

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

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: **Chapter 11**  
: **Case No. 16-10992 (SMB)**  
: **(Jointly Administered)**  
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**ORDER (A) APPROVING BIDDING PROCEDURES FOR THE SALE OF EQUITY INTERESTS IN CERTAIN NORTH AMERICAN UTILITY PROJECT COMPANIES, (B) ESTABLISHING THE NOTICE PROCEDURES AND APPROVING THE FORM AND MANNER OF NOTICE THEREOF, (C) SCHEDULING A SALE HEARING, AND (D) GRANTING RELATED RELIEF**

Upon the motion (the “Motion”)<sup>2</sup> of the above-captioned debtors and debtors-in-possession (collectively, the “Debtors”), including SUNE Wind Holdings, Inc., SunE Waiawa Holdings, LLC, First Wind California Holdings, LLC, First Wind Solar Portfolio, LLC, Somerset Wind Holdings, LLC, Buckthorn Renewables Holdings, LLC, Rattlesnake Flat

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<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s tax identification number are as follows: SunEdison, Inc. (5767); SunEdison DG, LLC (N/A); SUNE Wind Holdings, Inc. (2144); SUNE Hawaii Solar Holdings, LLC (0994); First Wind Solar Portfolio, LLC (5014); First Wind California Holdings, LLC (7697); SunEdison Holdings Corporation (8669); SunEdison Utility Holdings, Inc. (6443); SunEdison International, Inc. (4551); SUNE ML 1, LLC (3132); MEMC Pasadena, Inc. (5238); Solaicx (1969); SunEdison Contracting, LLC (3819); NVT, LLC (5370); NVT Licenses, LLC (5445); Team-Solar, Inc. (7782); SunEdison Canada, LLC (6287); Enflex Corporation (5515); Fotowatio Renewable Ventures, Inc. (1788); Silver Ridge Power Holdings, LLC (5886); SunEdison International, LLC (1567); Sun Edison LLC (1450); SunEdison Products Singapore Pte. Ltd. (7373); SunEdison Residential Services, LLC (5787); PVT Solar, Inc. (3308); SEV Merger Sub Inc. (N/A); Sunflower Renewable Holdings 1, LLC (6273); Blue Sky West Capital, LLC (7962); First Wind Oakfield Portfolio, LLC (3711); First Wind Panhandle Holdings III, LLC (4238); DSP Renewables, LLC (5513); Hancock Renewables Holdings, LLC (N/A); EverStream HoldCo Fund I, LLC (9564); Buckthorn Renewables Holdings, LLC (7616); Greenmountain Wind Holdings, LLC (N/A); Rattlesnake Flat Holdings, LLC (N/A); Somerset Wind Holdings, LLC (N/A); SunE Waiawa Holdings, LLC (9757); SunE MN Development, LLC (8669); SunE MN Development Holdings, LLC (5388); and SunE Minnesota Holdings, LLC (8926). The address of the Debtors’ corporate headquarters is 13736 Riverport Dr., Maryland Heights, Missouri 63043.

<sup>2</sup> Capitalized terms used in this Order but not otherwise defined herein shall have the meanings ascribed to such terms in the Motion or the Bidding Procedures, as applicable.

Holdings, LLC, SunE Hawaii Solar Holdings, LLC, and Greenmountain Wind Holdings, LLC (the “Sellers”), for entry of an order, pursuant to sections 105, 363, 365 of the Bankruptcy Code and Bankruptcy Rules 2002, 6003, 6004, 6006, and 9014, among other things: (i) approving the Bidding Procedures attached hereto as Exhibit 1, including approval of the Break-up Fee and the Expense Reimbursement, (ii) establishing notice procedures and approving the form of notice and manner of all procedures, protections, schedules, and agreements in connection with the Auction and the Sale Transaction, (iii) scheduling a Sale Hearing to approve the Sale Transaction, and (iv) granting related relief; and upon the First Day Declaration, the Rothschild Declaration, the Company Declaration, and the Elberg Declaration; and it appearing that proper and adequate notice of the Motion has been given and it appearing that no other or further notice need be provided; and a hearing having been held on August 18, 2016 to consider the relief requested in the Motion and the Court having determined that the relief requested in the Motion is in the best interests of the Debtors, their estates, their creditors and other parties in interest; after due deliberation thereon; and sufficient cause appearing therefor, it is

**IT IS HEREBY FOUND AND DETERMINED THAT:<sup>3</sup>**

A. The Court has jurisdiction to hear and determine the Motion pursuant 28 U.S.C. §§ 157 and 1334.

B. Venue of these chapter 11 cases and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409. The proceeding on the Motion is a core proceeding pursuant to 28 U.S.C. § 157(b).

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<sup>3</sup> The findings and conclusions set forth herein shall constitute this Court’s findings of fact and conclusions of law as described in Bankruptcy Rule 7052, made applicable to this matter by Bankruptcy Rule 9014.

C. The legal predicates for the relief sought in the Motion are sections 105(a), 363, 365, 503, and 507 of the Bankruptcy Code, Bankruptcy Rules 2002, 6003, 6004, 6006, and 9014, and Local Rules 6004-1 and 6006-1.

D. The Debtors have articulated good and sufficient business justification for the Court to approve the Motion, Bidding Procedures, the Auction, the Stalking Horse Agreement<sup>4</sup> and other relief sought in the Motion, and all of the relief requested in the Motion is reasonable and appropriate under the circumstances.

E. The form and manner of each of the notices approved herein are appropriate and reasonably calculated to provide interested parties with timely and proper notice of the Motion, Bidding Procedures, the assumption and assignment procedures, the Auction, and the Sale Hearing, under the circumstances.

F. The Stalking Horse Agreement and the Bidding Procedures (including the Bid Protections) were negotiated, proposed and entered into without collusion, in good faith and at arms' length between the Debtors and the Stalking Horse Bidder.

G. The Debtors have provided, under the circumstances, good and sufficient notice of the relief sought in the Motion, and no other or further notice of the Motion need be effectuated except as expressly set forth herein with respect to the Auction and the Sale Hearing. Subject to the immediately preceding sentence, a reasonable opportunity to object or to be heard regarding the relief requested in the Motion was afforded to all interested persons and entities.

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<sup>4</sup> All references to the Stalking Horse Agreement in this Order shall mean the Stalking Horse Agreement as may be amended or modified from time to time, including as set forth in the Notice of Filing of Side Letter and Amendment in Connection With the Debtors' Motion for (I) An Order (A) Approving Bidding Procedures for the Sale of Equity Interests in Certain North American Utility Project Companies, (B) Establishing the Notice Procedures and Approving the Form and Manner of Notice Thereof, (C) Scheduling a Sale Hearing, and (D) Granting Related Relief and (II) An Order (A) Approving the Sale of Equity Interests in Certain North American Utility Project Companies Free and Clear of All Liens, Claims, Encumbrances, and Other Interests, and (B) Granting Related Relief [Docket No. 1011].

H. The entry of this Order approving the relief requested by the Motion (including the Bid Protections) is in the best interests of the Debtors', their estates, their creditors, their stakeholders and all parties in interest.

I. The Stalking Horse Agreement represents the highest or best offer the Debtors have received to date for the Equity Interests. Entry into the Stalking Horse Agreement by the Debtors is in the best interests of the Debtors and their estates, and is a sound exercise of the Debtors' business judgment. The Stalking Horse Agreement will enable the Debtors to secure a fair and adequate baseline price for the Equity Interests and, accordingly, will provide a clear benefit to the Debtors' estates, their creditors, their stakeholders, and other parties in interest.

J. The Debtors have demonstrated that the Bid Protections, including the Break-up Fee and the Expense Reimbursement, are a material inducement to (and express conditions of) the Stalking Horse Bidder to submit the bid that will serve as the minimum bid for other bidders, and are necessary to ensure that the Stalking Horse Bidder will continue to pursue its proposed acquisition of the Equity Interests upon the terms and subject to the conditions set forth in the Stalking Horse Agreement, and are intended to promote more competitive bidding by inducing the bid of the Stalking Horse Bidder. The Stalking Horse Bidder has provided a material benefit to the Debtors, their estates, and their creditors by increasing the likelihood of competitive bidding at the Auction and encouraging additional bidders to participate in the bidding process, thereby increasing the likelihood that the Debtors will receive the best possible price for the Equity Interests. The Stalking Horse Bidder is unwilling to commit to hold open its offer to acquire the Equity Interests upon the terms and subject to the conditions set forth in the Stalking Horse Agreement unless it is assured of the approval of the Bid Protections as set forth herein and in the Stalking Horse Agreement. Consequently, the Bid Protections represent actual and

necessary expenses of the Debtors' estate, within the meaning of Bankruptcy Code section 503(b), and are reasonable and appropriate under the circumstances.

**ORDERED, ADJUDGED, AND DECREED THAT:**

1. The Motion is GRANTED, as set forth herein.
2. All objections to the relief requested in the Motion, if any, that have not been withdrawn, waived, or settled as announced to the Court are denied and overruled in their entirety on the merits, with prejudice.

**BIDDING PROCEDURES**

3. The Bidding Procedures, attached hereto as Exhibit 1 and incorporated by reference as though fully set forth herein, are hereby approved. The Debtors are authorized to solicit bids and conduct an Auction on the terms set forth in the Bidding Procedures. The Bidding Procedures shall govern the submission, receipt, and analysis of all bids, and any party desiring to submit a higher or otherwise better offer must do so strictly in accordance with the terms of the Bidding Procedures and this Order.

4. The Sellers shall proceed with the Sale Transaction in accordance with the Bidding Procedures and are authorized to take any and all actions necessary or appropriate to implement the Bidding Procedures in accordance with the following timeline:

<b>Milestone</b>	<b>Date</b>
Bid Deadline	September 6, 2016 at 4:00 p.m. (EST)
Auction (if necessary)	September 9, 2016 at 10:00 a.m. (EST)
Sale Hearing	September 15, 2016 at 10:00 a.m. (EST)

5. The process for submitting Qualified Bids is fair, reasonable, and appropriate and

is designed to maximize recoveries for the benefit of the Debtors' estates, their creditors, their stakeholders and other parties in interest. Any disputes related to the Bidding Process, the Auction, or the Sale Transaction shall be resolved by this Court.

6. The Debtors are authorized to conduct the Auction in the event they receive one or more timely and acceptable Qualified Bids (in addition to the Stalking Horse's bid). The good faith deposits of all Qualified Bidders including, for the avoidance of doubt, the Stalking Horse Bidder, shall not become property of the Debtors' estates absent further court order.

**BID DEADLINE, AUCTION AND SALE HEARING**

7. The deadline for submitting a Qualified Bid shall be **September 6, 2016** (the "**Bid Deadline**").

8. The Stalking Horse Agreement is a Qualified Bid and the Stalking Horse Bidder is a Qualified Bidder, for all purposes and requirements pursuant to the Bidding Procedures.

9. If the Stalking Horse Bidder's bid, as reflected in the Stalking Horse Agreement, is the only Qualified Bid that is received by the Debtors by the Bid Deadline, no Auction will be conducted for the Equity Interests and the Stalking Horse Bidder shall be the Prevailing Purchaser for the Equity Interests. Otherwise, the Debtors are authorized to hold the Auction for the Equity Interests. The Auction, if any, shall take place at the offices of counsel for the Debtors, Skadden, Arps, Slate, Meagher & Flom LLP, Four Times Square, New York, NY 10036 on **September 9, 2016**, or such other place and time as the Debtors shall timely notify all parties entitled to attend the Auction (including the Stalking Horse Bidder).

10. Each Qualified Bidder participating in the Auction must confirm that it (a) has not engaged in any collusion with respect to the bidding or sale of any of the assets described in the Motion, (b) reviewed, understands, and accepts the Bidding Procedures, and (c) consents to the

core jurisdiction of the Bankruptcy Court. All Qualified Bidders will be deemed to have submitted to the exclusive jurisdiction of this Court with respect to Motion, Bidding Procedures, the Assumption and Assignment Procedures, the Auction and other relief sought in the Motion.

11. All interested parties (whether or not Qualified Bidders) that participate in the bidding process shall be deemed to have knowingly and voluntarily (a) consented to the entry of a final order by this Court in connection with the Motion or this Order (including any disputes relating to the Bid Process, the Auction, and/or the Sale Transaction) to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution and (b) waived any right to jury trial in connection with any disputes relating to any of the foregoing matters.

12. The Court shall hold the Sale Hearing on **September 15, 2016 at 10:00 a.m. (EST)** or as soon thereafter as counsel and interested parties may be heard, at which time the Court shall consider the approval of the Sale Transaction to the Prevailing Purchaser, and confirm the results of the Auction, if any. The Sale Hearing may be adjourned or rescheduled without further notice to any other party in interest by an announcement of the adjourned date at the Sale Hearing or by notice filed with the Court.

13. Any Objections to approval of the Sale Transaction shall (a) be in writing, (b) state the basis of such objection with specificity, (c) be filed with this Court and (d) be in accordance with the Bankruptcy Rules, the Local Rules and the Case Management Procedures and served so as to be actually received by the Bankruptcy Court and the following parties on or before **September 8, 2016** (the "Objection Deadline"): (1) the Debtors, 13736 Riverport Dr., Maryland Heights, Missouri 63043, Attn: Martin Truong and David Ringhofer; (2) counsel to the Debtors, Skadden, Arps, Slate, Meagher & Flom LLP, Four Times Square, New York, NY

10036, Attn: Jay M. Goffman and J. Eric Ivester; (3) investment banker for the Debtors, Rothschild Inc., 1251 Avenue of the Americas, 33<sup>rd</sup> floor, New York, NY 10020, Attn: Simon Pratt; (4) counsel to the Stalking Horse Bidder, Baker Botts LLP, 1299 Pennsylvania Avenue NW, Washington, DC 20004, Attn: Elaine Walsh, and 2001 Ross Avenue, Dallas, TX 75201, Attn: Luckey McDowell; (5) the Office of the United States Trustee, U.S. Federal Office Building, 201 Varick Street, Suite 1006, New York, NY 10014, Attn: Paul Schwartzberg; (6) counsel to the administrative agent under the Debtors' prepetition first lien credit agreement, Latham & Watkins LLP, 330 North Wabash Avenue, Suite 2800, Chicago, IL 60611, Attn: Richard Levy and Brad Kotler; (7) counsel to the Tranche B Lenders (as defined in the DIP Credit Agreement) and the steering committee of the second lien creditors (the "Steering Committee"), Akin Gump Strauss Hauer & Feld LLP, One Bryant Park, New York, NY 10036, Attn: Arik Preis and Naomi Moss; (8) counsel to the administrative agent under the Debtors' prepetition second lien credit agreement, Pillsbury Winthrop Shaw Pittman LLP, 1540 Broadway, New York, NY 10036-4039, Attn: Daniel S. Brown; (9) counsel to the collateral trustee under the Debtors' prepetition second lien credit agreement, Shipman & Goodwin LLP, One Constitution Plaza, Hartford, CT 06103-1919, Attn: Marie C. Pollio; (10) counsel to the indenture trustee under each of the Debtors' outstanding bond issuances, Shipman & Goodwin LLP, One Constitution Plaza, Hartford, CT 06103-1919, Attn: Marie C. Pollio; (11) counsel to the administrative agent under the postpetition debtor-in-possession financing facility, White & Case LLP, 1155 Avenue of the Americas, New York, NY 10036-2787, Attn: Scott Greissman and Elizabeth Feld; (12) counsel to the Committee, Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, NY 10153, Attn: Matthew Barr and Joseph Smolinsky; (13) counsel to TerraForm Power, Inc. and TerraForm Global, Inc., Sullivan & Cromwell LLP, 125 Broad



Street, New York, NY 10004, Attn: Michael H. Torkin and Andrew G. Dietderich; and (14) to the extent not listed herein, any such other party entitled to notice pursuant to Local Bankruptcy Rule 9013-1(b).

14. If the Debtors do not receive any Qualified Bids (other than the Stalking Horse Bid) on or prior to the Bid Deadline, the Debtors shall promptly cancel the Auction and seek approval of the Sale Transaction of the Equity Interests to the Stalking Horse Bidder pursuant to the Stalking Horse Agreement at the Sale Hearing.

### **NOTICE PROCEDURES**

15. The form of the Sale Notice and the Post Auction Notice are hereby approved and appropriate under the circumstances and sufficient for all purposes. No other or further notice shall be required if the Debtors serve such notices in the manner provided in the Motion to the extent modified by this Order, including:

- a) Within two (2) business days after the entry of this Order, or as soon as practicable thereafter, causing the Sale Notice to be served by first-class mail, postage prepaid upon (a) the Office of the United States Trustee for the Southern District of New York; (b) counsel to the administrative agent under the Debtors' prepetition first lien credit agreement; (c) counsel to the Tranche B Lenders (as defined in the DIP Credit Agreement) and the steering committee of the second lien creditors (the "Steering Committee"); (d) counsel to the administrative agent under the Debtors' prepetition second lien credit agreement; (e) counsel to the collateral trustee under the Debtors' prepetition second lien credit agreement; (f) counsel to the indenture trustee under each of the Debtors' outstanding bond issuances; (g) the U.S. Attorney for the Southern District of New York; (h) counsel to the administrative agent under the postpetition debtor-in-possession financing facility; (i) counsel to the Committee in these Chapter 11 Cases; (j) counsel to TerraForm Power, Inc. and TerraForm Global, Inc.; (k) the Internal Revenue Service; (l) the Securities and Exchange Commission; (m) any party known to have asserted a lien, encumbrance, claim or other interest (the "Encumbrances") in any of the Equity Interests; (n) all affected federal, state and local regulatory and taxing authorities, including the Internal Revenue Service; (o) the Securities and Exchange Commission; (p) all entities known to have expressed an interest in a transaction with respect to all or part of the Equity Interests; (q) any such other party entitled to notice pursuant to Rule 9013-1(b) of

the Local Bankruptcy Rules for the United States Bankruptcy Court for the Southern District of New York;

- b) Within two (2) business days after the entry of this Order, or as soon as practicable thereafter, causing the Publication Notice to be published in the Wall Street Journal; and
- c) As soon as possible after the conclusion of the Auction, if any, causing the Post Auction Notice to be filed, but not served.

**STALKING HORSE AGREEMENT AND BID PROTECTIONS**

16. Entry into the Stalking Horse Agreement by each of the Debtor Sellers is hereby approved.

17. The Stalking Horse Bidder's right to exercise its rights and remedies under, and in accordance with, the Stalking Horse Agreement is hereby approved, notwithstanding 11 U.S.C. § 362 or other provisions of the Bankruptcy Code and Bankruptcy Rules that may impair such rights.

18. The Bid Protections, including, the Break-up Fee and the Expense Reimbursement, are hereby approved on the terms and subject to the conditions set forth in the Stalking Horse Agreement. The Sellers shall pay any and all such amounts owing to the Stalking Horse Bidder on account of the Bid Protections in full in cash in accordance with the terms of the Stalking Horse Agreement without further action of, order from, or notice to the Court.

19. The Break-up Fee and Expense Reimbursement, to the extent payable pursuant to the terms of the Purchase and Sale Agreement, shall be paid in cash upon the consummation of an Alternative Transaction and from the proceeds of such Alternative Transaction prior to distribution of such Alternative Transaction proceeds on account of DIP Obligations (as defined in the Purchase and Sale Agreement).

20. The Bid Protections are binding upon the estate of each Debtor and shall survive the appointment of a chapter 11 trustee, conversion of the chapter 11 cases to cases under chapter 7 of the Bankruptcy Code, or any dismissal of any such cases.

**RELATED RELIEF**

21. The automatic stay pursuant to section 362 of the Bankruptcy Code is hereby lifted to the extent necessary, without further order of the Court, to allow the Stalking Horse Bidder to deliver any notice provided for in the Stalking Horse Agreement, including, without limitation, a notice terminating the Stalking Horse Agreement, and to allow the Stalking Horse Bidder to take any and all actions permitted under the Stalking Horse Agreement in accordance with the terms and conditions thereof.

22. The Debtors are hereby authorized to execute any additional or supplemental documents incident to the relief granted pursuant to this Order.

23. The Debtors are authorized to take any and all actions necessary to effectuate the relief granted herein, including any and all actions necessary to implement the Bidding Procedures.

24. Notwithstanding anything to the contrary contained herein, any authorization contained herein and proceeds obtained by the Sellers pursuant to the Sale Transaction shall be subject to any applicable requirements imposed on the Debtors under the Final Order (I) Authorizing Debtors to (A) Obtain Senior Secured, Superpriority, Postpetition Financing Pursuant to Bankruptcy Code Sections 105, 361, 362, 364(c)(1), 364(c)(2), 364(c)(3), 364(d)(1), and 364(e) and (B) Utilize Cash Collateral Pursuant to Bankruptcy Code Section 363, and (II) Granting Adequate Protection to Prepetition Secured Parties Pursuant to Bankruptcy Code

Sections 361, 362, 363 and 364 [Docket No. 523] (the “Final DIP Order”) and the other DIP Loan Documents (as defined in the Final DIP Order).

25. Notwithstanding any applicability of Bankruptcy Rules 6003, 6004(h), and 6006(d), the terms and conditions of this Order shall be effective and enforceable immediately upon its entry. All time periods set forth in this Order shall be calculated in accordance with Bankruptcy Rule 9006(a).

26. This Order shall be binding on the Debtors and any chapter 7 or chapter 11 trustee or other estate representative appointed for the Debtors. The Stalking Horse Bidder shall have standing to appear and be heard on all issues relating to the Bidding Procedures, the Auction, and/or the Sale Transaction.

27. To the extent the provisions of this Order are inconsistent with the provisions of any exhibit referenced herein or with the Motion, the provisions of this Order shall control and govern.

28. This Court shall retain jurisdiction with respect to all matters relating to the interpretation or implementation of this Order.

Dated: August 19<sup>th</sup>, 2016

/s/ STUART M. BERNSTEIN  
HONORABLE STUART M. BERNSTEIN

## **BIDDING PROCEDURES**

These “**Bidding Procedures**” set forth the process by which SUNE Wind Holdings, Inc., SunE Waiawa Holdings, LLC, First Wind California Holdings, LLC, First Wind Solar Portfolio, LLC, Somerset Wind Holdings, LLC, Buckthorn Renewables Holdings, LLC, Rattlesnake Flat Holdings, LLC, SunE Hawaii Solar Holdings, LLC, and Greenmountain Wind Holdings, LLC (collectively, the “**Sellers**”), in the pending chapter 11 bankruptcy cases in the United States Bankruptcy Court for the Southern District of New York (the “**Bankruptcy Court**”), Case No. 16-10992 (Jointly Administered), are authorized to conduct a sale by auction (the “**Auction**”) of 100% of Sellers’ direct or indirect (as applicable) membership and other equity interests of some or all of the project companies owning the utility scale projects described on Exhibit A hereto (such entities, the “**Project Companies**”, and such equity interests, the “**Equity Interests**”) in one or more transactions in accordance herewith and with the Sale Procedures Order (as defined below) (each such sale of some or all of the Equity Interests in accordance with these Bidding Procedures, the Sale Procedures Order (as defined below), and any other applicable Bankruptcy Court orders, a “**Qualifying Sale**”).

These Bidding Procedures were approved by order of the Bankruptcy Court dated August 18, 2016 (the “**Sale Procedures Order**”), pursuant to the motion of the Sellers and the other debtors and debtors-in-possession in the Chapter 11 Cases (collectively, the “**Debtors**”) for (a) an order (i) approving bidding procedures in connection with the sale of the Equity Interests, (ii) approving the form and manner of notice, (iii) scheduling an auction and sale hearing, and (iv) granting related relief; and (b) an order (i) approving the Purchase and Sale Agreement (together with all exhibits and schedules thereto, the “**Stalking Horse Agreement**”), between the respective Sellers, as sellers, and NRG Renew, LLC, as buyer (collectively, the “**Stalking Horse Buyer**”), a copy of which was filed with the Bankruptcy Court on August 9, 2016, (ii) approving bid protections in favor of the Stalking Horse Buyer, (iii) authorizing the sale of the Equity Interests free and clear of liens, claims, and encumbrances (other than those permitted by the Stalking Horse Agreement or the Bidder Agreement (as defined below) of the Prevailing Purchaser (as defined below), as applicable), and (iv) granting related relief (the “**Motion**”). Capitalized terms used but not otherwise defined herein shall have the meanings ascribed them in the Motion and/or the Sale Procedures Order, as applicable.

Any party desiring to obtain a copy of the Motion, the Stalking Horse Agreement, the Bidding Procedures, and/or the Sale Procedures Order, in addition to any related motions that may be filed, may do so by accessing the website of the Debtors’ claims and noticing agent, Prime Clerk, at <https://cases.primeclerk.com/sunedison>, or the Bankruptcy Court’s internet site <http://www.nysb.uscourts.gov>, for a fee, through an account obtained from the PACER website at <http://pacer.psc.uscourts.gov>. The documents may also be obtained by contacting counsel to the Debtors, Skadden, Arps, Slate, Meagher & Flom LLP, Four Times Square, New York, NY 10036, Attn: J. Eric Ivester, Shana Elberg.

The Debtors provide these Bidding Procedures, whereby prospective bidders may qualify for and participate in the Auction, to allow interested parties to compete to make the highest or otherwise best offer for the Equity Interests or any portion thereof.

1. Confidentiality Agreements

Upon execution of a confidentiality agreement, in form and substance satisfactory to the Debtors, any qualified party that wishes to conduct due diligence on any of the Equity Interests may be granted access to information that has been or will be provided to the other bidders subject to these Bidding Procedures and the Sale Procedures Order. For a party to be considered a “qualified party,” such party must demonstrate, in the Debtors’ judgment, that such party has the ability (including, without limitation from a financial and regulatory approval perspective) to close promptly on the Qualifying Sale following the Bankruptcy Court’s approval of such party’s Qualified Bid (excluding any third party consents and/or regulatory approvals). Additionally, the “material information” to be provided to such qualified parties will be information that the Debtors believe is appropriate in light of the Debtors’ need to protect their trade secrets and confidential research, development, and commercial information. For the avoidance of doubt, the Stalking Horse Buyer shall not be required to execute a confidentiality agreement or make any demonstration required under this Paragraph 1; provided, however, that all information (material and otherwise) made available to the Stalking Horse Buyer will be promptly made available to any qualified party that enters into a confidentiality agreement with the Debtors. Potential bidders may seek to jointly bid with other potential bidders (as further set forth below).

2. Assets to be Sold

All of the Equity Interests are available for sale. A party who is interested in purchasing the Equity Interests in any of the Project Companies may submit a bid to purchase:

- A. All Equity Interests in the Project Companies set forth on Exhibit A hereto (the “**Stalking Horse Package**”);
- B. the Equity Interests in the Project Companies set forth on Exhibit B-1 hereto (the “**Utah Group Companies Package**”);
- C. the Equity Interests in the Project Companies set forth on Exhibit B-2 hereto (the “**Hawaii Group Companies Package**”);
- D. the Equity Interests in the Project Companies set forth on Exhibit B-3 hereto (the “**Buckthorn Group Companies Package**” and, together with the Utah Group Companies Package and the Hawaii Group Companies Package, the “**Packages**”); or
- E. two or more of the Utah Group Companies Package, the Hawaii Group Companies Package or the Buckthorn Group Companies Package.

3. Due Diligence from Bidders

Each party expressing an interest in any of the Stalking Horse Package and/or Package(s) shall comply with all reasonable requests for additional information by the Debtors regarding such party and its contemplated transaction. Failure by a party to comply with such reasonable requests for additional information and due diligence access may be a basis for the Debtors, in

consultation with the Committee<sup>1</sup> and DIP Lenders<sup>2</sup>, to determine that such bidder is not a Qualified Bidder (as defined below).

By submitting a bid, each bidder (including the Stalking Horse Buyer) shall be deemed to acknowledge and represent that it has had an opportunity to conduct due diligence on the Equity Interests prior to making its bid; that it has relied solely upon its own independent due diligence in making its bid; and that it did not rely upon any written or oral statement, representations, promises, warranties, or guaranties whatsoever, whether express, implied, by operation of law, or otherwise, regarding the Debtors, the Equity Interests or the completeness of any information provided in connection therewith.

4. Determination of “Qualified Bidder” Status

To participate in the bidding process for any of the Equity Interests and be deemed a “**Qualified Bidder**,” each potential bidder (or group acting together as a bidder to the extent permitted hereunder and under the Sale Procedures Order), other than the Stalking Horse Buyer, must deliver to (a) the Debtors, 179 Lincoln Street, Suite 500, Boston, MA 02111, Attn: Brian Kirk; (b) counsel for the Debtors, Skadden, Arps, Slate, Meagher & Flom LLP, Four Times Square, New York, NY 10036, Attn: J. Eric Ivester, Shana Elberg and Skadden, Arps, Slate, Meagher & Flom LLP, 920 N. King Street, Wilmington, DE 19801, Attn: Sarah E. Pierce; (c) financial advisor to the Debtors, Rothschild Inc., 1251 Avenue of the Americas, 33rd floor, New York, NY 10020, Attn: Simon Pratt; (d) counsel for the statutory committee of unsecured creditors appointed in the Chapter 11 Cases (the “**Committee**”), Weil, Gotshal & Manges, LLP, 767 Fifth Avenue, New York, NY 10153, Attn: Gavin Westerman and Jill Frizzley; and (e) counsel for the DIP Agent and DIP Arrangers, White & Case LLP, 1155 Avenue of the Americas, New York, NY 10036, Attn: Scott Greissman and Elizabeth Feld, and counsel for the Tranche B Lenders, Akin, Gump, Strauss, Hauer & Feld, LLP, One Bryant Park, New York, NY 10036, Attn: Arik Preis and Naomi Moss; a written offer, **so as to be received by no later than September 6, 2016 at 4:00 p.m. (EST)** (the “**Bid Deadline**”), that:

- (a) states that such bidder offers to purchase all or some portion of the Equity Interests, with a specific indication of which Packages are subject to the bid;

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<sup>1</sup> All references to the “Committee” shall be to the legal and financial advisors to the Official Committee of Unsecured Creditors. Such legal and financial advisors shall treat information received pursuant to these Bidding Procedures as “highly confidential” pursuant to any and all applicable non-disclosure and confidentiality agreements, and shall receive and review such information on an “advisors’ eyes only” basis, unless otherwise agreed to by the Committee and the Sellers.

<sup>2</sup> Except as otherwise expressly provided herein, all references herein to the “**DIP Lenders**” shall be to the legal and financial advisors to the DIP Agent and DIP Arrangers (as defined in the DIP Financing Order (defined below)) and the legal and financial advisors to the Tranche B Lenders (as defined in the DIP Credit Agreement (defined below)). Such legal and financial advisors shall treat information received pursuant to these Bidding Procedures as “highly confidential” pursuant to any and all applicable non-disclosure and confidentiality agreements, and shall receive and review such information on an “advisors’ eyes only” basis, unless otherwise agreed to by the DIP Lenders and the Sellers.

- (b) includes executed transaction documents, including a definitive purchase agreement and all schedules and exhibits thereto (substantially in the same detail as those attached to the Stalking Horse Agreement filed with the Bankruptcy Court on August 9, 2016), signed by an authorized representative of such bidder, pursuant to which such bidder proposes to effectuate an alternate transaction that still qualifies as a Qualifying Sale (which may, as indicated elsewhere in these procedures, only be an offer for one or more of the Packages) (the “**Bidder Agreement**”), and such Bidder Agreement shall also include a copy of the Bidder Agreement marked against the Stalking Horse Agreement to show all changes requested by such bidder (including those related to the consideration to be paid for the Stalking Horse Package or any of the Packages);
- (c) proposes a purchase price (which consideration may consist of cash or otherwise, in the discretion of the Debtors, after consultation with the Committee and the DIP Lenders) that is a higher and/or better offer for the Stalking Horse Package and/or the particular Package(s) (as compared to the offer of the Stalking Horse Buyer, which may, but does not have to be, considered and measured on an aggregate basis with unrelated bids); provided, however, that an offer shall not be considered a higher and/or better offer unless such offer proposes a purchase price that is equal to or greater than:
- (i) the Purchase Price (as defined in Stalking Horse Agreement) set forth in the Stalking Horse Agreement (unless such bid is only for a particular Package or Packages, in which case such price need only be greater than the price allocated by the Debtors to such Package(s) in the Stalking Horse Buyer’s bid), *plus*
  - (ii) a break-up fee equal to \$5,500,000 as set forth in the Stalking Horse Agreement (the “**Break-Up Fee**”), *plus*
  - (iii) cash equal to the reasonable and documented out-of-pocket costs, fees, and expenses incurred or to be incurred by the Stalking Horse Buyer or its affiliates in connection with evaluating, diligencing, negotiating, documenting, and performing the transactions contemplated by the Stalking Horse Agreement or any predecessor agreements in respect of the transactions set forth in the Stalking Horse Agreement (including reasonable fees, costs, and expenses of any professionals (including financial advisors, outside legal counsel, accountants, experts, and consultants) retained by Stalking Horse Buyer, including its affiliates, in connection with or related to the authorization, preparation, investigation, negotiation, execution, and performance of the Stalking Horse Agreement or any predecessor agreements in respect of the transactions set forth in the Stalking Horse Agreement and the transactions contemplated thereby), which total cash amount, in the aggregate, shall not exceed \$4,500,000 (collectively, the “**Reimbursable Expenses**”),



provided, however, that any purchase price not paid in cash at the closing may be discounted in the Debtors' discretion, after consultation with the Committee and the DIP Lenders;

provided, however that, solely for purposes of evaluating bids from potential Qualified Bidder(s) for bids for less than the Stalking Horse Package (i.e., bids for one or two Packages), the Break-Up Fee and Reimbursable Expenses to be included in any such bid shall be apportioned as follows: (a) bids for the Utah Group Companies Package shall include an amount sufficient to cover 61% of (x) the Break-Up Fee (i.e., \$3,355,000) and (y) Reimbursable Expenses (i.e., \$2,745,000); (b) bids for the Hawaii Group Companies Package shall include an amount sufficient to cover 34% of (x) the Break-Up Fee (i.e., \$1,870,000) and (y) Reimbursable Expenses (i.e., \$1,530,000); and (c) bids for the Buckthorn Group Companies Package shall include an amount sufficient to cover 5% of (x) the Break-Up Fee (i.e., \$275,000) and (y) Reimbursable Expenses (i.e., \$225,000) ((a), (b) and (c) together, the "**Package(s) Bid Allocation**"); provided further, however that, for the avoidance of doubt, the Package(s) Bid Allocation and/or the Partial Package(s) Bid Allocation (as defined below) shall apply solely for the evaluation of Qualified Bids and Overbids and shall apply only if otherwise Qualified Bids are received for each of the Utah Group Companies Package, the Hawaii Group Companies Package and the Buckthorn Companies Package, as applicable. Qualified Bidder(s) submitting bids for less than the Stalking Horse Package (i.e., bids for one or two Packages) shall confirm in such written bids that, in the event that (x) Qualified Bid(s) are received for only one Package, their bid shall be deemed to include the full amounts of the Break-Up Fee and Reimbursable Expenses without a Package(s) Bid Allocation of the same and (y) Qualified Bid(s) are received for only two Packages, their bid shall be deemed to include an amount sufficient to cover 50% of the Break-Up Fee and Expense Reimbursement ((y), the "**Partial Package(s) Bid Allocation**"). For the further avoidance of doubt, application of the Package(s) Bid Allocation and/or the Partial Package(s) Bid Allocation applies solely to the evaluation of bids, and application of the Package(s) Bid Allocation and/or the Partial Package(s) Bid Allocation does not in any way alter the Stalking Horse Buyer's entitlement to the full amount of the Break-Up Fee and Reimbursable Expenses under the terms of and consistent with the Stalking Horse Agreement and the Bid Procedures Order.

- (d) is irrevocable until and unless the Debtors accept a higher or otherwise better Qualified Bid and the bidder is not selected as a Back-Up Bidder (as defined below);
- (e) does not request any expense reimbursement, break-up fee, "topping," termination, contribution, or other similar fee or payment;

- (f) provides for replacement letters of credit required for development of the projects owned by the Project Companies;
- (g) contains such financial and other information that will allow the Debtors to make a determination as to the bidder's financial and other capabilities to consummate the transactions contemplated by the Bidder Agreement and these Bidding Procedures, which information shall be satisfactory to the Debtors (in consultation with the Committee), including (but not limited to) contact names and numbers for verification of financing sources;
- (h) contains such information requested by the Debtors, regarding the identity of each entity that will be bidding for any of the Stalking Horse Package and/or Package(s) or otherwise participating in connection with such bid, and the complete terms of any such participation, which information is satisfactory to the Debtors (in consultation with the Committee);
- (i) includes evidence of authorization and approval from the bidder's board of directors (or comparable governing body) with respect to the submission, execution, delivery, and closing of the Bidder Agreement, and financing agreements and any other ancillary documents or agreements, which evidence is satisfactory to the Debtors;
- (j) includes covenants and conditions commercially reasonable for a transaction of this type and acceptable to the Debtors (in consultation with the Committee and the DIP Lenders), but under no circumstances shall a bid be conditioned on the obtaining or the sufficiency of financing or any internal or credit committee approval, syndication requirements, or on the outcome or review of due diligence, but may be subject to the accuracy at the closing of specified representations and warranties or the satisfaction at the closing of specified conditions, all of such shall be specifically set forth in the Bidder Agreement; and
- (k) is accompanied by a good faith cash deposit in an amount no less than 10% of the purchase price set forth in the Bidder Agreement, which shall be deposited in an escrow account to be established by the Debtors subject to a customary escrow agreement satisfactory to the Debtors, and which shall be credited against the purchase price.

By submitting a bid, a bidder (other than the Stalking Horse Buyer) shall be deemed to waive the right to assert or seek payment of any "break-up" fee, expense reimbursement, or other post-filing claim, including administrative expense claims, and to the extent otherwise applicable, a substantial contribution claim under section 503 of the Bankruptcy Code, with respect to its bid or the marketing or auction process. Upon the Stalking Horse Buyer's indefeasible receipt of payment of the Break-Up Fee and Reimbursable Expenses, the Stalking Horse Buyer, in its capacity as such, shall be deemed to waive the right to assert or seek payment of any post-filing claim including administrative expense claims, and to the extent otherwise applicable, a substantial contribution claim under section 503 of the Bankruptcy Code, with respect to its bid or the marketing or auction process.

A competing bid meeting the above requirements (all of which information shall be shared with the Committee and the DIP Lenders), as may be supplemented or waived by the Debtors, in consultation with the Committee and the DIP Lenders, shall constitute a “**Qualified Bid**.” Subject to the other terms and conditions set forth herein, the Debtors shall make a determination, in consultation with the Committee and the DIP Lenders, regarding whether a bid is a Qualified Bid and shall notify all bidders before the Auction whether their bids have been determined to be Qualified Bids. Notwithstanding anything herein to the contrary, the Stalking Horse Buyer shall constitute a Qualified Bidder and the Stalking Horse Agreement (including any Overbid (as defined below) made in connection therewith) shall constitute a Qualified Bid for all purposes.

Under no circumstances will the Stalking Horse Buyer (or any other bidder) be permitted to review any bids of other bidders, except for the Auction Baseline Bid (as defined below), the terms of any Overbid (as defined below) made at the Auction, and any other bids the Debtors determine to disclose to all Qualified Bidders in connection with the Auction. In any case, the Debtors shall notify the Stalking Horse Buyer within twenty-four hours of the Bid Deadline whether any other Qualified Bids were received.

5. Modifications of Qualified Bids Prior to Auction

Between the date that the Debtors notify a bidder that it is a Qualified Bidder and the Auction, the Debtors may discuss, negotiate, or seek clarification of any Qualified Bid from a Qualified Bidder. Without the written consent of the Debtors (upon consultation with the Committee and the DIP Lenders), a Qualified Bidder may not modify, amend, or withdraw its Qualified Bid, except for proposed amendments to increase the consideration contemplated by, or otherwise improve the terms of, the Qualified Bid, during the period of time such Qualified Bid remains binding as specified herein; provided that any Qualified Bid may be improved at the Auction as set forth herein.

6. Auction Baseline Bid / No Qualified Bids

On or prior to 4:00 p.m. (EST) one (1) business day before the Auction, the Debtors shall make a determination regarding, and provide each Qualified Bidder, the Committee and the DIP Lender notice of, the terms of:

- A. the Package or Packages to be auctioned by the Debtors, including a Stalking Horse Package, to be auctioned by the Debtors (each, an “**Auction Package**”); *provided* that an Auction Package for a Stalking Horse Package may not include less than all of the Equity Interests for Project Companies listed on Exhibit A hereto;
- B. the Package(s) or Stalking Horse Package included in an Auction Package;
- C. the highest or otherwise best Qualified Bid or Qualified Bids for each Auction Package (each, an “**Auction Baseline Bid**”) and such bidder or group of bidders, a “**Baseline Bidder**”) to serve as the starting point at the Auction for such Auction Package;

- D. which Bids have been determined to be Qualified Bids and the Auction applicable to such Qualified Bid (provided that the Debtors may permit a Qualified Bidder to bid on any other Auction Package).

If no Qualified Bids (other than the Stalking Horse Agreement) are submitted by the Bid Deadline, the Debtors shall not hold an Auction and shall proceed to obtain Bankruptcy Court approval of the Stalking Horse Agreement as the Prevailing Bid (as defined below) and to consummate the Stalking Horse Agreement in accordance with its terms.

7. Auction

In the event that the Debtors (in consultation with the Committee and the DIP Lenders) determine that they have received more than one Qualified Bid, the Debtors are authorized to conduct an Auction. Other than as expressly set forth herein, the Debtors may conduct an Auction in the manner they determine, in consultation with the Committee and the DIP Lenders, will result in the highest or otherwise best offer for the Equity Interests. The Auction shall be held on September 9, 2016 at 10:00 a.m. (EST), at the offices of Skadden, Arps, Slate, Meagher & Flom LLP, Four Times Square, New York, NY 10036, or such other location and time as shall be timely communicated to all entities entitled to attend the Auction. The Debtors, the Qualified Bidders, the Committee, the DIP Agent, the DIP Lenders (as defined in the DIP Financing Order), and their respective advisors shall be permitted to attend the Auction.

An “**Overbid**” is any Qualified Bid made by a Qualified Bidder at the Auction on any Auction Package, subsequent to the Debtors’ announcement of the Auction Baseline Bid(s). To submit an Overbid at the Auction, a Qualified Bidder must comply with the following conditions:

- (a) any Overbid over and above the applicable Auction Baseline Bid shall be made in increments valued at not less than 2% of the applicable Auction Baseline Bid or then highest or otherwise best Overbid, as applicable;
- (b) the Stalking Horse Buyer (or its designee(s)) shall be permitted to bid at the Auction;
- (c) any Overbid shall remain open and binding on the Qualified Bidder until and unless (a) the Debtors accept as an Overbid a higher Qualified Bid for some or all of the Auction Packages that are the subject of the Overbid referred to in the sentence preceding this sub-clause (a), and (b) such Overbid is not selected as a Back-Up Bid (as defined below); and
- (d) to the extent not previously provided, a Qualified Bidder submitting an Overbid must submit, as part of its Overbid, evidence demonstrating such Qualified Bidder’s ability (including without limitation from a financial perspective) to close the transactions proposed by such Overbid promptly following the Bankruptcy Court’s approval of the Prevailing Bid (excluding any required FERC approvals, provided such FERC approvals are reasonably expected to be obtained within ninety (90) days following the Bid Deadline).

In addition to complying with the above requirements, the Auction shall be governed by the following procedures:

- (i) the Auction will be conducted openly by the Debtors, and only the Qualified Bidders and their respective advisors shall be entitled to make any subsequent Qualified Bids at the Auction;
- (ii) each Qualified Bidder shall be required to represent that it has not engaged in any collusion with respect to the bidding or the sale (provided, however, that for the avoidance of doubt, Qualified Bidders are permitted to submit joint bids, with the consent of the Debtors);
- (iii) the Qualified Bidders shall appear in person at the Auction, through a duly authorized representative, or as otherwise agreed to by the Debtors;
- (iv) the bidding shall commence and proceed as determined by the Debtors, in consultation with the Committee and the DIP Lenders;
- (v) the bidding at the Auction shall be transcribed or videotaped, at the Debtors' election;
- (vi) all Qualified Bidders shall have the right to submit additional Qualified Bids and propose additional modifications to the Stalking Horse Agreement or the Bidder Agreement, as applicable, at the Auction; provided that (a) any such modifications to the Stalking Horse Agreement or Bidder Agreement, must comply with these Bidding Procedures and the Sale Procedures Order, and, on an aggregate basis and viewed in whole, shall not be less favorable to the Debtors than such Qualified Bidder's previous bid in the Debtors' discretion (in consultation with the Committee and the DIP Lenders) and (b) for the avoidance of doubt, any such additional or modified bid must meet the requirements of a Qualified Bid;
- (vii) in each round of bidding, the Debtor shall account for the full amount of (i) the Reimbursable Expenses and (ii) the Break-Up Fee owed to the Stalking Horse Buyer when determining the net value of Qualified Bids to the Debtors' estates;
- (viii) any Auction shall continue until the Debtors determine, in consultation with the Committee and the DIP Lenders, that a Qualified Bid or an Overbid, or a set of Qualified Bids or Overbids, as applicable, is the highest or otherwise best offer from among the Qualified Bids (including Overbids and the bid of the Stalking Horse Buyer) (the "**Prevailing Bid**," and the party or parties that submitted such Prevailing Bid, the "**Prevailing Purchaser**")<sup>3</sup>, which shall be subject to Bankruptcy Court approval;

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<sup>3</sup> The Prevailing Bid and the Prevailing Purchaser may be more than one bidder if each is bidding on separate Packages that together form the Prevailing Bid.

- (ix) in selecting the Prevailing Bid, the Debtors, in consultation with the Committee and the DIP Lenders, may consider all factors, including the amount of the purchase price, the form and total amount of consideration being offered, the likelihood of each Qualified Bidder's or Qualified Bidders' ability to close a transaction and the timing thereof, the form and substance of the purchase agreement requested by each Qualified Bidder, and the net benefit to the Debtors' estates;.
- (x) the Debtors shall have the ability to decide, at any point (upon consultation with the Committee and the DIP Lenders), that bids may be aggregated, joined, disjoined, or otherwise separated; and
- (xi) the Debtors shall have the ability to decide, at any point (upon consultation with the Committee and the DIP Lenders), that they are not selling any or all of the Packages, or removing certain Packages (or portions thereof) from the Auction and only selling others.

8. Sale Hearing

The Prevailing Bid will be subject to approval by the Bankruptcy Court. The hearing to approve the sale of the Auction Package(s) to the Prevailing Purchaser (the "**Sale Hearing**") is scheduled to take place on **September 15, 2016 at 10:00 a.m. (EST)** before the Honorable Stuart M. Bernstein, at the United States Bankruptcy Court for the Southern District of New York, One Bowling Green, New York, NY 10004, or at such times thereafter as counsel may be heard. The Sale Hearing may be adjourned from time to time by the Debtors (in consultation with the Committee and the DIP Lenders) without further notice to any other party in interest other than by announcement of the adjournment in open court on the date scheduled for the Sale Hearing or a notice filed with the Bankruptcy Court.

9. Failure to Consummate Purchase by the Prevailing Purchaser

If an Auction is conducted, the party with the Qualified Bid or Overbid that is next highest or otherwise best to the Prevailing Bid at the Auction, as determined by the Debtors in consultation with the Committee and the DIP Lenders, shall be required to serve as a back-up bidder (a "**Back-Up Bid**" and a "**Back-Up Bidder**," respectively)<sup>4</sup> and keep such bid open and irrevocable until 11:59 p.m. (EST) on the date that is the earlier of (a) thirty (30) days after the date of the Sale Hearing, and (b) the closing of the sale transaction with the Prevailing Purchaser; provided, however, that without its prior written consent the Stalking Horse Buyer shall not be required to be the Back-Up Bidder for more than 14 days following the commencement of the Auction.

Following the Sale Hearing, if the Prevailing Purchaser fails to consummate a sale in accordance with the Prevailing Bid because of a breach or failure to perform on the part of such

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<sup>4</sup> The Back-Up Bid and Back-Up Bidder may be more than one bidder if each is bidding on separate Packages that together form the Back-Up Bid.

Prevailing Purchaser, the Debtors (in consultation with the Committee and the DIP Lenders) are authorized to deem a Back-Up Bidder to be the new “Prevailing Purchaser,” and the Debtors will be authorized, but not required, to consummate a sale with a Back-Up Bidder as contemplated by a Back-Up Bid without further order of the Bankruptcy Court. In such case, (a) the defaulting Prevailing Purchaser’s deposit, if any, shall be forfeited to the Debtors, and (b) all parties in interest, and the Debtors specifically, reserve the right to seek all available damages from the defaulting Prevailing Purchaser.

Except as otherwise provided herein, all deposits shall be returned to each bidder not selected by the Debtors as the Prevailing Purchaser or a Back-Up Bidder by no later than the fifth (5<sup>th</sup>) business day following the conclusion of the Auction. The deposit of a Back-Up Bidder shall be held by the Debtors until the earliest of two (2) business days after (a) forty-five (45) days after the date of the Sale Hearing; (b) such date upon which the Debtors, in consultation with the Committee and the DIP Lenders, will notify a Back-Up Bidder, and (c) the closing of the sale transaction with the Prevailing Purchaser. The Debtors shall not be required to pay any interest to bidders on any such deposits.

10. Status of Stalking Horse Agreement

Notwithstanding anything in these Bidding Procedures to the contrary, the Stalking Horse Agreement and related transaction documents shall remain in full force and effect until such agreements have terminated in accordance with their respective terms.

11. Consultation Rights

For the avoidance of doubt, the granting of consultation rights to the Committee and DIP Lenders shall not impair or otherwise affect the rights of such Committee or DIP Lenders to object to the decisions or actions of the Debtors and their advisors made in connection with these Bidding Procedures.

Notwithstanding anything to the contrary herein, all rights, claims, interests, benefits, and other protections of the lenders and, as applicable, their respective affiliates, assignees, designees, or partners in their capacities as “DIP Secured Parties” under (a) and as defined in, the Final Order (I) Authorizing Debtors to (A) Obtain Senior Secured, Superpriority, Postpetition Financing Pursuant to Bankruptcy Code Sections 105, 361, 362, 364(c)(1), 364(c)(2), 364(c)(3), 364(d)(1), and 364(e) and (B) Utilize Cash Collateral Pursuant to Bankruptcy Code Section 363, and (II) Granting Adequate Protection to Prepetition Secured Parties Pursuant to Bankruptcy Code Sections 361, 363, 363 and 364 entered by the Bankruptcy Court on June 9, 2016 [Docket No. 523] (together with all annexes, schedules, and exhibits thereto, the “**DIP Financing Order**”), and under (b) the Senior Secured Superpriority Debtor-in-Possession Credit Agreement, dated as of April 26, 2016, among SunEdison, Inc., as Borrower, Deutsche Bank AG New York Branch, as Administrative Agent, Deutsche Bank Securities Inc., Barclays Bank PLC, Apollo Credit Opportunity Fund III AIV I LP, Goldman Sachs Bank USA and Macquarie Capital (USA) Inc., as Joint Lead Arrangers and Joint Bookrunners, Wells Fargo Bank, National Association, Royal Bank of Canada, and KeyBank National Association, as L/C Issuers, and the lenders from time to time party thereto (as amended, restated, supplemented or otherwise modified from time to time, the “**DIP Credit Agreement**”) and the other DIP Loan Documents

(as defined in the DIP Financing Order), (c) the Bankruptcy Code, and (d) other applicable law, in each case, shall be fully preserved and not limited or otherwise impaired in any respect by these Bidding Procedures.

12. Reservation of Rights; Consent to Jurisdiction

Notwithstanding anything to the contrary in these Bidding Procedures, the Debtors reserve their rights, as they may determine to be in the best interest of their estates and in the exercise of their fiduciary obligations, to: (a) after consultation with the respective representatives and advisors for the DIP Agent, Tranche B DIP Lenders and the Committee, modify the Bidding Procedures or impose, at or prior to the Auction, different and/or additional terms and conditions on the sale of the Auction Packages, (b) announce at the Auction additional procedural rules that are reasonable under the circumstances for conducting the Auction and which additional procedural rules shall only apply from and after such announcement, (c) determine which bidders are Qualified Bidders, (d) determine which bids qualify as Qualified Bids and Overbids, (e) determine whether to accept any Qualified Bid or Overbid (other than the Stalking Horse Agreement) (f) determine which Qualified Bid is the highest or otherwise best proposal and which is the next highest or otherwise best proposal, (g) reject any bid that is (i) inadequate or insufficient, (ii) not in conformity with the requirements of the Bidding Procedures, the Sale Procedures Order or the requirements of the Bankruptcy Code, or (iii) contrary to the best interests of the Debtors and their estates, (h) waive terms and conditions set forth herein with respect to all potential bidders, and (i) extend the deadlines set forth herein; provided, however, that (i) nothing in these Bidding Procedures shall, or shall be construed to, in any way amend, impair, alter or otherwise modify the terms of the Stalking Horse Agreement (as may be modified by any Overbid) or the Stalking Horse Buyer's rights thereunder; and (ii) without the prior written consent of the Stalking Horse Buyer, the Debtors shall not modify, or waive compliance (or accept non-compliance) with, any of the following: (A) subsections (b), (c) or (k) of the requirements of a Qualified Bid specified herein; (B) subsection (b) of the requirements of an Overbid specified herein; ~~(C) the right of the Stalking Horse Buyer to credit bid up to the full amount of the Break-Up Fee and Reimbursable Expenses;~~ (D) the right of the Stalking Horse Buyer to not be the Back-Up Bidder for more than 14 days following the commencement of the Auction without its prior written consent; or (E) this clause (ii) or the immediately preceding clause (i).[SMB: 8/19/16]

The Stalking Horse Buyer, all Qualified Bidders, and all bidders at the Auction shall be deemed to have consented to the core jurisdiction of the Bankruptcy Court to enter an order or orders, which shall be binding in all respects, in any way related to the Sellers and their assets, and have waived any right to a jury trial in connection with any disputes relating to the Sellers, the Chapter 11 Cases, the Bidding Procedures, the Stalking Horse Agreement, the Auction, or the construction and enforcement of the Stalking Horse Agreement or any Bidder Agreement.



**Exhibit A**

**Acquired Entity Interests**

100% of the membership and other equity interests in the following companies:

<b><u>Seller</u></b>	<b><u>Company</u></b>
SunE Wind Holdings, Inc.	Four Brothers Capital, LLC
	Iron Springs Capital, LLC
	Granite Mountain Capital, LLC
SunE Waiawa Holdings, LLC	SunE Waiawa Solar, LLC
First Wind California Holdings, LLC	California Jupiter, LLC
First Wind Solar Portfolio, LLC	Kawailoa Solar Holdings, LLC
	Welawela Land Holdings, LLC
Buckthorn Renewables Holdings, LLC	Buckthorn Renewables, LLC
SunE Hawaii Solar Holdings, LLC	SunE Oahu Solar Holdings, LLC

Somerset Wind Holdings, LLC	Somerset Wind, LLC
Rattlesnake Flat Holdings, LLC	Rattlesnake Flat, LLC
Greenmountain Wind Holdings, LLC	Greenmountain Wind, LLC

**Exhibit B-1**

**Utah Group Companies Package**

<b><u>Seller</u></b>	<b><u>Company</u></b>	<b><u>Purchase Price Allocation</u></b>	<b><u>Earnout Allocation</u></b>
SunE Wind Holdings, Inc.	Four Brothers Capital, LLC	\$ 111,200,000	\$13,794,000
	Iron Springs Capital, LLC		
	Granite Mountain Capital, LLC		
First Wind California Holdings, LLC	California Jupiter, LLC		
Somerset Wind Holdings, LLC	Somerset Wind, LLC		
Rattlesnake Flat Holdings, LLC	Rattlesnake Flat, LLC		
Greenmountain Wind Holdings, LLC	Greenmountain Wind, LLC		

**Exhibit B-2**

**Hawaii Group Companies Package**

<b><u>Seller</u></b>	<b><u>Company</u></b>	<b><u>Purchase Price Allocation</u></b>	<b><u>Earnout Allocation</u></b>
SunE Waiawa Holdings, LLC	SunE Waiawa Solar, LLC	\$17,000,000	\$30,000,000
First Wind Solar Portfolio, LLC	Kawailoa Solar Holdings, LLC		
	Welawela Land Holdings, LLC		
SunE Hawaii Solar Holdings, LLC	SunE Oahu Solar Holdings, LLC		

**Exhibit B-3**

**Buckthorn Group Companies Package**

<b><u>Seller</u></b>	<b><u>Company</u></b>	<b><u>Purchase Price Allocation</u></b>
Buckthorn Renewables Holdings, LLC	Buckthorn Renewables, LLC	\$15,800,000