. Optim shall have the right to reproduce any such records, and Manager shall keep and preserve all such records until the end of the full calendar year that is three (3) years from and after the year in which such costs and expenses were incurred.

4.9 Invoices. Manager shall submit all invoices to the Optim Representative on or before the tenth (10th) day of each calendar month for the Asset Management Services and Additional Services provided and expenses incurred by Manager hereunder for the immediately preceding calendar month. Invoices submitted shall set forth all applicable fees (including a detailed statement of hours worked and a general description of the Additional Services provided, by individual, if applicable) and a statement of the expenses for which Manager is seeking reimbursement consistent with Manager's customary billing practices. Within thirty (30) days after the Optim Representative's receipt of an invoice, Manager shall cause Optim to pay the undisputed portion of the fees and expenses for such month.

ARTICLE V: TERM AND TERMINATION

5.1 Term. The term of this Agreement shall commence on the Effective Date and shall expire December 31, 2015 unless (i) Optim elects to extend the term of this Agreement pursuant to Section 5.4 or (ii) earlier terminated pursuant to either Section 5.2 or 5.3.

5.2 Termination by Optim.

(a) Manager Default. Optim may terminate this Agreement (i) in the event Manager shall become subject to a Bankruptcy Event, (ii) excluding those events described in clause (iii) or (iv) below and subject to the provisions of Section 2.5(c), in the event of a failure by Manager to perform any material obligation under this Agreement in accordance with the requirements of this Agreement, provided that Manager shall not have cured such failure within thirty (30) days after receiving written notice from Optim demanding such cure (or, if such breach is capable of being cured within a longer period of time and cannot be cured within such thirty (30)-day period, such longer period up to ninety (90) days, if Manager diligently seeks to cure such breach during such period), (iii) in the event any representation or warranty of Manager shall prove to have been incorrect in any material respect when made and shall remain uncured or uncorrected for a period of fifteen (15) days after a Manager Representative first

obtained actual knowledge of such material inaccuracy or Manager first received a notice from Optim specifying such material inaccuracy and requiring it to be remedied, or (iv) effective immediately upon notice to Manager in the event of any fraud or willful misconduct by Manager.

(b) For Convenience. Optim may terminate this Agreement in its entirety for any reason upon sixty (60) days prior written notice to Manager.

(c) In Connection with an Exit Transaction. Unless otherwise agreed by Optim and Manager, upon the consummation of an Exit Transaction following which Optim no longer holds either a Controlling Interest in any Project Company or the assets of any Project, this Agreement shall automatically terminate at the end of the month in which such Exit Transaction occurs, and each party shall be automatically released from its obligations hereunder upon such consummation, subject to Section 5.5 and Section 9.9.

5.3 Termination by Manager. Manager may terminate this Agreement in the event that (i) Optim fails to perform any material obligation (including any payment obligation) under this Agreement in accordance with the requirements of this Agreement, provided that Optim shall not have cured such failure within thirty (30) days after notice from Manager demanding such cure; or (ii) any representation or warranty of Optim set forth in this Agreement shall prove to have been incorrect in any material respect when made and shall remain uncured or uncorrected for a period of fifteen (15) days after the Optim Representative first obtained actual knowledge of such material inaccuracy or the Optim Representative first received a notice from Manager specifying such material inaccuracy and requiring it to be remedied..

5.4 Extension. The Board or the Optim Representative may elect on behalf of Optim to extend the term of this Agreement up to one (1) time for a period not to exceed one (1) year, by delivering a written notice to Manager no later than December 1, 2015.

5.5 Rights upon Termination.

(a) Upon termination of this Agreement for any reason, Manager shall provide Optim with the right to continue to use any and all of Manager's proprietary information that Optim deems reasonably necessary for Optim or its designee to perform the Asset Management Services or Additional Services. Furthermore, each Optim Company shall have the right to employ any other person to perform the Asset Management Services or Additional Services by whatever method such Optim Company may deem expedient. Manager shall have no further rights under this Agreement and shall not be entitled to receive any further payments under this Agreement, except as expressly provided in Sections 4.5, 4.6 and 5.5(b)(ii). Manager shall prepare records and documentation, including electronic records, for transfer to a new owner or asset manager at Optim's request and, unless such termination by Optim is pursuant to Section 5.2(a) (in which case Manager shall pay for the costs of preparation of such records and documentation), at Optim's expense. Manager and Optim shall execute all documents and take all other reasonable steps that may be required to assign to and vest in any applicable Optim Company all rights, benefits, interests and titles in connection with such contracts or obligations or to release Manager from such contracts or obligations, as applicable. Without limiting the foregoing, Manager promptly shall, at Optim's expense provide, or cause to be provided, any other assistance reasonably requested by the Board or the Optim Representative, and upon

request by the Board or the Optim Representative cooperate reasonably and in good faith with the Board, the Optim Representative, and the Optim Companies, in connection with the termination of this Agreement and the transition by Manager of the Asset Management Services and its other obligations hereunder.

(b) At the request and expense of Optim upon the expiration or early termination of this Agreement for any reason, Manager shall exercise good faith and due diligence to: (i) assign to the applicable Optim Company all of Manager's rights to the extent assignable under subcontracts and other contractual agreements entered into by Manager in connection with the performance of the Asset Management Services or Additional Services as may be designated by Optim; and (ii) at the request of Optim continue to perform the Asset Management Services or Additional Services for a period up to ninety (90) days after termination or such earlier date as may be selected by Optim, provided that the payment provisions in Sections 4.1, 4.2 and 4.3 shall continue to apply with respect to any such Asset Management Services or Additional Services rendered by Manager after the termination of this Agreement.

(c) Manager acknowledges that a monetary remedy for a breach of its obligations under this Section 5.5 will be inadequate and will be impracticable and extremely difficult to prove, and that any such breach would cause Optim irreparable harm. In the event of such a breach, in addition to any other available rights and remedies, Optim shall be entitled to temporary and permanent injunctive relief, including temporary restraining orders, specific performance, preliminary injunctions and permanent injunctions, without the necessity of posting a bond or making any undertaking in connection therewith and without the necessity of proving actual damages. Any such requirement of a bond or undertaking is hereby waived by Manager, and Manager acknowledges that in the absence of such a waiver, a bond or undertaking might be required by the court.

ARTICLE VI: INDEMNIFICATION

6.1 By Manager. Manager shall defend, indemnify, save and hold harmless Optim, each Project Company, and its or their respective Affiliates, members, shareholders, partners, directors, managers, officers, agents, employees and representatives (collectively, the "Member Indemnitees"), from and against any Losses arising out of any of the following by Manager or its Affiliates or their respective members, shareholders, partners, directors, managers, officers and employees: (i) any willful breach of this Agreement, or (ii) any fraud, gross negligence or willful misconduct in connection with the performance of Manager's obligations under this Agreement, including in supervising anyone acting under Manager's direction or control or on Manager's behalf; provided, however, that Manager shall not be required to reimburse or indemnify any Member Indemnitee for any Losses to the extent such Losses are due to the fraud, gross negligence or willful misconduct of any Member Indemnitee or any breach or default of this Agreement by Optim, and provided, further, that nothing in this Article VI shall affect any other remedies that Optim may have at law or in equity, though such other remedies shall not affect any limit of liability set forth in this Agreement.

6.2 By Optim. Optim shall defend, indemnify, save and hold harmless Manager and its Affiliates, and all of its and their respective members, shareholders, partners, directors, managers, officers, agents, employees and representatives (collectively, the "Asset Manager

Indemnitees"), from and against any and all Losses arising out of any of the following by Optim or its Affiliates or their respective members, shareholders, partners, directors, managers, officers (other than Manager's personnel) and employees: (i) any willful breach under this Agreement, (ii) any fraud, gross negligence or willful misconduct in connection with the performance of Optim's obligations under this Agreement, or (iii) any claims or liabilities asserted by any third party (other than an Asset Manager Indemnitee) arising out of, in connection with or related to this Agreement, the provision of the Asset Management Services in accordance with this Agreement or any action or inaction by Manager with the scope of the agency provisions hereof; provided, however, that Optim shall not be required to reimburse or indemnify any Asset Manager Indemnitee for any Losses to the extent such Losses are due to the fraud, gross negligence or willful misconduct of any Asset Manager Indemnitee, or any action by any Asset Manager Indemnitee that results in a breach or default under this Agreement by Manager, and provided, further, that nothing in this Article VI shall affect any other remedies which Manager may have at law or in equity, though such other remedies shall not affect any limit of liability set forth in this Agreement.

6.3 Comparative Fault. It is the intent of the parties that where fault is determined to have been joint or contributory, principles of comparative fault will be followed and Optim, on the one hand, and Manager, on the other, shall bear the proportionate cost of any losses attributable to the fault of such party and its Affiliates and their Covered Parties.

6.4 Indemnification Notices. Whenever a party entitled to indemnification under Sections 6.1 or 6.2 (an "Indemnitee") shall learn of a claim that, if allowed (whether voluntarily or by a judicial or quasi judicial tribunal or agency), would entitle such Indemnitee to indemnification under Sections 6.1 or 6.2, before paying the same or agreeing thereto, the Indemnitee shall promptly notify the party required to provide indemnification with respect to such claim (the "Indemnitor") in writing of all material facts within the Indemnitee's knowledge with respect to such claim and the amount thereof; provided, however, that the Indemnitee's right to indemnification shall be diminished by the failure to give prompt notice only to the extent that the Indemnitee's failure to give such notice was prejudicial to the interests of the Indemnitor. If, prior to the expiration of fifteen (15) days from the giving of such notice, the Indemnitor shall request, in writing, that such claim not be paid, the Indemnitee shall not pay the same, provided that the Indemnitor proceeds promptly to settle or litigate, in good faith, such claim. The Indemnitee shall have the right to observe and to consult with Indemnitor with respect to such negotiation, settlement or litigation. Notwithstanding the foregoing, the Indemnitee shall not be required to refrain from paying any claim that has matured by a court judgment or decree, unless an appeal is duly taken therefrom and execution thereof has been stayed, nor shall it be required to refrain from paying any claim where the delay to pay such claim would result in the foreclosure of a lien upon any of the property of the Indemnitee, or where any delay in payment would cause the Indemnitee an economic loss, unless the Indemnitor shall have agreed to compensate the Indemnitee for such loss.

6.5 Indemnification Expenses. Notwithstanding anything to the contrary in this Article VI, an Indemnitor shall reimburse Indemnitee for all reasonable costs and expenses (including reasonable legal fees and costs) incurred by such Indemnitee at the request of Indemnitor or prior to the Indemnitor assuming defense of such claim pursuant to Section 6.4 in connection with defending or investigating an action or proceeding for which indemnity is

sought, provided that such Indemnitee shall repay such reimbursement payments if it is ultimately determined by a final non-appealable judgment that such Indemnitee is not entitled to indemnification under this Article VI. Amounts payable by an Indemnitor under this Section 6.5 shall be due and payable promptly upon receipt by such Indemnitor of an invoice detailing such reimbursable costs and expenses.

ARTICLE VII: LIABILITIES OF THE PARTIES

7.1 No Consequential Damages. In no event, whether as a result of breach of contract, tort liability (including negligence), strict liability, or otherwise shall Manager or any of its Affiliates, or any Covered Persons with respect to Manager or any of its Affiliates, be liable to Optim or any other Person for special, indirect, punitive, exemplary or consequential damages of any nature whatsoever, including loss of profits or revenue, loss of use of equipment or cost of substitute equipment, cost of capital or of facilities or services, down time costs, costs in excess of estimates, loss of opportunity, loss of data, loss of goodwill or claims of customers of Optim or a Project Company for any such matters, and Optim hereby releases Manager and its Affiliates and its and their respective Covered Parties therefrom. In no event, whether as a result of breach of contract, tort liability (including negligence), strict liability or otherwise, shall any Optim Company or any of their respective Affiliates, or any Covered Persons with respect to any Optim Company or any of their respective Affiliates, be liable to Manager or any other Person for special, indirect, punitive, exemplary or consequential damages of any nature whatsoever, including but not limited to loss of profits or revenue, loss of use of equipment or cost of substitute equipment, cost of capital or of facilities or services, down time costs, costs in excess of estimates, loss of opportunity, loss of data, loss of goodwill or claims of customers of Manager for any such matters, and Manager hereby releases each Optim Company, its Affiliates and Covered Parties therefrom. Notwithstanding the foregoing, Optim and Manager agree that the provisions of this Section 7.1 shall not apply to a violation of Section 9.11 or the Nondisclosure Agreement; provided, however, that neither Optim nor Manager shall be liable, in the aggregate, to the other party for violations of its obligations under Section 9.11 or the Nondisclosure Agreement in an amount greater than $250,000.

7.2 Aggregate Limit of Liability. Notwithstanding any other provision of this Agreement to the contrary (other than as provided in Section 4.7), (a) except in cases of (i) fraud, (ii) gross negligence or (iii) willful misconduct of Manager or any other Asset Manager Indemnitee, Manager's aggregate liability to Optim and its Affiliates under this Agreement during each year of the Term shall in no event exceed the aggregate of (A) all Monthly Fees, plus (B) Additional Fees, plus (C) any payments payable to Manager under Sections 4.4, 4.5(c) and 4.6 with respect to the immediately preceding year, such limitation to be determined, with respect to any particular loss, as of the date such loss is incurred or arises and (b) Manager shall have no liability to Optim under this Agreement with respect to information regarding any period prior to the Effective Date in any management representation letter supplied by it to any independent auditing firm in connection with any audit of financial statements for a period that includes a period prior to the Effective Date, except in cases of fraud, gross negligence or willful misconduct of Manager or any other Asset Manager Indemnitee.

7.3 Intent. Except to the extent otherwise expressly provided in this Agreement, the parties intend that the indemnifications, waivers and disclaimers of liability, releases from liability, limitations and apportionments of liability expressed throughout this Agreement shall apply, whether in contract or in tort, even in the event of the fault, sole, joint or comparative negligence (in whole or in part), strict liability or breach of contract of the party released or whose liability is waived, disclaimed, limited or apportioned, and shall extend to such party's Affiliates and Covered Parties to the extent the liability of any such Person arises under or with respect to this Agreement.

7.4 DISCLAIMER. EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT NO PARTY MAKES ANY REPRESENTATIONS, WARRANTIES OR GUARANTEES TO THE OTHER, EITHER EXPRESS OR IMPLIED, WITH RESPECT TO THE PROJECTS, THE PROJECT DOCUMENTS, ITS SERVICES (IF ANY) OR ANY OTHER SUBJECT MATTER OF THIS AGREEMENT OR THE ASSET MANAGEMENT SERVICES, AND ALL PARTIES DISCLAIM AND WAIVE ANY IMPLIED WARRANTIES OR WARRANTIES IMPOSED BY LAW.

7.5 Non-Recourse. Recourse under this Agreement is restricted to the parties to this Agreement and the rights provided under this Agreement. Notwithstanding any other provision in this Agreement, Optim shall have no recourse against, and Optim hereby waives any claim against, any of Manager's Affiliates, or any Covered Person with respect to Manager or any of its Affiliates, for any liability arising under, with respect to, or in connection with, this Agreement by operation of law or otherwise save and except for claims against a Person appointed as an officer of Optim Company pursuant to Section 2.4(d). Notwithstanding any other provision in this Agreement, Manager shall have no recourse against, and Manager hereby waives any claim against, any of Optim's Affiliates, or any Covered Person with respect to the Optim Companies or any of their Affiliates, for any liability arising under, with respect to, or in connection with, this Agreement by operation of law or otherwise.

ARTICLE VIII: DISPUTE RESOLUTION

8.1 Dispute Notice. In the event a dispute arises between the parties regarding this Agreement, the aggrieved party shall notify the other party to this Agreement of the dispute (such notice, a "Dispute Notice").

8.2 Mediation. If the parties shall have failed to resolve the dispute within ten (10) Business Days after delivery of such Dispute Notice, the parties shall promptly try in good faith to settle the dispute by mediation administered by the American Arbitration Association under its commercial mediation procedures before resorting to any other dispute resolution procedure. The parties shall agree on a mediator from the list of mediators provided by the American Arbitration Association's panel of mediators. If the parties cannot agree on a mediator within ten (10) Business Days after receiving such list, the mediator shall be selected in accordance with the American Arbitration Association's commercial mediation procedures. If the parties fail to resolve the dispute through mediation within thirty (30) days after delivery of such Dispute Notice, either party shall be free to pursue litigation.

8.3 Jurisdiction. Each party hereby irrevocably submits to the exclusive jurisdiction

of the United States District Court or, if such court does not have jurisdiction, the courts of the state of New York located in New York, New York in respect of any claim relating to the interpretation and enforcement of the provisions of this Agreement. Each party waives and will not assert as a defense in any action, suit or proceeding in which any claim is made that it is not subject to the jurisdiction of the courts set forth in this Section 8.3 or that such action, suit, or proceeding may not be brought or is not maintainable in such courts or that the venue thereof may not be appropriate or that this Agreement may not be enforced in or by such courts.

8.4 WAIVER OF JURY TRIAL. EACH PARTY HEREBY WAIVES (TO THE FULLEST EXTENT PERMITTED BY LAW) ITS RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THIS AGREEMENT. THE PARTIES ACKNOWLEDGE THAT THIS WAIVER IS A MATERIAL INDUCEMENT TO ENTER INTO THIS AGREEMENT. THIS WAIVER IS IRREVOCABLE, MEANING THAT IT MAY NOT BE MODIFIED EITHER ORALLY OR IN WRITING, AND THIS WAIVER WILL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS, OR MODIFICATIONS TO THIS AGREEMENT. IN THE EVENT OF LITIGATION, THIS AGREEMENT MAY BE FILED AS A WRITTEN CONSENT TO A TRIAL BY THE COURT.

8.5 Governing Law. This Agreement will be construed and enforced in accordance with, and all questions concerning the construction, validity, interpretation, and performance of this Agreement will be governed by, the laws of the state of New York, without giving effect to provisions thereof regarding conflict of laws

8.6 Continuation of Performance. Unless otherwise agreed in writing, Optim and Manager shall continue to perform their respective obligations hereunder during any proceeding by the parties in accordance with this Article VIII.

ARTICLE IX: MISCELLANEOUS

9.1 Entire Agreement. This Agreement, the Transition Services Agreement, and the Nondisclosure Agreement contain the entire understanding of the parties with respect to the subject matter hereof, and supersedes all prior agreements and commitments with respect thereto. There are no oral understandings, terms or conditions and no party has relied upon any representation, expressed or implied, not contained in this Agreement.

9.2 Amendments. No change, amendment, or modification of this Agreement shall be valid or binding upon the parties unless such change, amendment, or modification shall be in writing and duly executed by the parties.

9.3 Captions. The captions and subheadings contained in this Agreement are for convenience and reference only and in no way define, describe, extend, or limit the scope or intent of this Agreement or the intent of any provision contained herein.

9.4 Notices and Reports.

(a) Any (i) notice, demand, offer, or other instrument required or

permitted to be given pursuant to this Agreement shall be in writing signed by the party giving such notice, demand, offer, or other instrument and shall be hand delivered or sent by registered letter, nationally-recognized overnight courier or telephone facsimile copy to the other party at the addresses set forth below, or may be sent by electronic mail, provided that a copy is also promptly sent using one of the foregoing methods (provided, however, that requests for approval from, or approvals given by, the Optim Representative, may be sent by electronic mail alone), and (ii) reports, budgets, projections or other information required or permitted to be given pursuant to this Agreement shall be hand delivered or sent by registered letter, overnight courier or telephone facsimile copy, or electronic mail to the other party at the address set forth below:

Optim (including notices to the Board or the Optim Representative):

Optim Energy, LLC
c/o ECJV Holdings, LLC
2365 Carillon Point
Kirkland, WA 98033
Attn: General Counsel
Telephone: (425) 785-3022
Fax: (425) 803-0459
E-mail: legal@bgi-group.com

Manager:

Competitive Power Ventures, Inc.
8403 Colesville Road
Suite 915
Silver Spring, MD 20910
Attn: Sr. Vice President - Asset Management
Telephone: (240) 723-2306
Fax: (240) 723-2339
E-mail: dmagill@cpv.com

With a copy, which shall not constitute notice, to:

Competitive Power Ventures, Inc.
8403 Colesville Road
Silver Spring, Maryland 20910
Attn: General Counsel
Telephone: (240) 723-2329
Fax: (240) 723-2339
E-mail: rburke@cpv.com

(b) Each party shall have the right to change the place to which notice, demand, offer, or other instrument shall be sent or delivered by similar notice sent in like manner to the other party. The effective date of any notice, demand, offer, or other instrument issued pursuant to this Agreement shall be (i) the date when delivered, if hand delivered, (ii) one (1) day following the day when sent if sent by overnight courier, (iii) when sent if sent by telephone

facsimile copy or by electronic mail, or (iv) three (3) days after being deposited in U.S. mail if sent by registered mail.

9.5 Severability. The invalidity of one or more of the provisions, Sections or Articles contained in this Agreement shall not affect the validity of the remaining portion of the Agreement so long as the material purposes of this Agreement can be determined and effectuated.

9.6 Assignment. Neither this Agreement nor any rights or obligations hereunder may be assigned or delegated by either party without the prior written consent of the other party, which consent shall not be unreasonably withheld, delayed or conditioned; provided, however, that Manager hereby consents to the assignment of this Agreement by Optim to (i) any Lender as security or collateral in connection with any restructuring, financing or refinancing of any Project or any portion thereof, provided that any such assignment shall not relieve Optim of any of its obligations under this Agreement, or (ii) an Affiliate of Optim so long as such Affiliate is no less creditworthy than Optim. Manager agrees to execute any consent to assignment and such other documents in connection with any assignment to any Lender as such Lender may reasonably require consistent with industry practice. Except with respect to the assignment permitted under clause (i) of this Section, no assignment by any party of this Agreement for any purpose whatsoever shall be valid until all assigned obligations of the assignor hereunder shall have been assumed by the assignee by written agreement delivered to the other parties. Subject to the foregoing restrictions on assignment, this Agreement shall be binding upon and inure to the benefit of the parties and all of their successors and permitted assigns. Any assignment which does not comply with the provisions of this Section 9.6 shall be null and void.

9.7 No Waiver. Any failure of any party to enforce any of the provisions of this Agreement or to require compliance with any of its provisions at any time during the term of this Agreement shall in no way affect the validity of this Agreement, or any part hereof, and shall not be deemed a waiver of the right of any party thereafter to enforce any and each such provision.

9.8 Applicable Law. This Agreement shall be governed, construed and enforced in accordance with the laws of the State of New York, without regard to conflicts of law principles that would result in the application of the law of any other jurisdiction.

9.9 Survival. The provisions set forth in Articles VI, VII, VIII and IX and Section 5.5 shall survive the expiration or termination of this Agreement.

9.10 No Third Party Beneficiary. This Agreement is for the exclusive benefit of the parties and not for the benefit of any third party other than those Persons entitled to the benefits of indemnities set out in Article VI and limitations of liability set out in Article VII.

9.11 Publicity. Without the prior written approval of the Optim Representative, Manager shall make no reference, whether verbally, in writing, electronically, or otherwise, to this Agreement, the Optim Companies, Holdings, or Cascade in any marketing, publicity, or similar materials. Notwithstanding the foregoing and anything in this Agreement to the contrary, Optim acknowledges and agrees that Manager may publish and distribute, at its own expense, marketing materials and advertisements that include (a) a statement that this Agreement has been

executed, (b) the name of Optim, each Project Company and the Projects, (c) a brief description of the Projects and (d) a brief description of the scope of the Manager's services provided hereunder, in each case where new or substantially modified material related to Optim, a Project Company or a Project is proposed, subject to the Optim Representative's consent not to be unreasonably withheld.

9.12 Intellectual Property. Optim shall exclusively own all rights to any and all work product, patents, applications, processes, copyrights, studies, flow charts, diagrams, devices, programs, source codes, inventions, original works of authorship, know-how, and other tangible or intangible material of any nature developed by or resulting from the performance of the Services by Manager, whether developed solely by Manager or jointly with others (collectively, "Work Product"); provided, however, Work Product shall not include the methods and processes used by Manager in providing the Asset Management Services or the Additional Services. Any copyrightable Work Product generated by Manager shall be deemed a work made for hire and Optim shall be considered the author of all such Work Product. To the extent that ownership of any Work Product does not vest in Optim by operation of law, Manager hereby irrevocably and exclusively assigns to Optim all right, title and interest in and to such Work Product, including all copyrights, copyrightable material, trade secrets, trademarks, logos, trade dress, inventions, discoveries, designs, developments, improvements, patents, applications and other related intellectual property rights. Manager shall deliver such information and data, and shall execute, acknowledge, verify, and deliver such documents and instruments, as Optim may deem necessary and appropriate to perfect or protect Optim's rights in the Work Product and to carry out, give full effect to, or evidence the assignments, purposes, and intent contemplated in this Agreement. Manager's obligation to provide assistance shall continue after the termination or expiration of this Agreement. If for any reason whatsoever Manager fails to execute, acknowledge, verify or deliver any such document, Manager hereby irrevocably appoints Optim and its duly authorized representatives and agents as Manager's agent and attorney in fact, to act in Manager's stead to execute, acknowledge, verify and deliver any such document (as applicable) with the same legal force and effect as if done by Manager. As to any other copyrights, copyrightable material, trade secrets, trademarks, logos, trade dress, inventions, discoveries, designs, developments, improvements, patents and any other intellectual property rights in which Manager has an interest at any time prior to or during the term of this Agreement (collectively, "Inventions"), if Manager uses or incorporates such an Invention in any released or unreleased product, service, program, process, machine, development or work in progress of Optim or its subsidiaries, or if Manager permits Optim or its subsidiaries to use or incorporate such an Invention, Optim and its subsidiaries are hereby granted and shall have irrevocable, perpetual, royalty-free, worldwide licenses to exercise any and all rights with respect to such Invention, including without limitation the right to protect, make, have made, use and sell that Invention without restriction and the right to sublicense those rights to others.

9.13 Independent Contractor. Manager shall be an independent contractor with respect to the performance of its obligations hereunder, including the performance of the Asset Management Services and Additional Services. Except as expressly provided to the contrary herein, Manager shall determine in its sole discretion the methods and means of performing the Asset Management Services and Additional Services hereunder.

9.14 Representations and Warranties of Manager. Manager represents to Optim as of

the Effective Date as follows:

(a) Standing. Manager is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware and is duly qualified to do business in and is in good standing in each other jurisdiction in which such qualification is required, except where the failure to so qualify would not have a material adverse impact on the Manager's ability to perform its obligations under this Agreement. Manager has the corporate power and authority to execute and deliver this Agreement and perform its obligations hereunder. The execution, delivery and performance of this Agreement have been duly authorized by all requisite corporate action of Manager and will not violate any provision of any applicable laws, Manager's certificate of incorporation or bylaws or any indenture, agreement or instrument to which Manager is a party, or by which Manager or its property may be bound or affected, except for such violations as could not have, alone or in the aggregate, a material adverse impact on Manager's ability to perform its obligations hereunder.

(b) Validity. This Agreement constitutes a legal, valid and binding obligation of the Manager, except as enforceability may be limited by (i) applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the rights of creditors generally, and (ii) general principles of equity.

(c) Approvals. Manager has no knowledge of any governmental approvals it requires to execute, deliver and perform this Agreement that have not been obtained.

(d) No Violation of Law. Manager is not in violation of any law or other legal requirement, which violations, individually or in the aggregate, would have a material adverse effect on Manager's ability to perform its obligations under this Agreement.

(e) Licenses. Manager is, and will remain during the term of this Agreement, the holder of all federal, state, local and other governmental consents, licenses, permits or other authorizations required to perform its obligations under, and as contemplated by, this Agreement.

(f) Litigation. Manager is not a party to or, to the best of Manager's knowledge, threatened with any legal, administrative, arbitral, investigatorial or other proceeding or controversy that would materially and adversely affect Manager's ability to perform its obligations under this Agreement.

(g) Qualifications. Manager: (i) has examined and become familiar with the terms of this Agreement and the terms of the Project Documents and Credit Documents; (ii) has the experience and qualifications necessary to perform the Asset Management Services and the Additional Services; (iii) has reviewed and examined all applicable governmental approvals that have been delivered to it by or on behalf of Optim (including all safety, environmental, and security requirements); and (iv) has carefully reviewed all documents, plans, drawings, and other information that have been delivered to it by or on behalf of Optim regarding the Projects and its performance of the Asset Management Services and the Additional Services.

9.15 Representations and Warranties of Optim. Optim represents to Manager as of the Effective Date as follows:

(a) Standing. Optim is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Delaware and is duly qualified to do business in and is in good standing in each other jurisdiction in which such qualification is required, except where the failure to so qualify would not have a material adverse impact on Optim's ability to perform its obligations under this Agreement. Optim has the limited liability company power and authority to execute and deliver this Agreement and perform its obligations hereunder. The execution, delivery and performance of this Agreement have been duly authorized by all requisite limited liability company action of Optim and will not violate any provision of any applicable laws, Optim's certificate of formation or limited liability company agreement or any indenture, agreement or instrument to which Optim is a party, or by which Optim or its property may be bound or affected, except for such violations as could not have, alone or in the aggregate, a material adverse impact on Optim's ability to perform its obligations hereunder.

(b) Validity. This Agreement constitutes a legal, valid and binding obligation of the Optim, except as enforceability may be limited by (i) applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the rights of creditors generally, and (ii) general principles of equity.

(c) Approvals. Optim has no knowledge of any governmental approvals required for it to execute, deliver and perform this Agreement that have not been obtained.

(d) No Violation of Law. Optim is not in violation of any law or other legal requirement, which violations, individually or in the aggregate, would have a material adverse effect on Optim's ability to perform its obligations under this Agreement.

(e) Licenses. Optim is, and will remain during the term of this Agreement, the holder of all federal, state, local and other governmental consents, licenses, permits or other authorizations required to perform its obligations under, and as contemplated by, this Agreement.

(f) Litigation. Optim is not a party to or, to the best of Optim's knowledge, threatened with any legal, administrative, arbitral, investigatorial, or other proceeding or controversy that would materially and adversely affect Optim's ability to perform its obligations under this Agreement.

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IN WITNESS WHEREOF, the parties to this Agreement have executed this Asset Management Agreement through their duly authorized officers or representatives as of the date first set forth in the Preamble to this Agreement.

COMPETITIVE POWER VENTURES, INC.

By: David V. Magill

Name: David V. Magill

Title: Senior Vice President

OPTIM ENERGY, LLC

By: [signature]

Name: Quinn Cornelius

Title: Authorized Representative

Appendix A

Appraised Enterprise Value

The Appraised Enterprise Value will be determined as follows:

(a) The Board shall, on behalf of Optim, propose an Appraised Enterprise Value in writing to Manager, which Appraised Enterprise Value shall represent the market value of Optim assets minus the market value of Optim liabilities, excluding any Indebtedness and excluding any accruals for or exposures to tax sharing payments under tax sharing or similar agreements in respect of income or capital gains taxes payable by, or tax exposures of, its Members, provided however that this adjustment shall not apply if Optim elects taxable status or changes its corporate form to become taxable for income taxes, or if it becomes subject to such taxes as a result of a change in law or regulation.

(b) Upon delivery of Optim's proposed Appraised Enterprise Value, Manager shall have ten (10) business days to either accept or reject in writing such Appraised Enterprise Value. Manager's failure to so accept or reject such Appraised Enterprise Value within such ten (10)-day period will be deemed an acceptance of such Appraised Enterprise Value.

(c) If Manager rejects Optim's proposed Appraised Enterprise Value, the parties shall select and Optim shall retain a national recognized firm with experience conducting similar appraisals (the "Appraiser") to conduct a determination of the Appraised Enterprise Value in accordance with customary industry practices. The Appraiser's determination of value shall be the Appraised Enterprise Value and shall be final and binding with respect to both parties.

(d) If the Appraised Enterprise Value determined under paragraph (c) is less than one hundred and five percent (105%) of the Appraised Enterprise Value proposed by Optim under paragraph (a), Manager shall promptly reimburse Optim for the full cost of the Appraiser. If the Appraised Enterprise Value determined under paragraph (c) is more than one hundred and five percent (105%) of the Appraised Enterprise Value proposed by Optim under paragraph (a), Optim shall pay the cost of the Appraiser.

Appendix B

Bonus Payment

Following execution of this Agreement, the parties hereto shall negotiate in good faith to establish bonus payment metrics to be included in this Appendix B.

Appendix C

Example Fee Calculations

Incentive Payment Example: Termination for Convenience

$ in thousands

Scenario

Optim terminates the Asset Management Agreement for convenience, effective 12/31/2014. Optim has not sold a Project Company prior to this date.

Global assumptions		
Effective Date	11/1/2011	assumption
Termination date	12/31/2014	assumption
Base Amount	$580,000	assumption
Appraised Enterprise Value	$800,000	assumption
Termination for convenience payment under Section 4.5		
Average debt balance	$650,000	assumption
Aggregate amount of Debt Guarantee Payments	$22,500	assumption
Minus: 0.25% of the balance of Indebtedness for each calendar quarter	($20,586)	estimated calculation
Excess Debt Guarantee Amount	$1,914	calculation
Appraised Enterprise Value	$800,000	from above
Minus: Equity Contributions	($50,000)	assumption
Minus: aggregate Indebtedness incurred	$0	assumption
Plus: aggregate Indebtedness repaid	$20,000	assumption
Plus: aggregate Distributions	$10,000	assumption
Plus: Excess Debt Guarantee Amount	$1,914	calculated above
Plus: Tax Payments	$0	assumption
Plus: Excess Affiliate Payments	$0	assumption
Minus: Base Amount	($580,000)	from above
Early Termination Value	$201,914	calculation
Base Termination Amount	$2,524	calculation
Factor applied to Base Termination Amount	60%	after 2nd anniversary of Effective Date
Payment due to CPV upon termination for convenience	$1,514	calculation; capped at $2.0MM

Incentive Payment Example: Exit Transaction

$ in thousands

Scenario

Optim sells a 75% equity interest in Optim Energy, LLC; transaction closes on 12/31/2014. Optim has not sold a Project Company prior to this date.

Global assumptions		
Effective Date	11/1/2011	assumption
Closing date of Exit Transaction	12/31/2014	assumption
Base Amount	$580,000	assumption
Equity Interest transferred	75%	assumption
Gross proceeds from sale of 75% equity interest	$600,000	assumption
Exit Transaction payment under Section 4.6(b)		
Average debt balance	$650,000	assumption
Aggregate amount of Debt Guarantee Payments	$22,500	assumption
Minus: 0.25% of the balance of Indebtedness for each calendar quarter	($20,586)	estimated calculation
Excess Debt Guarantee Amount	$1,914	calculation
Transaction Proceeds	$800,000	calculation; gross proceeds adjusted to reflect transfer of less than 100% interest
Minus: Equity Contributions	($50,000)	assumption
Minus: Transaction Costs related to Exit Transaction	($5,000)	assumption
Minus: aggregate indebtedness incurred	$0	assumption
Plus: aggregate indebtedness repaid	$20,000	assumption
Plus: aggregate Distributions	$10,000	assumption
Plus: Excess Debt Guarantee Amount	$1,914	calculated above
Plus: Tax Payments	$0	assumption
Plus: Excess Affiliate Payments	$0	assumption
Minus: Base Amount	($580,000)	from above
Exit Transaction Value	$196,914	calculation
Payment due to CPV upon Exit Transaction	$2,461	calculation

Incentive Payment Example: Plant Sale Transaction, then Exit Transaction

$ in thousands

Scenario

Optim sells the three Project Companies separately, over time. A Plant Sale Transaction is triggered upon the sale of the second Project Company, 12/31/2013. Proceeds from the Plant Sale Transaction are used to pay down debt. The sale of the third Project Company constitutes an Exit Transaction.

Global assumptions		
Effective Date	11/1/2011	assumption
Base Amount	$580,000	assumption
Closing date of 1st plant sale	12/31/2012	assumption
1st plant sale gross proceeds	$300,000	assumption
Closing date of 2nd plant sale	12/31/2013	assumption
2nd plant sale gross proceeds	$400,000	assumption
Closing date of 3rd plant sale	12/31/2014	assumption
3rd plant sale gross proceeds	$100,000	assumption
Plant Sale Transaction payment under Section 4.6(a)		
Average debt balance	$650,000	assumption
Aggregate amount of Debt Guarantee Payments	$16,000	assumption
Minus: 0.25% of the balance of Indebtedness for each calendar quarter	($14,086)	estimated calculation
Excess Debt Guarantee Amount	$1,914	calculation
Transaction Proceeds	$700,000	calculation; proceeds from sale of first two plants
Minus: Equity Contributions	($50,000)	assumption
Minus: Transaction Costs related to Plant Sale Transaction	($5,000)	assumption
Minus: aggregate Indebtedness incurred	$0	assumption
Plus: aggregate Indebtedness repaid	$20,000	assumption
Plus: aggregate Distributions	$10,000	assumption
Plus: Excess Debt Guarantee Amount	$1,914	calculated above
Plus: Tax Payments	$0	assumption
Plus: Excess Affiliate Payments	$0	assumption
Minus: Base Amount	($580,000)	from above
Plant Sale Transaction Value	$96,914	calculation
Calculated payment to CPV	$1,211	calculation
Minimum payment to CPV upon Plant Sale Transaction	$250	according to Section 4.6(a)(i)
Payment due to CPV upon Plant Sale Transaction	$1,211	the greater of the two lines above
Exit Transaction payment under Section 4.6(b)		
Transaction Proceeds	$100,000	from above; proceeds from sale of 3rd plant
Minus: Equity Contributions	($50,000)	assumes no changes since Plant Sale Transaction
Minus: Transaction Costs	($3,000)	assumption; for Exit Transaction only
Minus: aggregate Indebtedness incurred	$0	assumes no changes since Plant Sale Transaction
Plus: aggregate Indebtedness paid prior to Plant Sale Transaction	$20,000	assumes no changes since Plant Sale Transaction
Plus: aggregate Indebtedness repaid from sale of first two plants	$695,000	equal to Transaction Proceeds from Plant Sale Transaction minus Transaction Costs from Plant Sale Transaction
Plus: aggregate Distributions	$10,000	assumes no changes since Plant Sale Transaction
Plus: Excess Debt Guarantee Amount	$1,914	assumes no changes since Plant Sale Transaction
Plus: Tax Payments	$0	assumes no changes since Plant Sale Transaction
Plus: Excess Affiliate Payments	$0	assumes no changes since Plant Sale Transaction
Minus: Base Amount	($580,000)	from above
Exit Transaction Value	$193,914	calculation
Total payment to CPV	$2,424	calculation
Minus: All prior payments	($1,211)	calculated above
Payment due to CPV upon Exit Transaction	$1,213	calculation

Incentive Payment Example: Plant Sale Transaction, then terminate for convenience

$ in thousands

Scenario

Optim sells the first two Project Companies, which constitutes a Plant Sale Transaction. Proceeds from the Plant Sale Transaction are used to pay down debt. Later, Optim terminates the Asset Management Agreement for convenience.

Global assumptions		
Effective Date	11/1/2011	assumption
Base Amount	$580,000	assumption
Closing date of 1st plant sale	12/31/2012	assumption
1st plant sale proceeds	$300,000	assumption
Closing date of 2nd plant sale	12/31/2013	assumption
2nd plant sale proceeds	$400,000	assumption
Termination date	12/31/2014	assumption
Appraised Enterprise Value	$100,000	assumption; for 3rd plant only
Plant Sale Transaction payment under Section 4.6(a)		
Average debt balance	$650,000	assumption
Aggregate amount of Debt Guarantee Payments	$16,000	assumption
Minus: 0.25% of the balance of Indebtedness for each calendar quarter	($14,086)	estimated calculation
Excess Debt Guarantee Amount	$1,914	calculation
Transaction Proceeds	$700,000	calculation; sale of first two plants
Minus: Equity Contributions	($50,000)	assumption
Minus: Transaction Costs related to Plant Sale Transaction	($5,000)	assumption
Minus: aggregate Indebtedness incurred	$0	assumption
Plus: aggregate Indebtedness repaid	$20,000	assumption
Plus: aggregate Distributions	$10,000	assumption
Plus: Excess Debt Guarantee Amount	$1,914	calculated above
Plus: Tax Payments	$0	assumption
Plus: Excess Affiliate Payments	$0	assumption
Minus: Base Amount	($580,000)	from above
Plant Sale Transaction Value	$96,914	calculation
Calculated payment to CPV	$1,211	calculation
Minimum payment to CPV upon Plant Sale Transaction	$250	according to Section 4.6(a)(i)
Payment due to CPV upon Plant Sale Transaction	$1,211	the greater of the two lines above
Termination for convenience payment under Section 4.5		
Appraised Enterprise Value	$100,000	from above
Minus: Equity Contributions	($50,000)	assumes no changes in 2014
Minus: aggregate Indebtedness incurred	$0	assumes no changes in 2014
Plus: aggregate Indebtedness paid prior to Plant Sale Transaction	$20,000	assumes no changes in 2014
Plus: aggregate Indebtedness repaid from sale of first two plants	$695,000	equal to Transaction Proceeds from Plant Sale Transaction minus Transaction Costs from Plant Sale Transaction
Plus: aggregate Distributions	$10,000	assumes no changes in 2014
Plus: Excess Debt Guarantee Amount	$1,914	assumes no changes in 2014
Plus: Tax Payments	$0	assumes no changes in 2014
Plus: Excess Affiliate Payments	$0	assumes no changes in 2014
Minus: Base Amount	($580,000)	from above
Early Termination Value	$196,914	calculation
Base Termination Amount prior to accounting for prior payments	$2,461	calculation
Minus: All prior payments	($1,211)	calculated above
Base Termination Amount	$1,250	calculation
Factor applied to Base Termination Amount	60%	after 2nd anniversary of Effective Date
Payment due to CPV upon termination for convenience	$750	calculation

EXECUTION VERSION

AMENDMENT NO. 1 TO ASSET MANAGEMENT AGREEMENT

This Amendment No. 1 (this "Amendment") dated as of August 24, 2012 (the "Effective Date") to Asset Management Agreement (the "Agreement"), dated as of October 31, 2011 is entered into by and between Competitive Power Ventures, Inc., a Delaware corporation ("Manager"), and Optim Energy, LLC, a Delaware limited liability company ("Optim"). Capitalized terms used herein and not otherwise defined shall have the meanings given to them in the Agreement.

RECITALS

WHEREAS, Manager and Optim previously entered into the Agreement pursuant to which Manager provides, under Optim's direction and pursuant to the terms of the Agreement, certain asset management services in respect of Optim, each Project, Marketing and the other business and assets owned by Optim;

WHEREAS, Manager previously entered into a Nondisclosure Agreement, dated March 4, 2011, which was amended and restated on August 24, 2012 (as amended, the "Nondisclosure Agreement") to memorialize certain practices under which ECJV, Optim and its Affiliates, and CPV have operated and will continue to operate during the term of the Agreement;

WHEREAS, Manager and Optim desire to enter into this Amendment to evidence their agreement to certain modifications to the Agreement, and confirm certain practices with respect to the treatment of Confidential Information (as defined in the Nondisclosure Agreement), as further set forth below.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Manager and Optim agree as follows:

1. **Amendments to Section 1.1 (Agreement and Definitions).**

a. Section 1.1 of the Agreement is amended by adding the following definition:

"Retention Agreement" means that certain Retention Agreement, dated as of August 24, 2012, between Optim and Nick Rahn, as amended from time to time.

b. Section 1.1 of the Agreement is amended by deleting the definition of "Debt Guarantee Payments" in its entirety and replacing it with the following:

"Debt Guarantee Payments" means the guarantee fees paid by Optim to Cascade, or accrued by Optim, as Collateral Agent under Section 2.2 of the June 1, 2007 Guarantee Reimbursement Agreement between (a) Optim and certain of its subsidiaries, and (b) Cascade and ECJV, as amended October 7, 2008.

c. Section 1.1 of the Agreement is amended by deleting the definition of "Nondisclosure Agreement" in its entirety and replacing it with the following:

> "Nondisclosure Agreement" means the Amended and Restated Nondisclosure Agreement, by and between Holdings and Manager, dated August 24, 2012.

2. Amendments to Section 2.4 (Personnel).

a. Section 2.4(a) of the Agreement is amended by adding the following language immediately after "other professional services typically provided by outside expert professionals.":

> "Furthermore, from time to time Manager's performance of the Asset Management Services may require the receipt of information (including Confidential Information as defined in the Nondisclosure Agreement) that is or may be subject to privileges, doctrines, or other rules protecting such information against disclosure, including but not limited to the attorney-client privilege and the work product doctrine (collectively "Privileged Information"). Consistent with the terms of this Agreement and the Nondisclosure Agreement, Manager is specifically authorized to provide information (including Confidential Information under the Nondisclosure Agreement) to counsel for Optim or Optim Affiliates to enable such counsel to render legal advice, and to receive information from counsel in order to effectuate and implement legal advice. Such information and communications shall be treated as Confidential Information under the Nondisclosure Agreement, and Manager acknowledges that any such communications between Manager and counsel for Optim or Optim Affiliates are not intended to waive the attorney-client privilege, the work product doctrine or any other privileges that may apply."

b. Section 2.4 of the Agreement is amended by adding the following new Section 2.4(e):

> "(e) Chief Executive Officer. The parties acknowledge that Nick Rahn, an employee of CPV, may upon mutual agreement of the parties serve as the Chief Executive Officer of Optim. So long as Nick Rahn serves as the Chief Executive Officer of Optim during his employment with CPV, until the earlier of (i) the voluntary sale, transfer or other disposition of all the equity interests in any Project Company to a third party or (ii) the voluntary sale, transfer or other disposition (whether by merger, consolidation or otherwise) of all or substantially all of the assets of any Project Company to a third party, CPV will not assign any material duties to Nick Rahn that do not relate to the Optim Companies."

3. **Amendment to Section 2.5 (Standards for Performance of Asset Management Services)**. Section 2.5 of the Agreement is amended by adding the following new Section 2.5(d):

> "(d) Confidentiality. Manager acknowledges and agrees that the Nondisclosure Agreement protects Confidential Information (as defined in the Nondisclosure Agreement) disclosed to Manager by the Optim Companies."

4. **Amendments to Section 4.2 (Other Costs and Expenses)**.

a. The second sentence of Section 4.2 of the Agreement is amended by adding the word "reasonable" immediately after "(iv)".

b. Section 4.2 of the Agreement is amended by deleting the following language at the end of the second sentence:

> "; provided, however, that (x) Optim shall reimburse Manager for only 50% of the Rahn Expenses beginning the date that is the earlier of (A) six months following the Effective Date, and (B) the date that Nick Rahn relocates to Silver Springs, Maryland, and (y) Optim shall have no obligation to reimburse Manager for any portion of the Rahn expenses incurred on or after the one-year anniversary of the Effective Date"

5. **Amendment to Section 4.4 (Bonuses)**. The first sentence of Section 4.4 of the Agreement is amended by deleting such sentence in its entirety and replacing it with the following:

> "During 2011, Manager shall earn a fixed bonus of [redacted] During 2012, Manager may earn a bonus of up to [redacted] provided that (a) CPV shall receive a bonus pursuant to the "Subjective review of performance by the board" criteria set forth in Appendix B of [redacted] and (b) to the extent the "Retention Bonus" is not or will not become payable by Optim under the Retention Agreement due to the failure of any conditions for the payment of such amount, Optim may either (i) reduce the amount payable to CPV under (a) if such bonus has not already been paid, or (ii) offset future amounts payable to CPV by Optim under this Agreement or otherwise, in each case ((i) and (ii) above), in such amount determined by Optim in its discretion up to a maximum of [redacted] During each subsequent calendar year, Manager may earn a bonus of up to [redacted] in accordance with the formula set forth in Appendix B."

6. **Amendments to Section 4.6 (Payments in the Event of an Exit Transaction or Plant Sale Transaction)**.

a. Section 4.6(a) is amended by adding the following language immediately before "provided that, to the extent that any portion of the Transaction Proceeds…"

"in either case minus an amount equal to 50% of any "Tier 2 Plant Sale Transaction Bonus" payable by Optim under the Retention Agreement in connection with such Plant Sale Transaction."

b. The first sentence of Section 4.6(b) of the Agreement is amended by adding the following language immediately after "(iii) any fee previously paid to Manager under Section 4.6(a);":

"minus

(iv) an amount equal to 50% of any "Tier 2 Exit Transaction Bonus" payable by Optim under the Retention Agreement in connection with such Exit Transaction;"

c. Section 4.6(c) is amended by deleting such provision in its entirety and replacing it with the following:

"(c) Examples. Examples of the calculation of fees resulting from Exit Transactions are included in Appendix C to this Agreement; provided that such examples do not reflect any reductions in such fees due to payments of any Tier 2 Plant Sale Transaction Bonus or Tier 2 Exit Transaction Bonus under the Retention Agreement."

7. **Amendments to Appendix B (Bonus Payment).**

a. Appendix B to the Agreement is hereby amended by deleting the sole sentence on Appendix B in its entirety and replacing it with the following:

"The bonus payment metrics set forth in the attached "CPV Incentive Proposal—2012" shall apply for the 2012 calendar year. For each subsequent calendar year, the parties hereto shall negotiate in good faith to establish bonus payment metrics for such year that are consistent with the attached 2012 bonus payment metrics, except that the 50% Target Values set forth therein shall be updated to be consistent with the budgeted values for such year."

b. Appendix B to the Agreement is hereby further amended by attaching Attachment 1 to this Amendment ("CPV Incentive Proposal—2012") to Appendix B.

8. **Effect of this Amendment.** No other amendments to the Agreement are contemplated herein and all remaining terms and conditions thereof shall remain in full force and effect.

9. **Necessary Acts.** Each party to this Amendment hereby agrees to perform any further acts and to execute and deliver any further documents that may be necessary or required to carry out the intent and provisions of this Amendment and the transactions contemplated hereby.

10. Governing Law. This Amendment shall be governed by, and construed and enforced in accordance with, the laws of New York.

11. Counterparts. This Amendment may be executed by facsimile and in any number of counterparts by the parties hereto all of which together shall constitute one instrument.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have executed this Amendment effective as of the Effective Date.

COMPETITIVE POWER VENTURES, INC.

By: _____
Name: David D. Mgill
Title: Senior Vice President

OPTIM ENERGY, LLC

By: _____
Name: Nick Rahn
Title: C.E.O.

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re	Chapter 11
Optim Energy, LLC, *et al.*,	Case No. 14-10262 (BLS)
Debtors.[1]	(Jointly Administered)
	Hearing Date: March 13, 2014 at 10:00 a.m. (ET) **Objection Deadline: March 6, 2014 at 4:00 p.m. (ET)**

NOTICE OF DEBTORS' MOTION FOR ENTRY OF ORDER AUTHORIZING THE DEBTORS TO CONTINUE PERFORMANCE UNDER A PREPETITION AGREEMENT WITH COMPETITIVE POWER VENTURES, INC. REGARDING THE OUTSOURCING OF MANAGEMENT SERVICES, *NUNC PRO TUNC* TO THE PETITION DATE

PLEASE TAKE NOTICE that on February 20, 2014, the above-captioned debtors and debtors in possession (the "Debtors") filed the **Debtors' Motion For Entry Of Order Authorizing The Debtors To Continue Performance Under A Prepetition Agreement With Competitive Power Ventures, Inc. Regarding The Outsourcing Of Management Services, *Nunc Pro Tunc* To The Petition Date** (the "Motion").

PLEASE TAKE FURTHER NOTICE that objections to the Motion, if any, must (a) be in writing; (b) be filed with the Clerk of the Bankruptcy Court, 824 N. Market Street, 3rd Floor, Wilmington, Delaware 19801, on or before **March 6, 2014 at 4:00 p.m. (ET)** (the "Objection Deadline"); and (c) be served as to be received on or before the Objection Deadline by the proposed undersigned counsel for the Debtors.

PLEASE TAKE FURTHER NOTICE that only objections made in writing and timely filed and received, in accordance with the procedures above, will be considered by the Bankruptcy Court at such hearing.

PLEASE TAKE FURTHER NOTICE THAT A HEARING ON THE MOTION WILL BE HELD ON **MARCH 13, 2014 AT 10:00 A.M. (ET)** BEFORE THE HONORABLE BRENDAN L. SHANNON, AT THE UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE, 824 N. MARKET STREET, 6TH FLOOR, COURTROOM #1, WILMINGTON, DELAWARE 19801.

[1] The Debtors in these chapter 11 cases are: Optim Energy, LLC; OEM 1, LLC; Optim Energy Cedar Bayou 4, LLC; Optim Energy Altura Cogen, LLC; Optim Energy Marketing, LLC; Optim Energy Generation, LLC; Optim Energy Twin Oaks GP, LLC; Optim Energy Twin Oaks, LP. The Debtors' main corporate and mailing address for purposes of these chapter 11 cases is: c/o Competitive Power Ventures, Inc., 8403 Colesville Road, Suite 915, Silver Spring, MD 20910.

IF YOU FAIL TO RESPOND IN ACCORDANCE WITH THIS NOTICE, THE COURT MAY GRANT THE RELIEF REQUESTED IN THE MOTION WITHOUT FURTHER NOTICE OR HEARING.

Dated: February 20, 2014
Wilmington, Delaware

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

/s/ William M. Alleman, Jr.

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Proposed Counsel For The Debtors And Debtors In Possession

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