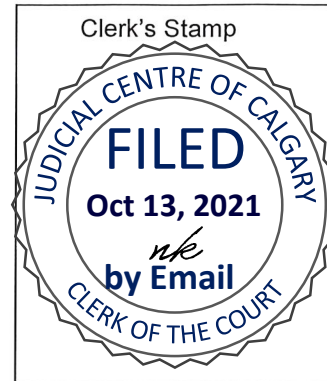




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COURT FILE NO. 2101 02279  
25-095231

Justice Johnston  
COM  
Oct 22, 2021



COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

IN THE MATTER OF THE RECEIVERSHIP OF ALTER NRG CORP.

DOCUMENT **SECOND REPORT OF MNP LTD., COURT APPOINTED RECEIVER**

ADDRESS FOR  
SERVICE AND  
CONTACT  
INFORMATION OF  
PARTY FILING  
THIS DOCUMENT

COUNSEL  
MLT AIKINS LLP  
2100 Livingston Place  
CALGARY, AB T2P 0B4

ATTN: Ryan Zahara  
TEL: 403.693.5420  
EMAIL: rzahara@maitaikins.com

RECEIVER  
MNP LTD.  
1500, 640 – 5 AVENUE SW  
CALGARY, AB T2P 3G4

ATTN: VICTOR P. KROEGER  
TEL: 403.298.8479  
EMAIL: vic.kroeger@mnp.ca

## APPENDICES

Appendix A	Sales and Solicitation Process (“SSP”)
Appendix B	Redacted Form of the Offer to Purchase between the Receiver and SkyFuel Inc.
Appendix C	Proposed Proof of Claim Form

## INTRODUCTION AND BACKGROUND

1. On April 29, 2021 (the "**Filing Date**"), on application by Aleksandr Gorodetsky, Bruce Leonard and Kenneth Willis, (collectively, the "**Applicants**") the Honourable Madam Justice K.M. Eidsvik made an Order (the "**Receivership Order**"), appointing MNP Ltd. (the "**Receiver**") as receiver of all the assets, undertakings and property (collectively, the "**Property**") of Alter NRG Corp. ("**Alter**", or the "**Company**") pursuant to the Alberta Civil Enforcement Act and the Alberta Judicature Act.
2. The Company is a body corporate pursuant to the laws of the Province of British Columbia and is extra-provincially registered in Alberta.
3. Alter was headquartered in Calgary, Alberta where it provided alternative energy solutions. The Company sold its Westinghouse Plasma Gasification Technology through a wholly owned subsidiary called Westinghouse Plasma Corp. The proprietary plasma gasification technology was used to convert biowaste into renewable energy solutions including liquid fuels, electrical power, and syngas. On March 27, 2015, the Company was acquired by Harvest International New Energy Co Ltd. ("**Harvest**") through its wholly owned subsidiary, 1030629 B.C. Ltd. Harvest is the wholly owned subsidiary of Sunshine Kaidi New Energy Group Co. Ltd. ("**Sunshine**")
4. Prior to the receivership the operations of Alter were being funded by Harvest and its ultimate parent company, Sunshine.
5. We understand that in 2019 Sunshine was having financial difficulty that resulted in defaults on its bonds. As a result, we are advised that Sunshine's bondholder imposed restrictions that prevented Sunshine from providing further funding to Harvest and/or to Alter.
6. As a result, the Company ceased operations on or around January 2020 and all employees were terminated prior to the receivership proceedings.
7. The Applicants commenced legal proceedings to recover amounts due and owing to them and obtained a Judgement and Writ of Enforcement against Alter.
8. The Applicants and Harvest/Sunshine agreed that a receivership of Alter would provide the best and most transparent method to realize on the Property.
9. This is the Receiver's Second report (the "**Second Report**") to the Court of Queen's Bench of Alberta (the "**Court**").
10. All references to currency are in Canadian dollars unless otherwise stated.
11. A copy of the Second Report and other relevant documents in the Company's restructuring proceedings will also be available on the Receiver's website at <https://mnpdebt.ca/en/corporate/corporate-engagements/alter-nrg-corp>.

## REPORT LIMITATIONS

In preparing the Second Report and making comments herein, the Receiver has relied upon, certain unaudited, draft or internal financial information, including the Company's books and records, and information from other third-party sources (collectively, the "**Information**"). The Receiver has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the Information in a manner that

would wholly or partially comply with generally accepted assurance standards or other standards established by the Chartered Professional Accountants of Canada (the “**Standards**”).

12. Additionally, none of the Receiver’s procedures were intended to disclose defalcations or other irregularities. If the Receiver were to perform additional procedures or to undertake an audit examination of the Information in accordance with the Standards, additional matters may have come to the Receiver’s attention. Accordingly, the Receiver does not express an opinion, nor does it provide any other form of assurance on the financial or other information presented herein. The Receiver may refine or alter its observations as further information is obtained or brought to its attention after the date of the Second Report.
13. The Receiver assumes no responsibility or liability for any loss or damage occasioned by any party as a result of the circulation, publication, reproduction, or use of the Second Report. Any use, made by any party of the Second Report, or any reliance or decision to be made based on the Second Report by any party, is the sole responsibility of such party.

#### **PURPOSE OF THE SECOND REPORT**

14. The purpose of the Second Report is to provide this Honourable Court with information on the activities of the Receiver since First Report of the Receiver dated July 5, 2021 (the “**First Report**”) and to seek an Order granting the following:
  - a. Approval of the reported actions of the Receiver to date in administering the receivership provided that only the Receiver, in its personal capacity and with respect to its own personal liability, shall be entitled to rely upon or utilize in any way such approvals;
  - b. Approving the sale of the Property to Harvest through its 100% owned subsidiary, SkyFuel Inc. (the “**Purchaser**”); and
  - c. Approval of a claims process.

#### **ACTIVITIES OF THE RECEIVER**

15. The Receiver’s activities since the First Report, are summarized below:
  - a. Corresponded with Alter’s former executives to gather information about Alter’s assets and liabilities;
  - b. Responded to creditor/stakeholder inquiries;
  - c. Maintained a virtual data room (the “**Data Room**”) for the SSP;
  - d. Responded to inquiries from parties interested in the Property;
  - e. Granted access to the Data Room for prospective purchasers following completion of confidentiality and non-disclosure agreements;
  - f. Corresponded with legal counsel for Harvest and Sunshine and the Applicants;
  - g. Reviewed supporting documentation provided from Harvest regarding the quantum and validity of its debt claim against Alter;
  - h. Dealt with potential purchasers;

- i. Finalized an asset purchase agreement with the Purchaser; and
- j. Maintained the Receiver's website.

#### **SALES PROCESS UNDERTAKEN AND PROPOSED SALE**

16. The Receiver prepared a SSP and related Confidential Information Memorandum ("**CIM**"). Potential purchasers were provided access to the CIM following the signing of a confidentiality agreement. The SSP was approved by an Order from the Court dated July 16, 2021. A copy of the SSP is attached as Appendix A of this report and a copy of the CIM is attached to the Confidential Supplement to the Second Report (the "**Confidential Supplement**") as Appendix D.
17. The Receiver carried out various marketing and advertising activities in relation to the proposed sale of the Property. Specifically, the Receiver:
  - a. Placed and online posting of the teaser on MNP's national website;
  - b. Advertised in Insolvency Insider, a national weekly insolvency newsletter, beginning on July 20, 2021;
  - c. Advertised in the Daily Oil Bulletin on July 22, 2021;
  - d. Posted the information to [www.patentauction.com](http://www.patentauction.com), an online patent auction site beginning on July 20, 2021;
  - e. Sent an email notification MNP LLP's cross Canada partners and managers advising of the SSP;
  - f. Sent the SSP to MNP LLP's international affiliation;
  - g. Sent the CIM to twenty-one parties who had signed non-disclosure agreements; and
  - h. Maintained and provided access to the virtual data room

#### **PROPOSED SALE**

18. The Receiver received four offers to purchase the Property. The detailed summary of offers is provided in the Confidential Supplement.
19. The highest and best offer was submitted by Harvest which included cash and credit bid components (the "**Harvest Offer**"). The Harvest Offer included a provision stating that the purchaser could be substituted with a Harvest affiliate. On September 17, 2021 Harvest notified the Receiver that it had elected to substitute the purchasing entity to Skyfuel Inc ("**Skyfuel**"). The Harvest Offer was accepted by the Receiver, subject to the Court's approval.
20. All other offers received were rejected.
21. A redacted copy of the form of Asset Purchase Agreement ("the "**APA**") (for purchase price and payment terms of the APA) is attached to the as Appendix "B". A signed copy of the APA will be provided in a supplemental report as soon as it is available.

22. The only remaining APA condition is the Receiver's condition that Court approval of this sale is required.
23. The Receiver is of the belief that it has sufficiently exposed the Property to the market and does not believe that further marketing efforts would result in a superior offer being received.

#### **SEALING OF THE CONFIDENTIAL REPORT**

24. The Confidential Report contains the details of the Offers and a copy of the unredacted APA, which discloses its commercial terms and includes confidential and commercially sensitive information (collectively, "**Confidential Details**"). The Receiver is seeking to seal the Confidential Report in order that the market for the Assets will be preserved such that the Receiver can sell the Property in the event that the APA is not completed as contemplated.

#### **CLAIM PROCESS**

25. The Receiver requests the establishment of a procedure for the processing of claims ("**Claims Process**"). The Claims Process will allow the Receiver to determine exactly the quantum of the claims with an interest in the proceeds of the proposed transaction and will allow the Receiver to distribute the proceeds accordingly.
26. The main components of the proposed claims process are described below:
  - a. The determination date for the claims will be April 29, 2021, being the date of the Receivership Order;
  - b. The deadline to submit a claim is December 15, 2021 (the "**Claims Bar Date**"); and
  - c. Each creditor wanting to submit a claim will need to fill out a proof of claim form. The proof of claim will need to include supporting documents and need to be transmitted to the Receiver so that the documents are received prior to the Claims Bar Date. A copy of the proposed proof of claim form is attached as Appendix C

#### **CONCLUSIONS AND RECOMMENDATIONS**

27. The Notice of Statement of Receiver reported that Alter's creditors are owed \$3,764,416. Subject to confirmation through the Claims Process, the Receiver anticipates that all of the creditor claims will be satisfied from the proceeds of the APA.
28. The Affidavit of Li Huijun sworn on March 29, 2021 outlines that the Alter patents and technology were licensed to a subsidiary of Sunshine to be used in China for a term of 15 years. The Receiver has not undertaken a review of the licensing agreement to ascertain whether or not it was a proper agreement. The Receiver would not be required to further investigate the details of the licensing agreement if the APA is approved.
29. Based on the foregoing, the Receiver respectfully recommends that this Honourable Court grant an Order:

- a. Approving the reported actions of the Receiver in administering these receivership proceedings provided that only the Receiver, in its personal capacity and with respect to its own personal liability, shall be entitled to rely upon or utilize in any way such approval;
- b. Approving the sale of the Property to Skyfuel;
- c. Sealing the Confidential Report to the Receiver's Second Report; and
- d. Approving the claims process.

All of which is respectfully submitted this 12<sup>th</sup> day of October 2021.

**MNP Ltd.** in its capacity as Receiver of Alter NRG  
Corp. and not in its personal capacity

Per: \_\_\_\_\_

Victor P. Kroeger CPA, CA, LIT, CIRP, CFE  
Senior Vice President

# **Appendix A**





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Clerk's Stamp:

COURT FILE NUMBER 2101-02279

COURT COURT OF QUEEN'S BENCH  
OF ALBERTA

JUDICIAL CENTRE CALGARY

MATTER IN THE MATTER OF THE RECEIVERSHIP OF ALTER NRG  
CORP.IN THE MATTER OF SECTION 85 OF THE *CIVIL*  
*ENFORCEMENT ACT*, RSA 2000, c C-15

-and-

IN THE MATTER OF SECTION 13(2) OF THE *JUDICATURE*  
*ACT*, RSA 2000, c J-2

APPLICANT MNP LTD.

DOCUMENT **ORDER**ADDRESS FOR  
SERVICE AND  
CONTACT  
INFORMATION OF  
PARTY FILING THIS  
DOCUMENT **MLT AIKINS LLP**  
2100 Livingston Place  
222 - 3rd Avenue S.W.  
Calgary, AB T2P 0B4Solicitors: Ryan Zahara  
Telephone: 403.693.5420  
Email: rzahara@mltaikins.com  
Fax Number: 403.508.4349  
File No.: 0021752.00047

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**DATE ON WHICH ORDER WAS PRONOUNCED: JULY 16, 2021****LOCATION OF HEARING OR TRIAL: CALGARY, ALBERTA****NAME OF JUDGE WHO MADE THIS ORDER: JUSTICE K.M. HORNER**

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**UPON THE APPLICATION** of MNP Ltd. filed July 5, 2021 (the "**Application**") in its capacity as the Court-appointed receiver (the "**Receiver**") of all of the current and future assets, undertaking, and properties of every nature and kind whatsoever, and wherever situate, including all proceeds thereof, of Alter NRG Corp. (the "**Debtor**"), for an Order approving the sale and solicitation process (the "**SSP**"); **AND UPON HAVING READ** the Application, the Receivership

Order granted by the Honourable Madam Justice K.M. Eidsvik on April 29, 2021 (the "**Receivership Order**"), the First Report of the Receiver dated July 5, 2021 (the "**First Report**"), and the Affidavit of Service of Joy Mutuku sworn July 15, 2021; **AND UPON IT** appearing that all interested and affected parties have been served with notice of the Application; **AND UPON HEARING** the submissions of counsel for the Receiver and all other interested parties present;

**IT IS HEREBY ORDERED AND DECLARED THAT:**

**SERVICE**

1. Service of notice of the Application and supporting materials is hereby declared to be good and sufficient, and no other person is required to have been served with notice of the Application, and time for service of the Application is abridged to that actually given.

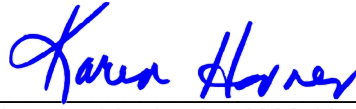
**APPROVAL OF THE RECEIVER'S ACTIVITIES**

2. The Receiver, as outlined in the First Report, has acted reasonably and in good faith during the administration of the receivership.

**SALES PROCESS APPROVAL**

3. The SSP is hereby approved and Receiver is hereby authorized and empowered to proceed, carry out, and implement the SSP and all corresponding sales, marketing, or tendering processes, including any and all actions related thereto, substantially in accordance with the SSP and, furthermore, the Debtor, by and through the Receiver, is hereby authorized to enter into any resulting agreement(s) or transaction(s) which may arise in connection thereto, as the Receiver determines are necessary or advisable in connection with or in order to complete any or all of the various steps, as contemplated by the SSP.
4. The Receiver and any interested person is hereby authorized and empowered to apply to this Honourable Court to amend, vary, or seek any advice, directions, or the approval or vesting of any transactions, in connection with the SSP.

5. Service of this Order may be effected by facsimile, electronic mail, personal delivery or courier. Service is deemed to be effected the next business day following transmission or delivery of this Order.



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The Honourable Justice K.M. Horner  
Justice of the Court of Queen's Bench of Alberta

## Sale and Investment Solicitation Process

On April 29, 2021, the Court issued a Receivership order (the "**Receivership Order**") appointing MNP Ltd. (the "**Receiver**") as receiver and manager of all of the current and future assets, undertakings and properties (the "**Property**") of every nature and kind whatsoever, and wherever situate, of Alter NRG Corp. (the "**Debtor**").

In accordance with paragraph 3(k) of the Receivership Order, the Receiver is seeking the Court's approval of a sale and investment solicitation process ("**SISP**") with respect to the Debtor's interest in certain of the Property.

Set forth below is the procedure to be followed with respect to the SISP to be undertaken to seek a Successful Bid (as defined below) and if there is a Successful Bid, to complete the transaction(s) contemplated by the Successful Bid.

### Overview

1. This SISP sets out the procedures in respect of the manner and timelines which:
  - a. an interested party (each a "**Prospective Bidder**") may gain access to due diligence materials concerning the Property;
  - b. the Receiver will consider and negotiate Qualified Bids (as defined below);
  - c. how Binding Bids may be selected as Successful Bids and the timelines relating thereto; and
  - d. the Court's approval of a Successful Bid and closing of same.
2. The Receiver shall conduct the SISP and the sale of the Property shall be on an "as is, where is" basis and without surviving representations or warranties of any kind, nature, or description by the Receiver or any of their respective agents, advisors or estates, except to the extent set forth in a definitive transaction agreement executed by the Receiver in accordance with the SISP. The Receiver reserves the right to change or alter any of the provisions, dates and timelines contained herein.
3. Prospective Bidders, Qualified Bidders and Successful Bidders are collectively referred to herein as "**Bidders**" and Qualified Bids and Successful Bids are collectively referred to herein as "**Bids**".

### Solicitation of Interest

4. Subject to receiving Court approval, the SISP shall commence on July 16, 2021 or as soon as practicable thereafter, at which time, the Receiver will make the following available to Prospective Bidders:
  - a. brochures, teasers and other preliminary marketing materials in respect of the Property;

- b. a form of confidentiality and non-disclosure agreement ("**CA**") to be executed by Prospective Bidders; and
- c. for those Prospective Bidders who have executed and returned a CA to the Receiver, a confidential information memorandum ("**CIM**") and access to an electronic data room of due diligence information.

### **Due Diligence**

- 5. The Receiver will populate an electronic data room (the "**VDR**") with detailed listings, photographs, technical specifications and other information required for Prospective Bidders to perform due diligence on the Property.
- 6. The Receiver shall provide Prospective Bidders with a copy of the CIM and access to the VDR and the Receiver shall provide to Prospective Bidders further access to such reasonably required due diligence materials and information relating to the Property as the Receiver deems appropriate, including access to further information in the VDR.
- 7. The Debtor and the Receiver and their respective advisors, make no representation or warranty as to the information contained in the CIM, the VDR, or other information to be provided through the due diligence process or otherwise, except to the extent otherwise contemplated under any definitive sale agreement with a Successful Bidder executed and delivered by the Receiver and approved by the Court.

### **Qualified Bids and Qualified Bidders**

- 8. A Prospective Bidder shall be deemed a "**Qualified Bidder**" if such Prospective Bidder submits a final binding proposal to the Receiver for the Property on or before 5:00pm (MST) on August 30, 2021 (the "**Bid Deadline**") in the form of a fully executed purchase and sale agreement, provided that such bid:
  - a. identifies and provides:
    - i. the Prospective Bidder's contact information; and
    - ii. the identities of each person or entity that will be sponsoring or participating in the contemplated transaction including direct and indirect owners;
  - b. includes written evidence of a firm, irrevocable financial commitment for all required funding or financing in connection with the Bid and, as appropriate, a summary of the structure and financing of any transaction including, but not limited to, the sources of financing;
  - c. it is accompanied by a refundable deposit (the "**Deposit**") in the form of a wire transfer (to a bank account specified by the Receiver), or such other form of payment acceptable to the Receiver, payable to the order of the Receiver, in an amount equal to 10% of the total consideration in the Qualified Bid to be held and dealt with in accordance with this SISP;

- d. it does not include any request for or entitlement to any break fee, expense reimbursement or similar type of payment;
  - e. it is not conditional upon the outcome of unperformed due diligence by the Qualified Bidder and or obtaining financing;
  - f. is received by the Bid Deadline; and
  - g. is irrevocable until there is a Successful Bidder selected and shall remain an irrevocable offer until the completion of the sale to the Successful Bidder.
9. A bid that meet each of the above criteria will be recognized as a "Qualified Bid". The Receiver acting reasonably, may waive compliance with any one or more of the above requirements and deem a non-compliant bid to be a Qualified Bid.
10. The Receiver shall have no obligation to select any bid as a Qualified Bid.
11. The Receiver reserves the right and unfettered discretion to reject any bid, proposal or Qualified Bid.
12. Following the Bid Deadline the Receiver shall review the bids to determine which bids constitute Qualified Bids and the bids shall not be reviewed prior to the Bid Deadline.
13. The Receiver shall notify each Qualified Bidder in writing as to whether its bid constitutes a Qualified Bid within 10 business days of the Bid Deadline, or at such later time as the Receiver deems appropriate.

#### **Receiver's Discretion**

14. The Receiver shall have no obligation under this SISP to:
- a. continue negotiations with any Qualified Bidders that have submitted Binding Bids; or
  - b. select any bids as a Successful Bid and conclude a sale arising out of this SISP,
- and reserves the right and unfettered discretion to reject any bid or proposal (including any Qualified Bid).
15. Any amendments to this SISP, including the relevant dates and deadlines set forth herein, may only be made:
- a. by the Receiver; or
  - b. by further order of the Court.
16. Notwithstanding anything else contained herein, the Receiver, in its reasonable business judgment may, from time to time, withdraw any Property from this SISP in accordance with the Receiver's rights under the Receivership Order.

### **Approval Application**

17. The Receiver shall apply to the Court (the "**Approval Application**") for an order (the "**Sale Approval and Vesting Order**") approving the Successful Bid and authorizing the Receiver to enter into any and all necessary agreements with respect to the Successful Bidder. The Approval Application will be held on a date to be scheduled by the Court upon application by the Receiver.
18. All Qualified Bids shall be deemed rejected on and as of the date and granting of the Sale Approval and Vesting Order by the Court, but not before, and shall remain open for acceptance until that time.

### **Deposits**

19. All Deposits shall be held by the Receiver in the Receiver's Trust Account in accordance with this SISP and/or the Definitive Documents (as the case may be).
20. In the event that a Binding Bid is not a Successful Bid, the Receiver will return the Deposit ("**Deposit Funds**") to the Qualified Bidder no later than 14 days following expiration of such Qualified Bid.
21. In the event that a Binding Bid is selected as a Successful Bid:
  - a. if the transaction closes respecting a Successful Bid, the Deposit Funds shall form a part of the purchase price then due and owing to by the Successful Bidder to the Receiver under the Definitive APA;
  - b. if the Purchaser refuses or is unable to close the transaction through no fault of the Receiver, the Deposit Funds shall be absolutely forfeited to the Receiver as liquidated damages without prejudice to any other right or remedy of the Successful Bidder; or
  - c. if the Receiver is unable or unwilling to proceed with a transaction, the Receiver shall return the Deposit Funds to the Successful Bidder no later than 14 days after the Receiver's determination, without any further right or remedy of the Successful Bidder.

### **Confidentiality**

22. Other than as shall be required in connection with the Approval Application, neither the Debtor nor the Receiver will share: i) the identity of any Potential Bidder or Qualified Bidder, or ii) the terms of any bid or Qualified Bid, with any other bidder without the express written consent of such party (including by way of e-mail).

### **Further Orders**

23. At any time during the SISP, the Receiver may apply to the Court for advice and directions with respect to any aspect of this SISP or the discharge of their respective powers and duties hereunder.

## Communications

24. All communications relating to a potential bid must be addressed as follows:

a. To the Receiver at:

MNP Ltd.  
1021 West Hastings Street  
Suite 1600 – MNP Tower  
Vancouver, BC  
V6E 0C3

Attention : Seamus Boyle  
Phone: (778) 372-5384  
seamus.boyle@mnp.ca

b. With a copy to:

MLT Aikins LLP  
2100 Livingston Place  
222 3rd Ave SW  
Calgary, AB T2P 0B4

Attention: Ryan Zahara  
Phone: (403) 693-5420  
rzahara@mltaikins.com



# **Appendix B**

**MNP LTD., in its capacity as Court-appointed receiver of all the current and future assets, undertakings and properties of ALTER NRG CORP., and not in its personal capacity and without personal or corporate liability**

**- and -**

**SKYFUEL INC.**

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**ASSET PURCHASE AGREEMENT**

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**DATED AS OF OCTOBER \_\_\_\_\_, 2021**

## ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT is made effective as of the \_\_\_\_\_ day of October, 2021,

BETWEEN:

**MNP LTD.**, solely in its capacity as Court-appointed receiver of the current and future assets, undertakings and properties of Alter NRG Corp., and not in its personal capacity and without personal or corporate liability

(hereinafter referred to as the “**Vendor**”)

AND:

**SKYFUEL INC.**, a company incorporated pursuant to the laws of the Province of [ ]

(hereinafter referred to as the “**Purchaser**”)

### RECITALS

- A. On April 29, 2021, the Court of Queen’s Bench of Alberta (the “**Court**”) granted an order appointing MNP Ltd. as the receiver (“**Receiver**”) of Alter NRG Corp. (“**Debtor**”) in Court of Queen’s Bench of Alberta Action No. 2101-02279 (the “**Receivership Proceedings**”);
- B. Pursuant to the Order (as defined below) of the Court dated July 16, 2021, the Court approved the sales solicitation process in the Receivership Proceedings and authorized the Receiver to market and sell the assets, undertakings and properties of the Debtor;
- C. The Vendor wishes to sell and the Purchaser wishes to purchase all of the right, title and interest of the Debtor in and to the Purchased Assets (as defined below), pursuant to the terms and conditions of this Agreement (as defined below);
- D. The Purchaser represents and warrants that: (i) it is an affiliate of Harvest International New Energy Co., Ltd., which is a wholly owned subsidiary of [ ], being a wholly owned subsidiary of Sunshine Kaidi New Energy Group Co., Ltd. (“**Sunshine Kaidi**”), a privately owned Chinese holding company; (ii) Sunshine Kaidi has committed to the Purchaser to advance sufficient funds to the Purchaser on or before the Closing Date to fully finance the cash component of the Purchaser’s offer; (iii) the Debtor is a wholly owned subsidiary of the Purchaser; and (iv) the Debtor is, or will be at Closing, indebted to Purchaser for the Alter Debt;
- E. The Purchaser has previously paid the sums of CAD\$250,000 and USD\$30,000 in respect of the receivership of the Debtor (the “**Harvest Receivership Payments**”);

**NOW THEREFORE**, in consideration of the promises and mutual covenants and agreements contained in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Parties, the Purchaser hereby offers and agrees to purchase from the Vendor the Purchased Assets (as defined below), and, upon its acceptance hereof, the Vendor agrees to sell to the Purchaser the Purchased Assets (as defined below), on the terms and conditions as follows:

## **ARTICLE 1 INTERPRETATION**

### **1.1 Definitions.**

In this Agreement, the following terms shall have the meanings set out below unless the context requires otherwise:

“**Agreement**” means this Agreement, including the Schedules to this Agreement, as it or they may be amended or supplemented from time to time, and the expressions “hereof”, “herein”, “hereto”, “hereunder”, “hereby” and similar expressions refer to this Agreement and not to any particular Section or other portion of this Agreement.

“**Alter Debt**” means [♦].

“**Applicable Law**” or “**Applicable Laws**” means all applicable federal, provincial and municipal statutes, laws, regulations, orders, by-laws, standards, directions, policies, interpretations, rules, codes, orders, guidelines, permits or other requirements of any Governmental Authority, having jurisdiction and in force, and in each case, only to the extent that it has the force of law.

“**Approval and Vesting Order**” means an order of the Court substantially in the form attached hereto as Schedule “C”, made by the Court approving the Transaction and this Agreement and vesting in the Purchaser, upon delivery of the Receiver’s Certificate by the Vendor to the Purchaser, all the right, title and interest of the Debtor in the Purchased Assets free and clear of all Encumbrances, other than the Permitted Encumbrances, in form and substance satisfactory to the Parties.

“**Assumed Liabilities**” has the meaning ascribed thereto in Section 2.2.

“**Books and Records**” means all of the books and records relating to the Patent Rights in the possession of the Vendor, including, without limitation, operating manuals, and all other documents, drawings, files, records, correspondence, and other data and information in the possession of the Debtor and related to the Purchased Assets.

“**Business Day**” means any day except Saturday, Sunday or statutory holidays in the Province of Alberta.

“**Canadian Dollars**” means the lawful currency of Canada.

“**Closing**” means the completion of the purchase and sale of the Purchased Assets in accordance with the provisions of this Agreement.

“**Closing Date**” means the date that is the next Business Day following ten (10) days after the issuance of the Approval and Vesting Order.

“**Closing Time**” has the meaning given in Section 5.1.

“**Contracts**” means any written or oral agreements, contracts, personal property leases, real property leases, licences from any Person, service contracts, the Permits and Licences and any other similar written or oral agreements between the Debtor and any Person, relating in any way to the Purchased Assets and “**Contract**” means any one of them.

“**Court**” has the meaning ascribed thereto in the recitals hereto.

“**Debtor**” has the meaning given in Recital A hereto.

“**Deposit**” has the meaning given in Section 3.1(d).

“**Effective Date**” has the meaning given in the preamble hereto.

“**Encumbrance**” means all claims, Liabilities, obligations, prior claims, right of retention, liens, security interests, floating charges, mortgages, pledges, assignments, conditional sales, warrants, adverse claims, restrictions, charges, hypothecs, trusts, deemed trusts (statutory or otherwise), judgments, writs of seizure or execution, notices of sale, contractual rights (including purchase options, rights of first refusal, rights of first offer or any other pre-emptive contractual rights), encumbrances, whether or not they have been registered, published or filed and whether secured, unsecured or otherwise.

“**ETA**” means the *Excise Tax Act*, RSA 1985, c E-15 and the regulations thereunder.

“**Final Order**” means, at the relevant time or date, an Order of the Court that has not been vacated, stayed, amended, reversed or modified, as to which no appeal or application for leave to appeal therefrom has been filed, or if any appeal(s) or application(s) for leave to appeal therefrom have been filed, any (and all) such appeal(s) or application(s) have been dismissed, quashed, determined, withdrawn or disposed of.

“**General Conveyance**” means a general conveyance of the Purchased Assets, in form and substance satisfactory to the Parties, acting reasonably, evidencing the conveyance to the Purchaser of the Vendor’s right, title and interest in and to the Purchased Assets.

“**Governmental Authority**” means:

- (a) any domestic or foreign government, whether national, federal, provincial, state, territorial, municipal or local (whether administrative, legislative, executive or otherwise);

- (b) any agency, authority, ministry, department, regulatory body, court, central bank, bureau, board or other instrumentality having legislative, judicial, taxing, regulatory, prosecutorial or administrative powers or functions of, or pertaining to, government;
- (c) any court, tribunal, commission, individual, arbitrator, arbitration panel or other body having adjudicative, regulatory, judicial, quasi-judicial, administrative or similar functions; and
- (d) any other body or entity created under the authority of or otherwise subject to the jurisdiction of any of the foregoing, including any stock or other securities exchange, securities commission or professional association.

“**GST**” means all goods and services tax and harmonized sales tax imposed under Part IX of the ETA.

“**Harvest Receivership Payments**” has the meaning set out in the recitals above.

“**ICA**” means the *Investment Canada Act*, RSC 1985, c 28 (1<sup>st</sup> Supp).

“**ITA**” means the *Income Tax Act*, RSC, 1985, c. 1 (5<sup>th</sup> Supp.) and the regulations thereto.

“**Legal Proceeding**” means any claim, action, cause of action, demand, lawsuit, arbitration, inquiry, hearing, complaint, audit, notice of violation, proceeding, litigation, citation, summons, Order, subpoena or investigation of any nature, civil, criminal, administrative, regulatory or otherwise, whether at law or in equity and by or before any Governmental Authority and includes any appeal or review thereof and any application for leave for appeal or review.

“**Liability**” means any debt, loss, damage, adverse claim, fines, penalties, liability or obligation (whether direct or indirect, known or unknown, asserted or unasserted, absolute or contingent, accrued or unaccrued, matured or unmatured, determined or determinable, disputed or undisputed, liquidated or unliquidated, or due or to become due, and whether in or under statute, contract, tort, strict liability or otherwise), and includes all costs and expenses relating thereto (including all fees, disbursements and expenses of legal counsel, experts, engineers and consultants and costs of investigation) and “**Liabilities**” means the plural thereof.

“**Order**” means any order, writ, judgment, injunction, decree, stipulation, determination or award entered by or with any Governmental Authority.

“**Parties**” means the Vendor and the Purchaser and “**Party**” means any one of them.

“**Patent Rights**” means all of the Vendor’s right, title and interest whatsoever in and to the patent rights, patent registrations, patent continuations and patents, whether domestic or foreign and whether registered or unregistered, and all applications for registrations in respect thereof, as identified in the attached Schedule “A”.

**“Permits and Licences”** means any and all licences, permits, approvals, authorizations, certificates, directives, Orders, variances, registrations, rights, privileges, concessions, granted, conferred or otherwise created by any Governmental Authority and held by or on behalf of the Vendor or other evidence of authority related to the Purchased Assets issued to, granted to, conferred upon, or otherwise created for the Debtor which relate to the ownership, maintenance, operation of the Debtor’s business or the Purchased Assets.

**“Permitted Encumbrances”** means those Encumbrances set forth in Schedule “B” hereto.

**“Person”** is to be broadly interpreted and includes an individual, a corporation, a partnership, a trust, an unincorporated organization, a Governmental Authority (including the government of a country or any political subdivision thereof), or any agency or department of any such government, and the executors, administrators or other legal representatives of an individual in such capacity.

**“Personal Information”** means information about an identifiable individual as defined in applicable Privacy Law.

**“Privacy Law”** means the *Personal Information Protection and Electronic Documents Act*, SC 2000, c 5 and the *Personal Information Protection Act*, SA 2003, c P-6.5, if and to the extent applicable, and any other Applicable Law of any other Province or territory of Canada.

**“Purchased Assets”** means: (a) the Patent Rights; (b) the Books and Records; (c) the Permits and Licences; and (d) all other assets rights and privileges of any nature whatsoever of the Debtor which are subject to the Receivership Proceedings.

**“Purchase Price”** has the meaning given in Section 3.1(a).

**“Receiver”** has the meaning given in Recital A hereto.

**“Receiver’s Certificate”** means the certificate attached to the Approval and Vesting Order substantially in the form attached as Schedule “C” and which is to be delivered by the Vendor to the Purchaser at the Closing Time in order to effect the transfer of the Purchased Assets to the Purchaser free and clear of all Encumbrance, other than the Permitted Encumbrances, in form and substance satisfactory to the Parties.

**“Receivership Proceedings”** has the meaning given in Recital A.

**“Representative”** when used with respect to a Person means each director, officer, employee, consultant, subcontractor, financial adviser, legal counsel, accountant and other agent, adviser or representative of that Person.

**“Sunshine Kaidi”** has the meaning given in Recital D hereto.

**“Tax Returns”** means all returns, reports, declarations, elections, notices, filings, information returns, statements and forms in respect of Taxes that are filed or required to be filed with any applicable Governmental Authority, including all amendments, schedules, attachments or supplements thereto and whether in tangible or electronic form.

“**Taxes**” means all taxes, charges, fees, levies, imposts and other assessments, including all income, sales, use, goods and services, harmonized, value added, capital, capital gains, alternative, net worth, transfer, profits, withholding, payroll, employer health, excise, real property and personal property taxes, and any other taxes, customs duties, fees, assessments or similar charges in the nature of a tax, including, Canada Pension Plan and provincial pension plan contributions, employment insurance payments and workers compensation premiums, together with any instalments with respect thereto, and any interest, fines and penalties, imposed by any Governmental Authority, whether disputed or not.

“**Transaction**” means the sale and purchase of the Purchased Assets and all matters and transactions ancillary thereto as contemplated by this Agreement.

“**Transaction Personal Information**” means any Personal Information: (a) in the possession, custody or control of the Vendor at the Closing Time, including Personal Information about employees, suppliers, customers, directors, officers or shareholders that is disclosed to the Purchaser or any Representative of the Purchaser prior to the Closing Time by the Receiver or its Representatives; or (b) collected by the Purchaser or any Representative of the Purchaser prior to the Closing Time from the Receiver or their Representatives, in either case in connection with the Transaction.

“**Transfer Taxes**” has the meaning given in Section 3.4(a).

“**Vendor**” has the meaning given in the preamble hereto.

“**Vendor’s Solicitors**” means MLT Aikins LLP.

## **1.2 Headings and Table of Contents.**

The division of this Agreement into Articles and Sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement.

## **1.3 No Strict Construction.**

The language used in this Agreement is the language chosen by the Parties to express their mutual intent, and no rule of strict construction shall be applied against any Party.

## **1.4 Number and Gender.**

Unless the context requires otherwise, words importing the singular include the plural and vice versa and words importing gender include all genders. Where the word “including” or “includes” is used in this Agreement, it means “including (or includes) without limitation”.



### **1.5 Business Days.**

If any payment is required to be made or other action is required to be taken pursuant to this Agreement on a day which is not a Business Day, then such payment or action shall be made or taken on the next Business Day.

### **1.6 Currency and Payment Obligations.**

Except as otherwise expressly provided in this Agreement:

- (a) All dollar amounts referred to in this Agreement are stated in Canadian Dollars; and
- (b) any payment contemplated by this Agreement shall be made by cash, certified cheque, wire transfer or any other method that provides immediately available funds.

### **1.7 Calculation of Time.**

In this Agreement, a period of days shall be deemed to begin on the first day after the event which began the period and to end at 5:00 p.m. (Calgary time) on the last day of the period. If any period of time is to expire hereunder on any day that is not a Business Day, the period shall be deemed to expire at 5:00 p.m. (Calgary time) on the next succeeding Business Day.

### **1.8 Statute References.**

Any reference in this Agreement to any statute or any section thereof shall, unless otherwise expressly stated, be deemed to be a reference to such statute or section as amended, restated or re-enacted from time to time.

### **1.9 Section and Schedule References.**

Unless the context requires otherwise, references in this Agreement to Sections or Schedules are to Sections or Schedules of this Agreement. The Schedules to this Agreement, listed as follows, are an integral part of this Agreement:

Schedule A	Patent Rights
Schedule B	Permitted Encumbrances
Schedule C	Form of Approval and Vesting Order

## **ARTICLE 2 PURCHASED ASSETS**

### **2.1 Purchase and Sale of Purchased Assets.**

At the Closing Time, subject to the terms and conditions of this Agreement and the Approval and Vesting Order, the Vendor shall sell and the Purchaser shall purchase all of the Debtor's right, title

and interest in and to the Purchased Assets, which shall be free and clear of all Encumbrances other than Permitted Encumbrances, to the extent and as provided for in the Approval and Vesting Order.

## 2.2 Assumption of Assumed Liabilities

At the Closing Time, on and subject to the terms and conditions of this Agreement, the Purchaser shall assume and agree to pay when due and perform and discharge in accordance with their terms, any Liabilities in respect of the Purchased Assets incurred or arising as a direct result of events occurring subsequent to Closing (collectively, the “**Assumed Liabilities**”). Notwithstanding any other provision of this Agreement, the Purchaser shall not assume any Liabilities hereunder other than the Assumed Liabilities.

## 2.3 Delivery of Purchased Assets.

Delivery of the Purchased Assets shall be deemed to occur at the Closing Time.

# ARTICLE 3 PURCHASE PRICE

## 3.1 Purchase Price.

The Purchase Price will be satisfied by the Purchaser as follows:

- (a) The purchase price for the Purchased Assets is and shall be the sum of (the “**Purchase Price**”), payable as follows:
  - (i) The Purchaser shall pay the cash sum of (the “**Cash Component**”), provided that if the Purchaser elects and the Receiver permits (in its sole discretion), a portion of such cash component may be satisfied by the assumption by the Purchaser of trade and employee liabilities of the Debtor (up to a maximum of ); and
  - (ii) The Purchaser shall pay an amount equal to the Alter Debt, up to a maximum of , by way of a credit bid of the Alter Debt (the “**Credit Bid**”), on the following terms:
    - (A) the Credit Bid portion of the Purchase Price is and will be deemed to be set off on Closing against the nominal amount of the Alter Debt up to a maximum of , in full satisfaction of the Credit Bid component of the Purchase Price;
    - (B) if the Alter Debt is determined to be lower than or not owing at all, the Purchase Price will be reduced accordingly, by reducing the Credit Bid component of the Purchase Price to the actual amount of the Alter Debt;

- (C) if the Alter Debt is determined to have an actual value less than the nominal amount of the Alter Debt for any reason, there shall be no obligation on the Purchaser to top up the price in any way; and
  - (D) under no circumstances will the Purchaser have any liability under this agreement to pay any cash amount beyond the Cash Component of the Purchase Price, and any amounts paid by it to date (including the Harvest Receivership Payments). The Credit Bid portion of the Purchase Price is and will be at all times non-recourse to the Purchaser in all respects, and there shall be no recourse of any nature for any reason against the Purchaser by the Receiver or any other party in respect of the Credit Bid component of the Purchase Price.
- (b) The Purchaser may, at any time prior to Closing and in its sole discretion, subordinate the Alter Debt (or any portion thereof) to debts of the Debtor owing to other creditors of the Debtor.
  - (c) Contemporaneously with the execution and delivery of this Agreement by the Purchaser, the Purchaser has paid a deposit payable to the Vendor in the amount of CAD (the “**Deposit**”).

### **3.2 Satisfaction of Purchase Price**

The Purchaser shall satisfy the Purchase Price at the Closing Time by payment to the Receiver by way of bank draft or certified cheque drawn on a Canadian chartered bank made payable to the Receiver or by wire transfer to an account designated by the Receiver as follows:

- (a) payment of the Purchase Price less the amount of the Deposit; and
- (b) subject to Section 3.4(a), payment of the Transfer Taxes, if any, to the Receiver in trust.

### **3.3 Allocation of Purchase Price.**

The Purchase Price shall be allocated among the Purchased Assets in the manner agreed to by the Purchaser and Vendor prior to Closing (acting reasonably). The Parties further agree to execute and file all Tax Returns and prepare all financial statements, returns and other instruments on the basis of such allocations, provided that each Party shall be responsible for filing their own tax returns and paying all taxes due thereunder of any kind whatsoever.

### 3.4 Taxes

- (a) The Purchaser shall be liable for and shall pay all federal and provincial sales taxes and all other similar taxes or other like charges, including land transfer fees, properly payable by the Purchaser in connection with the transfer of the Purchased Assets by the Vendor to the Purchaser (“**Transfer Taxes**”), but specifically excluding any and all taxes based on the income, capital or corporation taxes payable by the Vendor.
- (b) If available, the Purchaser and the Vendor shall jointly elect under subsection 167(1) of the ETA that no GST be payable in respect of the sale and transfer of the Purchased Assets and the Purchaser shall file such election in compliance with the requirements of the ETA with the applicable tax authorities within the time and in the manner required by the relevant Applicable Law.
- (c) If available, the Purchaser and the Vendor shall, if applicable, and at the sole election of the Purchaser, jointly execute and file an election under Section 20(24) of the ITA in the manner required by Section 20(25) of the ITA and under the equivalent or corresponding provisions of any other applicable provincial or territorial statute, in the prescribed forms and within the time period permitted under the ITA and under any other applicable provincial or territorial statute, as to such amount paid by the Vendor to the Purchaser for assuming future obligations. In this regard, the Purchaser and the Vendor acknowledge that a portion of the Purchased Assets transferred by the Vendor pursuant to this Agreement, having a value equal to the amount elected under Section 20(24) of the ITA and the equivalent provisions of any applicable provincial or territorial statute, is being transferred by the Vendor as payment for the assumption of such future obligations by the Purchaser.
- (d) If any payment made by any of the Vendor or the Purchaser as a result of a breach, modification or termination of this Agreement, or of any other agreement or document delivered pursuant to this Agreement, is deemed by the ETA to include GST, or is deemed by any other applicable legislation to include a similar value added or multi-staged tax, the amount of such payment or forfeiture shall be increased accordingly. For greater certainty, if the Purchaser is required by Applicable Law to deduct or withhold any amount from any payment made by it, then such payment shall be increased by an additional amount such that the amount received by the Vendor after such deduction or withholding (including deduction or withholding from such additional amount) is equal to the amount that the Vendor would have received absent any such deduction or withholding.
- (e) The Purchaser represents and warrants that it is not registered to collect and remit GST pursuant to the ETA. Accordingly, to the extent that any GST is payable by the Purchaser in respect of its purchase of the Purchased Assets hereunder, the Purchaser shall pay all such GST to the Vendor, and the Vendor shall collect and remit all such GST to the Receiver General of Canada. The Purchaser shall

indemnify and save harmless the Vendor from and against all claims and demands for the payment or remittance of GST payable by Purchaser in connection with the purchase of the Purchased Assets, including penalties and interest thereon and any liability or costs incurred as a result of the Purchaser's failure to pay such GST to the Vendor, provided that the Vendor shall indemnify and save harmless the Purchaser from and against all claims and demands, including penalties and interest thereon, resulting from the Vendor's failure to remit any such GST (after receipt thereof from the Purchaser) to the Receiver General of Canada in a timely manner.

- (f) Subject to the provisions of subsection (e) above, the Purchaser agrees to indemnify and save the Vendor harmless from and against all claims and demands for payment of all Taxes payable by Purchaser in connection with the purchase of the Purchased Assets, including penalties and interest thereon and any liability or costs incurred as a result of any failure to pay such taxes when due.

#### **ARTICLE 4 PRE-CLOSING MATTERS AND COVENANTS**

##### **4.1 Pre-Closing Risk and Post-Damage Entitlements.**

The Purchased Assets are and shall remain at the Vendor's risk until Closing. From and after Closing, the Purchased Assets shall be at the risk of the Purchaser. Notwithstanding the foregoing, to the extent that legal ownership of any Purchased Assets are not registered in name of the Purchaser as of the Closing Time, the Vendor shall hold legal title thereto as bare trustee for the benefit of the Purchaser until such time as legal ownership thereof is registered in the name of the Purchaser.

##### **4.2 Motion for Approval and Vesting Order.**

This Agreement is subject to Court approval, and Closing is subject to the granting of the Approval and Vesting Order. The Vendor shall file with the Court, as soon as reasonably practicable following execution and delivery of this Agreement, a motion seeking the Court's granting of the Approval and Vesting Order. The Purchaser shall cooperate with the Vendor in their efforts to obtain the Approval and Vesting Order. The Purchaser, at its own expense, will promptly provide to the Vendor all such information within its possession or under its control as the Vendor may reasonably request to obtain the Approval and Vesting Order.

##### **4.3 Books and Records.**

The Purchaser shall preserve and keep the Books and Records acquired by it pursuant to this Agreement for a period of six (6) years after Closing, or for any longer periods as may be required by any Applicable Laws applying to such Books and Records. The Purchaser shall make such Books and Records, as well as electronic copies of such Books and Records (to the extent reasonably feasible), available to the Vendor, and their respective Representatives and successors, and any trustee in bankruptcy of the Debtor, and shall permit any of the foregoing Persons to take copies of such Books and Records as they may require.

#### **4.4 Cooperation and Consultation with Governmental Authorities**

All meetings, submissions, filings, and proposals made by or on behalf of either Party before any Governmental Authority or the staff or regulators of any Governmental Authority, in connection with the consummation of the Transaction (but, for the avoidance of doubt, not including any interactions between the Vendor or the Purchaser with Governmental Authorities in the ordinary course of business, any disclosure which is not permitted by Applicable Law or any disclosure containing confidential information) shall be disclosed to the other Party hereunder in advance of any filing, submission or attendance, it being the intent that the Parties will consult and cooperate with one another, and consider in good faith the views of one another, in connection with any such filings, meetings, submissions and proposals. Each Party shall give notice to the other Party with respect to any meeting, submission, discussion, appearance or contact with any Governmental Authority or the staff or regulators of any Governmental Authority, with such notice being sufficient to provide the other Party with the opportunity to attend and participate in such meeting, discussion, appearance or contact (except where such Governmental Authority expressly requests that such Party not attend or participate in such meeting, discussion, appearance or contact). Notwithstanding any requirement under this Section 4.4, a Party shall not be required to provide the other Party with any information required to be provided under this Section 4.4 where the information is confidential and competitively sensitive, in which case the supplying Party shall provide a redacted version to the requesting Party and shall provide the information on a non-redacted basis to the receiving Party's external counsel, and the receiving Party agrees that it shall neither request nor receive such non-redacted information from its external counsel.

#### **4.5 Transactional Personal Information**

Purchaser shall comply with Privacy Law in the course of collecting, using and disclosing Transaction Personal Information. The Purchaser shall cause its Representatives to observe the terms of this Section 4.5 and to protect and safeguard Transaction Personal Information in their possession in accordance with Privacy Law. The Purchaser shall collect Transaction Personal Information prior to Closing only for purposes related to the Transaction. The Purchaser shall not, without the consent of the individuals to whom such Personal Information relates or as permitted or required by Applicable Law, use or disclose Transaction Personal Information: (a) for purposes other than those for which such Transaction Personal Information was collected by the Vendor prior to the Closing; and (b) for a purpose which does not relate directly to the carrying out the Transaction.

#### **4.6 Regulatory Approval, Permits and Licences**

- (a) The Vendor shall take commercially reasonable steps to keep all Permits and Licences held by it in full force and effect and, to the extent that such Permits and Licences are transferrable, they shall have been assigned to the Purchaser prior to Closing, or by such other date that the Vendor and Purchaser mutually agree.
- (b) The Purchaser and Vendor shall promptly following the execution of this Agreement use commercially reasonable steps, including making or causing to be made all filings, submissions and applications required under any Applicable Law and take all such other

steps required to transfer any Permits and Licences held by the Vendor to the Purchaser or to permit the re-issuance in favour of the Purchaser of any such Permits and Licences and to obtain all consents, authorizations, Orders and approvals from all Governmental Authorities necessary in connection with this Agreement and the Transaction.

- (c) The Parties shall not unreasonably take any action that will have the effect of delaying, impairing or impeding the receipt of any required consents, authorizations, Orders and approvals.

#### **4.7 Indemnity**

The Purchaser agrees to indemnify the Vendor, and save them harmless against, and will reimburse or compensate them for, any damages arising from, in connection with or related in any manner whatsoever to:

- (a) any Transfer Taxes (including penalties and interest) which may be assessed against any of the Vendor, including, notwithstanding anything to the contrary in this Agreement, any Transfer Taxes which may be assessed against any of the Vendor in the event that any election made pursuant to Section 3.4 is challenged by the relevant tax authority as being inapplicable to the Transaction, or as a result of the Purchaser's failure to file such elections within the prescribed time;
- (b) the collection, use or disclosure of Transaction Personal Information by the Purchaser and its Representatives; and
- (c) the Purchaser's failure to pay when due and perform and discharge the Assumed Liabilities in accordance with their terms.

#### **4.8 Satisfaction of Conditions**

The Purchaser and the Vendor shall cooperate with each other and shall use commercially reasonable efforts and take such steps as are reasonably necessary to satisfy, by the applicable time for each:

- (a) the conditions under Section 6.1 (in the case of the Purchaser);
- (b) the conditions under Section 6.2 (in the case of the Vendor); and
- (c) the conditions under Section 6.4 (in the case of both the Vendor and the Purchaser).

## **ARTICLE 5 CLOSING ARRANGEMENTS**

### **5.1 Closing.**

The Closing shall take place at 1:00 p.m. (Calgary time) (the “**Closing Time**”) on the Closing Date at the offices of the Vendor’s Solicitors, or at such other time on the Closing Date or such other place as may be agreed orally or in writing by the Vendor and the Purchaser.

### **5.2 Vendor’s Closing Deliveries.**

At the Closing, the Vendor shall deliver or cause to be delivered to the Purchaser the following documents:

- (a) the tax elections as contemplated by Section 3.4(b) and (c), executed by the Vendor, if applicable;
- (b) the Approval and Vesting Order as issued by the Court;
- (c) the General Conveyance, duly executed by the Vendor;
- (d) any specific conveyances, assignments, transfers, novations and other documents or instruments that are reasonably required or desirable to convey, assign and transfer the interest of the Vendor in and to the Purchased Assets to the Purchaser and (if applicable) to novate the Purchaser in the place and stead of the Vendor with respect to the Purchased Assets (including, without limitation, any patent assignments required by any Governmental Authority), each as executed by the Vendor;
- (e) the Books and Records; and
- (f) such further and other documentation as is referred to in this Agreement or as the Purchaser may reasonably require to give effect to this Agreement all of which shall be in a form satisfactory to the Parties, acting reasonably.

### **5.3 Purchaser’s Closing Deliveries.**

At the Closing, the Purchaser shall deliver or cause to be delivered to the Vendor the following documents and payments:

- (a) the Purchase Price less the Deposit;
- (b) subject to Section 3.4(a), the Transfer Taxes;
- (c) the tax election as contemplated by Section 3.4(b) and (c), executed by the Purchaser, if applicable;



- (d) the General Conveyance, duly executed by the Purchaser;
- (e) any specific conveyances, assignments, transfers, novations and other documents or instruments that are reasonably required or desirable to convey, assign and transfer the interest of the Vendor in and to the Purchased Assets to the Purchaser and (if applicable) to novate the Purchaser in the place and stead of the Vendor with respect to the Purchased Assets (including, without limitation, any patent assignments required by any Governmental Authority), each as executed by the Purchaser;
- (f) a bring-down certificate executed by a senior officer of the Purchaser dated as of the Closing Date, certifying that (i) all of the representations and warranties of the Purchaser contained in this Agreement are true as of the Closing Date, with the same effect as though made on and as of the Closing Date and (ii) that each of the terms and conditions set out in this Agreement to be complied with or performed by the Purchaser at or prior to Closing have been complied with or performed by the Purchaser in all material respects;
- (g) a certificate of status for the Purchaser and/or any other similar evidence of incorporation or registration in any jurisdiction where an applicable Governmental Authority requires the Purchaser to be incorporated or registered in order to take assignment of and hold title to any Purchased Assets; and
- (h) such further and other documentation as is referred to in this Agreement or as the Receiver may reasonably require to give effect to this Agreement, in such form as is satisfactory to the Parties acting reasonably.

#### **5.4 Confidentiality.**

Both prior to the Closing Date and, if the sale and purchase of the Purchased Assets hereunder fails to occur for whatever reason thereafter, the Purchaser will not disclose to anyone or use for its own or for any purpose other than the purpose contemplated by this Agreement any confidential information concerning the Debtor or the operations obtained by the Purchaser pursuant hereto, and will hold all such information in the strictest confidence and, if the sale and purchase of the Purchased Assets hereunder fails to occur for whatever reason, will return all documents, records and all other information or data relating to Debtor or to the operations which the Purchaser obtained pursuant to this Agreement. The Purchaser acknowledges that until and subject to Closing, such confidential information is the sole property of the Debtor and, except for the use of such confidential information by the Purchaser to evaluate the within transaction during its due diligence therefor, the Debtor is the sole Person entitled to use, exploit and benefit from such confidential information.

## **ARTICLE 6 CONDITIONS OF CLOSING**

### **6.1 Purchaser's Conditions.**

The Purchaser shall not be obligated to complete the purchase and sale of the Purchased Assets pursuant to this Agreement unless, at or before the Closing Time, each of the following conditions has been satisfied, it being understood that the following conditions are included for the exclusive benefit of the Purchaser and may be waived, in whole or in part, in writing by the Purchaser at any time; and the Vendor agrees with the Purchaser to take all such actions, steps and proceedings within its reasonable control as may be necessary to ensure that the following conditions are fulfilled at or before the Closing Time:

- (a) this Agreement shall be executed by a duly authorized representative of the Vendor;
- (b) all representations and warranties of the Vendor contained in this Agreement shall be true as of the Closing Time with the same effect as though made as of that time; and
- (c) the Vendor shall have performed and complied with all of the terms and conditions in this Agreement on its part to be performed or complied with at or before Closing Time and shall have executed and delivered or caused to have been executed and delivered to the Purchaser at the Closing Time all the documents contemplated in Section 5.2 or elsewhere in this Agreement.
- (d) there shall be no action, litigation or proceedings pending or threatened or order issued by a court against either of the parties, or involving any of the Purchased Assets, for the purpose of enjoining, preventing or restraining the completion of the Transaction.

### **6.2 Vendor's Conditions.**

The Vendor shall not be obligated to complete the transactions contemplated by this Agreement unless, at or before the Closing Time, each of the following conditions has been satisfied, it being understood that the following conditions are included for the exclusive benefit of the Vendor, and may be waived, in whole or in part, in writing by the Vendor at any time; and the Purchaser agrees with the Vendor to take all such actions, steps and proceedings within the Purchaser's reasonable control as may be necessary to ensure that the following conditions are fulfilled at or before the Closing Time:

- (a) this Agreement shall be executed by a duly authorized representative of the Purchaser;
- (b) all representation and warranties of the Purchaser contained in this Agreement shall be true as of the Closing Time with the same effect as though made as of that time;

- (c) the Purchaser shall have performed and complied with all of the terms and conditions in this Agreement on its part to be performed by or complied with at or before the Closing Time and shall have executed and delivered or caused to have been executed and delivered to the Vendor at the Closing Time all the documents contemplated in Section 5.3 or elsewhere in this Agreement; and
- (d) there shall be no action, litigation or proceedings pending or threatened or order issued by a court against either of the parties, or involving any of the Purchased Assets, for the purpose of enjoining, preventing or restraining the completion of the Transaction.

### **6.3 Condition not Fulfilled.**

If any condition in Section 6.1 or 6.2 shall not have been fulfilled at or before the Closing Time, then the Vendor or the Purchaser, as applicable depending on the circumstance, in its sole discretion may, without limiting any rights or remedies available to such party at law or in equity, either:

- (a) Terminate this Agreement by notice to the other Party in which event the first Party shall be released from all obligations under this Agreement; or
- (b) waive compliance with any such condition without prejudice to its right of termination in the event of non-fulfillment of any other condition.

### **6.4 Mutual Conditions**

The obligations of the Vendor and the Purchaser hereunder are subject to the mutual conditions that:

- (a) the Approval and Vesting Order shall have been made by the Court approving this Agreement and the Transaction and vesting in the Purchaser all the right, title and interest of the Debtor in and to the Purchased Assets free and clear of all Encumbrances, other than the Permitted Encumbrances;
- (b) the Approval and Vesting Order will not have been stayed, varied or vacated and no order will have been issued and no action or proceeding will be pending to restrain or prohibit the completion of the transactions herein contemplated; and
- (c) from the Effective Date, no Governmental Authority shall have enacted, issued, or promulgated any Final Order or Applicable Law which has the effect of: (a) making any of the Transaction illegal; or (b) otherwise prohibiting, preventing or restraining the consummation of any of the Transactions contemplated by this Agreement.

The Parties hereto acknowledge that the foregoing conditions are for the mutual benefit of the Vendor and the Purchaser and cannot be waived by either Party.

## **6.5 Receiver's Certificate.**

When the conditions to Closing set out in Sections 6.1, 6.2, and 6.4, have been satisfied and/or waived by the Vendor and/or the Purchaser, as applicable, the Vendor and the Purchaser will each deliver to the Receiver written confirmation that such conditions of Closing, as applicable, have been satisfied and/or waived and upon the payment in full of the Purchase Price on the Closing Date, and the payment in full of any Transfer Taxes payable by the Purchaser on Closing, the Receiver shall: (a) issue forthwith its Receiver's Certificate concurrently to the Debtor and the Purchaser, at which time the Closing will be deemed to have occurred; and (b) file as soon as practicable a copy of the Receiver's Certificate with the Court (and shall provide confirmation of such filing to the Vendor and the Purchaser). In regard to the foregoing, the Receiver will be relying exclusively on the basis of the certificates to be provided as per this Section 6.5 and without any obligation whatsoever to verify the satisfaction or waiver of the applicable conditions.

## **ARTICLE 7 REPRESENTATIONS AND WARRANTIES**

### **7.1 Representations and Warranties of the Purchaser.**

The Purchaser represents and warrants as follows to the Vendor at the date of this Agreement and at the Closing Date and acknowledges and confirms that the Vendor is relying on such representations and warranties in connection with the sale by the Vendor of the Purchased Assets:

- (a) *Incorporation and Power.* The Purchaser is a corporation duly incorporated under the Applicable Laws of the jurisdiction of its incorporation and is duly organized, validly subsisting and in good standing under such Applicable Laws. The Purchaser is, as applicable, duly incorporated or registered in any jurisdiction where an applicable Governmental Authority requires the Purchaser to be incorporated or registered in order to take assignment of and hold title to any Purchased Assets, and is in good standing with such Governmental Authority.
- (b) *Due Authorization.* The Purchaser has all necessary corporate power, authority and capacity to enter into this Agreement and all other agreements and instruments to be executed by it as contemplated by this Agreement and to carry out its obligations under this Agreement and such other agreements and instruments. The execution and delivery of this Agreement and such other agreements and instruments and the completion of the transactions contemplated by this Agreement and such other agreements and instruments have been duly authorized by all necessary corporate action on the part of the Purchaser.
- (c) *Enforceability of Obligations.* This Agreement constitutes a valid and binding obligation of the Purchaser enforceable against the Purchaser in accordance with its terms subject, however, to limitations on enforcement imposed by bankruptcy, insolvency, reorganization or other Applicable Laws affecting the enforcement of the rights of creditors or others and to the extent that equitable remedies such as

specific performance and injunctions are only available in the discretion of the court from which they are sought.

- (d) *Financial Ability.* The Purchaser has the financial ability through its own resources or through financing that has been arranged with a recognized financial lending institution, to close the Transaction contemplated herein and pay the balance of the Purchase Price, the Transfer Taxes on the Closing Date. The Purchaser confirms that it has delivered to the Vendor evidence of such financial ability by way of a copy of a binding commitment letter or letter from its banking institution confirming the foregoing, and which is satisfactory to the Vendor.
- (e) *Brokers and Finders.* There are no claims for brokerage commissions, finders' fees or similar compensation in connection with the transactions contemplated by this Agreement based on any arrangement or agreement made by or on behalf of the Purchaser.
- (f) *Approvals.* No consent, waiver, authorization or approval of any Person and no notice or declaration to or filing or registration with any Governmental Authority is required in connection with the execution and delivery by the Purchaser of this Agreement or all other agreements and instruments to be executed by the Purchaser or the performance of its obligations hereunder or thereunder.
- (g) *ETA.* The Purchaser is not registered under Part IX of the *ETA*.
- (h) *ICA.* The Purchaser is not a "non-Canadian" within the meaning of the *ICA*, or, if the Purchaser is a "non-Canadian", the Purchaser is a "WTO investor" within the meaning of the *ICA*.

## **7.2 Representations and Warranties of the Vendor.**

The Vendor represents and warrants as follows to the Purchaser at the date of this Agreement and at the Closing Date and acknowledges and confirms that the Purchaser is relying upon such representation and warranties in connection with the purchase of the Purchased Assets:

- (a) *Authority to Sell:* Subject to obtaining the Approval and Vesting Order prior to Closing, on Closing the Vendor shall have the power and authority to sell the Purchased Assets, in accordance with the terms and conditions of this Agreement and the Approval and Vesting Order.
- (b) *Enforceability of Obligations.* Subject to the entry of the Approval and Vesting Order and any other orders required by the Court in connection with the transactions contemplated herein, this Agreement constitutes a valid and legally binding obligation of the Receiver, enforceable against the Receiver in accordance with its terms.
- (c) *Brokers and Finders.* There are no claims for brokerage commissions, finders' fees or similar compensation in connection with the transactions contemplated by this

Agreement based on any arrangement or agreement made by or on behalf of the Vendor.

- (d) *ITA*. The Vendor is not a non-resident of Canada for purposes of the *ITA*.
- (e) *ETA*. The Vendor is registered for GST purposes under Part IX of the *ETA*.

### **7.3 Survival of Representations and Warranties.**

The representations and warranties of the Purchaser and Vendor contained in Sections 8.1 and 8.2, respectively, or any other agreement, certificate or instrument delivered pursuant to this Agreement shall survive the Closing for three (3) months.

### **7.4 “As is, Where is”.**

The Purchaser acknowledges that the Vendor is selling the Purchased Assets on an “as is, where is” basis as they shall exist on the Closing Date. The Purchaser further acknowledges that it has entered into this Agreement on the basis that the Purchaser has conducted such inspections of the condition of and title to the Purchased Assets as it deemed appropriate and has satisfied itself with regard to these matters. No representation, warranty or condition is expressed or can be implied as to title, encumbrances, description, fitness for purpose, merchantability, condition, quantity or quality or in respect of any other matter or thing whatsoever concerning the Purchased Assets or the right of the Vendor to sell or assign same, save and except as expressly represented or warranted herein. The Purchaser further acknowledges that all written and oral information (including, without limitation, analyses, financial information and projections, compilations and studies) obtained by the Purchaser from the Vendor with respect to the Purchased Assets or otherwise relating to the Transactions has been obtained for the convenience of the Purchaser only and is not warranted to be accurate or complete. Without limiting the generality of the foregoing:

- (a) the Vendor has made no representation or warranty as to any regulatory approvals, licences, permits, consents or authorizations, including the Permits and Licences, that may be needed to complete the Transactions or to operate or carry on the business of the Debtor or any portion thereof, and the Purchaser is relying entirely on its own investigation, due diligence and inquiries in connection with such matters;
- (b) all written and oral information or data obtained from the Receiver and the Vendor, including in any teaser letter, asset listing, confidential information memorandum or other document made available to the Purchaser (including in certain “data rooms”, management presentations, site visits and diligence meetings or telephone calls), with respect to the Purchased Assets, and the business of the Debtor has been obtained for the convenience of the Purchaser only, and the Receiver and the Vendor have made no representation or warranty, express or implied, statutory or otherwise as to the accuracy or completeness of any such information;
- (c) any information or data regarding or describing the Purchased Assets or the business of the Debtor or in any other agreement or instrument contemplated

hereby, is for identification purposes only, is not relied upon by the Purchaser, and no representation, warranty or condition, express or implied, has or will be given by the Receiver, the Vendor or any other Person concerning the completeness or accuracy of such information or descriptions;

- (d) except as otherwise expressly provided in this Agreement, the Purchaser hereby unconditionally and irrevocably waives any and all actual or potential rights or claims the Purchaser might have against the Receiver or any employee of the Receiver of any of the Receiver's pursuant to any warranty, express or implied, legal or conventional, of any kind or type, other than those representations and warranties of the Vendor expressly set forth in Section (g). Such waiver is absolute, unlimited, and includes, but is not limited to, waiver of express warranties, implied warranties, warranties of fitness for a particular use, warranties of merchantability, warranties of occupancy, strict liability and claims of every kind and type, including claims regarding defects, whether or not discoverable or latent, product liability claims, or similar claims, and all other claims that may be later created or conceived in strict liability or as strict liability type claims and rights; and
- (e) this Section 7.4 shall not merge on Closing and is deemed incorporated by reference in all Closing documents and deliveries.

## **ARTICLE 8 TERMINATION**

### **8.1 Termination by the Parties**

This Agreement may be terminated by such Parties listed below provided that the Party terminating the Agreement is not in breach of its obligations hereunder:

- (a) upon the mutual written agreement of the Vendor and the Purchaser, provided however that if this Agreement has been approved by the Court, any such termination shall require either the consent of the Receiver or approval of the Court;
- (b) pursuant to Section 6.1 by the Purchaser;
- (c) pursuant to Section 6.2 by the Vendor; and
- (d) pursuant to Section 6.3 and/or 6.4 by either Party.

### **8.2 Effect of Termination**

- (a) If this Agreement is terminated pursuant to Section 8.1(a) or Section 8.1(d), all the obligations of both the Vendor and the Purchaser pursuant to this Agreement shall be at an end and the Purchaser shall be entitled to have the Deposit returned without interest and without deduction;

- (b) if this Agreement is terminated pursuant to Section 8.1(b), the Vendor shall return the Deposit to the Purchaser forthwith, without interest and without deduction, and the Purchaser acknowledges and agrees that it shall have no further rights or remedies against the Vendor arising out of the termination of this Agreement;
- (c) if this Agreement is terminated pursuant to Section 8.1(c), the Deposit shall be forfeited to the Vendor as liquidated damages and the Vendor shall have the right to pursue any other rights and remedies against the Purchaser available at law or in equity; and
- (d) if this Agreement is terminated pursuant to Section 8.1, all further obligations of the Parties, other than those outlined in Section 8.2(a) through (c), will terminate and no Party will have any Liability or further obligations hereunder, except as contemplated in Section 4.5 (Transaction Personal Information), Section 4.7 (Indemnity), Section 8.2 (Effect of Termination), Section 9.2 (Expenses), Section 9.3 (Announcements), Section 9.4 (Notices), Section 9.8 (Entire Agreement), Section 9.10 (Severability), Section 9.13 (Receiver's Capacity), Section 9.14 (Governing Law), Section 9.15 (Dispute Resolution), Section 9.16 (Attornment), 9.17 (Successors and Assigns), 9.18 (Assignment), and 9.19 (Third Party Beneficiaries), which shall survive such termination.

## **ARTICLE 9 GENERAL**

### **9.1 Further Assurances.**

Each Party shall promptly do, execute, deliver or cause to be done, executed and delivered all further acts, documents and things in connection with this Agreement that the other Party may reasonably require, for the purposes of giving effect to this Agreement.

### **9.2 Expenses.**

Except as otherwise provided herein, each Party shall be responsible for its own legal and other expenses (including any Taxes imposed on such expenses) incurred in connection with the negotiation, preparation, execution, delivery and performance of this Agreement and the Transaction contemplated by this Agreement and for the payment of any broker's commission, finder's fee, legal fees, bankers, investment bankers or like payment payable by it in respect of the Transaction.

### **9.3 Announcements.**

While the Vendor may in its sole discretion seek a sealing order with respect to the Purchase Price for a limited period of time subsequent to Closing, the Vendor shall be entitled to disclose this Agreement and all information provided by the Purchaser in connection herewith may be disclosed to the Court and to parties of interest in the Receivership Proceedings and a copy of this Agreement may be posted on the Receiver's website maintained in connection with the Receivership Proceedings, but all such posted or provided information, including this Agreement, shall only be



so posted or provided on a redacted basis unless otherwise agreed by the Purchaser, with such redacted versions to be approved by the Purchaser prior to any such disclosure, posting or provision. Notwithstanding anything to the contrary in this Agreement, unless such information is otherwise publicly disclosed or, upon the advice of counsel, required by Applicable Law or by any Governmental Authority to be disclosed (including in any Tax Returns), neither the Vendor, the Purchaser nor the Receiver shall disclose the quantum of the Purchase Price without the prior written consent of the Vendor and the Purchaser.

#### 9.4 Notices.

- (a) Any notice, certificate, consent or other communication required or permitted to be given or made under this Agreement shall be in writing and shall be effectively given and made if (i) delivered personally, (ii) sent by prepaid courier service or mail, or (iii) sent by fax, e-mail or other similar means of electronic communication, in each case to the applicable address set out below:

- (i) if to the Vendor, to:

MNP Ltd.  
1500, 640 5<sup>th</sup> Ave SW  
Calgary, Alberta T2P 3G4-  
Attention: Victor Kroeger  
Email: vic.kroeger@mnp.ca

with a copy to:

MLT Aikins LLP  
2100 Livingston Place  
222, 3<sup>rd</sup> Avenue Calgary, Alberta T2P 0B4  
Attention: Ryan Zahara  
Email: rzahara@mltaikins.com

- (ii) if to the Purchaser, to:

SkyFuel Inc.  
c/o Kaidi Mansion, T1 Jiangxia Avenue  
Eastlake Newtech Development Zone  
Wuhan, 430223, Hubei, China  
Attention: Li (Miki) Huijun  
Fax: +86-27-67869031  
Email: kdlihuijun@126.com

With a copy to:

Gardiner Roberts LLP  
Bay Adelaide Centre - East Tower,  
22 Adelaide St W, Ste. 3600,  
Toronto, ON M5H 4E3 Canada  
Attention: Chris Besant  
Fax +1 416.865.6636

Email [cbesant@grllp.com](mailto:cbesant@grllp.com)

- (b) Any such communication so given or made shall be deemed to have been given or made and to have been received on the day of delivery if delivered, or on the day of faxing or sending by other means of recorded electronic communication, provided that such day in either event is a Business Day and the communication is so delivered, faxed or sent before 4:30 p.m. on such day. Otherwise, such communication shall be deemed to have been given and made and to have been received on the next following Business Day. Any such communication sent by mail shall be deemed to have been given and made and to have been received on the fifth (5<sup>th</sup>) Business Day following the mailing thereof; provided however that no such communication shall be mailed during any actual or apprehended disruption of postal services. Any such communication given or made in any other manner shall be deemed to have been given or made and to have been received only upon actual receipt.
- (c) Any Party may from time to time change its address under this Section 9.4(c) by notice to the other Party given in the manner provided by this Section.

## **9.5 Time of Essence.**

Time shall be of the essence of this Agreement in all respects.

## **9.6 Post-Closing Wind-Up of Receivership Proceedings**

Notwithstanding any other provision of this Agreement, nothing in this Agreement shall operate to restrict in any way the rights of the Receiver to distribute any of the assets of the Vendor, or otherwise wind up the Receivership Proceedings as it may determine in its sole discretion after the Closing, even if doing so may impair the Vendor's ability to provide or perform any further cooperation, assistance or further assurances as may otherwise be provided under this Agreement.

## **9.7 Time Periods.**

Unless otherwise specified, time periods within or following which any payment is to be made or act is to be done shall be calculated by excluding the day on which the period commences and

including the day on which the period ends and by extending the period to the next Business Day following if the last day of the period is not a Business Day.

**9.8 Entire Agreement.**

This Agreement and the agreements and other documents required to be delivered pursuant to this Agreement, constitute the entire agreement between the Parties and set out all the covenants, promises, warranties, representations, conditions, understandings and agreements between the Parties pertaining to the subject matter of this Agreement and supersede all prior agreements, understandings, negotiations and discussions, whether oral or written. There are no covenants, promises, warranties, representations, conditions, understandings or other agreements, oral or written, express, implied or collateral between the Parties in connection with the subject matter of this Agreement except as specifically set forth in this Agreement and any document required to be delivered pursuant to this Agreement.

**9.9 Amendments and Waiver.**

No amendment of any provision of this Agreement shall be valid unless the same shall be in writing and signed by the Purchaser and the Vendor. The Vendor and the Purchaser may consent to any such amendment at any time prior to the Closing with the requisite corporate authorization. No waiver by either Party of any default, misrepresentation, or breach of warranty or covenant hereunder, whether intentional or not, shall be deemed to extend to any prior or subsequent default, misrepresentation, or breach of warranty or covenant hereunder or affect in any way any rights arising by virtue of any prior or subsequent such occurrence.

**9.10 Severability.**

Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to that jurisdiction, be ineffective to the extent of such prohibition or unenforceability and shall be severed from the balance of this Agreement, all without affecting the remaining provisions of this Agreement or affecting the validity or enforceability of such provision in any other jurisdiction.

**9.11 Remedies Cumulative**

The rights, remedies, powers and privileges herein provided to a Party are cumulative and in addition to and not exclusive of or in substitution for any rights, remedies, powers and privileges otherwise available to that Party.

**9.12 Language.**

The Parties have required that this Agreement and all deeds, documents and notices relating to this Agreement be drawn up in the English language.

**9.13 Receiver's Capacity.**

The Purchaser acknowledges and agrees that the Receiver acting in its capacity as Court-appointment receiver of all the assets, undertakings, and properties of the Debtor, will have no

liability in connection with this Agreement whatsoever in its capacity as Receiver, in its personal or corporate capacity or otherwise.

**9.14 Governing Law.**

This Agreement shall be governed by and construed in accordance with the laws of the Province of Alberta and the laws of Canada applicable therein.

**9.15 Dispute Resolution**

If any dispute arises with respect to the interpretation or enforcement of this Agreement, including as to what constitutes a breach or material breach of this Agreement for the purposes of this Section 9.15, such dispute shall be determined by the Court within the Receivership Proceedings, or by such other Person or in such other manner as the Court may direct. Without prejudice to the ability of any of the Vendor or the Purchaser to enforce this Agreement in any other proper jurisdiction, the Purchaser and the Vendor irrevocably submit and attorn to the non-exclusive jurisdiction of the Court.

**9.16 Attornment**

Each Party agrees: (a) that any Legal Proceeding relating to this Agreement must be brought in the Court, and for that purpose now irrevocably and unconditionally attorns and submits to the jurisdiction of the Court; (b) that it irrevocably waives any right to, and shall not, oppose any such Legal Proceeding in the Province of Alberta on any jurisdictional basis, including forum non conveniense; and (c) not to oppose the enforcement against it in any other jurisdiction of any Order duly obtained from the Court as contemplated by this Section 9.16. Each Party agrees that service of process on such Party as provided in Section 9.4 shall be deemed effective service of process on such Party.

**9.17 Successors and Assigns.**

This Agreement shall be binding upon and enure to the benefit of the Parties hereto and their respective successors and permitted assigns.

**9.18 Assignment.**

This Agreement may not be assigned by the Purchaser except with the prior written consent of the Vendor, which consent shall not be unreasonably withheld or delayed.

**9.19 No Third Party Beneficiaries.**

This Agreement shall not confer any rights or remedies upon any Person other than the Parties and their respective successors and permitted assigns or as specifically referred to herein.

**9.20 Counterparts.**

This Agreement may be executed in counterparts including by way of stamp signature or DocuSign signature duly authorized by the signatory Parties, and such counterparts together shall constitute a single instrument. Delivery of an executed counterpart of this Agreement by electronic means, including, without limitation, by facsimile or email transmission or by electronic delivery in portable document format (“**.pdf**”) or tagged image file format (“**.tif**”), shall be equally effective as delivery of a manually executed counterpart hereof.

*[Remainder of page left intentionally blank; signature page to follow.]*

**IN WITNESS WHEREOF** the Purchaser has executed this Agreement.

**SKYFUEL INC.**

By: \_\_\_\_\_

Name:

Title:

**ACCEPTANCE**

The Vendor hereby accepts the above and agrees to and with the Purchaser to duly complete the sale of the Purchased Assets on the terms and conditions above mentioned and to observe and perform the covenants and undertakings therein set out.

**DATED** as of this \_\_\_\_ day of \_\_\_\_\_, 2021.

**MNP LTD.**, solely in its capacity as Court-appointed receiver of the current and future assets, undertakings and properties of Alter NRG Corp., and not in its personal capacity and without personal or corporate liability

By: \_\_\_\_\_

Name: Victor Kroeger

Title: Senior Vice President

## SCHEDULE "A" PATENT RIGHTS

Appendix A - Assets Included in Sale  
Alter NRG Corp. Patent List

Title	Patent No.	Country	Application No.	Filing Date	Publication No.	Publication Date	Patent Date	Expiration Date	Status
PROCESS AND APPARATUS FOR TREATMENT OF INCINERATOR BOTTOM ASH AND FLY ASH (2011WP2NP)	9,314,885 B2	United States of America	13/445,255	12-Apr-2012	US-2012-0284998-A1	18-Oct-2012	19-Apr-2016	18-Oct-2032	Revivable
PROCESS AND APPARATUS FOR TREATMENT OF INCINERATOR ASH (2011WP2NP/CT/CN/HK)	HK1195281	Hong Kong	14108701.7	26-Aug-2014	1195281A	07-Nov-2014	21-Sep-2018	12-Apr-2032	Granted
PROCESS AND APPARATUS FOR TREATMENT OF INCINERATOR BOTTOM ASH AND FLY ASH (2011WP2NP/DIV) (CLAIMS 15-30)	9,468,787 B2	United States of America	14/586,277	30-Dec-2014	US-2015-0112114-A1	23-Apr-2015	18-Oct-2016	12-Apr-2032	Granted
PROCESS AND APPARATUS FOR TREATMENT OF INCINERATOR ASH (2011WP2NP/CT/CN)	ZL201280018309.2	China (People's Republic)	CN201280018309.2	12-Apr-2012	CN103608115A	26-Feb-2014	31-Oct-2017	12-Apr-2032	Granted
PROCESS AND APPARATUS FOR TREATMENT OF INCINERATOR BOTTOM ASH AND FLY ASH (2011WP2NP/CON)	9,669,248 B2	United States of America	14/565,408	30-Dec-2014	US-2015-0112115-A1	23-Apr-2015	06-Jun-2017	28-May-2032	Granted
SYSTEM AND PROCESS FOR UPGRADING HEAVY HYDROCARBONS (2007WP1)	7,832,394 B2	United States of America	11/807,436	29-May-2007	US-2008-0299019-A1	04-Dec-2008	15-Dec-2009	05-Feb-2028	Granted
SYSTEM AND PROCESS FOR UPGRADING HEAVY HYDROCARBONS (2007WP1D)	8,052,946 B2	United States of America	12/569,657	27-Oct-2009	US-2010-0215554-A1	26-Aug-2010	08-Nov-2011	12-Feb-2028	Granted
PLASMA GASIFICATION REACTOR (2008WP2/WP3/WP4 PCT/AU)	2010213982	Australia	2010-213982	04-Feb-2010			14-May-2015	04-Feb-2030	Granted
PLASMA GASIFICATION REACTOR (2008WP2/WP3/WP4 PCT/CA)	2,751,859	Canada	2,751,859	08-Aug-2011	2751859	19-Aug-2010	31-Jul-2018	04-Feb-2030	Granted
PLASMA GASIFICATION REACTOR (2008WP2/WP3/WP4 PCT/CN)	ZL201080007559.7	China (People's Republic)	CN201080007559.7	04-Feb-2010	CN102318974A	11-Jan-2012	29-Jul-2015	04-Feb-2030	Granted
PLASMA GASIFICATION REACTOR (2008WP4)	9,222,038 B2	United States of America	12/378,184	11-Feb-2009	US-2010-0169560-A1	12-Aug-2010	29-Dec-2015	28-Mar-2033	Granted
PLASMA GASIFICATION REACTOR (2008WP2/WP3/WP4 PCT/CA DIV)		Canada	3,008,823	19-Jun-2018					Reinstate
PLASMA GASIFICATION REACTOR (2008WP2/WP3/WP4 HK)	HK1164778	Hong Kong	12105575.8	07-Jun-2012	1164778A	28-Sep-2012	24-Jun-2016	04-Feb-2030	Granted
PLASMA GASIFICATION REACTOR (2008WP2/WP3/WP4 PCT/AU DIV)	2015202017	Australia	2015-202017	21-Apr-2015		25-Aug-2016	08-Dec-2016	04-Feb-2030	Granted
PLASMA GASIFICATION REACTORS WITH MODIFIED CARBON BEDS AND REDUCED COKE REQUIREMENTS (2010WP1D/V1)	9,222,026 B2	United States of America	13/803,107	14-Mar-2013	US-2013-0192970-A1	01-Aug-2013	29-Dec-2015	30-Sep-2031	Granted
PLASMA GASIFICATION REACTORS WITH MODIFIED CARBON BEDS AND REDUCED COKE REQUIREMENTS (2010WP1D/V2)	9,656,915 B2	United States of America	14/820,604	07-Aug-2015	US-2015-0344793-A1	03-Dec-2015	23-May-2017	06-Jan-2032	Granted
PLASMA GASIFICATION REACTORS WITH MODIFIED CARBON BEDS AND REDUCED COKE REQUIREMENTS (2010WP1NP/CT/SG DIV)		Singapore	SG10201602951X	14-Apr-2016		29-Jun-2016			Revivable
ENHANCED PLASMA GASIFIERS FOR PRODUCING SYNGAS (2011WP1NP/CT/EP)	EP2670823	European Patent Convention	12701402.5	12-Jan-2012	EP2670823	11-Dec-2013	04-Jul-2018	12-Jan-2032	Granted
PROCESS FOR PRODUCING SYNGAS USING PLASMA GASIFIERS (2011WP1NP/DIV) (CLAIMS 19-24)	9,540,579 B2	United States of America	14/831,214	26-Feb-2015	US-2015-0166914-A1	18-Jun-2015	10-Jan-2017	19-Mar-2032	Granted
ENHANCED PLASMA GASIFIERS FOR PRODUCING SYNGAS (2011WP1NP/CT/SG DIV)		Singapore	SG10201600852T	03-Feb-2016		30-Mar-2016			Published
SYNGAS PRODUCED BY PLASMA GASIFICATION (075052P/CT/EP)	EP2638130	European Patent Convention	11 785 259.0	10-Nov-2011	EP2638130	18-Sep-2013	06-Jun-2018	10-Nov-2031	Granted
SYNGAS PRODUCED BY PLASMA GASIFICATION (075052P/CT/RU)	2572998	Russian Federation	2013126521	10-Nov-2011	2013126521	20-Dec-2014	16-Dec-2015	10-Nov-2031	Granted
START-UP TORCH	9,574,770 B2	United States of America	13/860,662	11-Apr-2013	US-2013-0273480-A1	17-Oct-2013	21-Feb-2017	24-Nov-2033	Granted
START-UP TORCH	ZL201380025891.X	China (People's Republic)	CN201380025891.X	16-Apr-2013	CN104302997A	21-Jan-2015	03-May-2017	16-Apr-2033	Granted
START-UP TORCH		India	2183/KOLNP/2014	16-Apr-2013					Pending
START-UP TORCH	HK1205243	Hong Kong	15105687.1	12-Jun-2015	1205243A	11-Dec-2015	04-May-2018	16-Apr-2033	Granted
METHOD AND APPARATUS FOR FEEDING MUNICIPAL SOLID WASTE TO A PLASMA GASIFIER REACTOR (0767Z)	9,656,893	United States of America	13/721,846	20-Dec-2012	US-2014-0175335-A1	26-Jun-2014	23-May-2017	20-Dec-2032	Granted

**SCHEDULE "B"**  
**PERMITTED ENCUMBRANCES**





**SCHEDULE "C"**  
**FORM OF APPROVAL AND VESTING ORDER**

The Parties shall use the Alberta Template Approval and Vesting Order (Jan 2019 version) as the form of vesting order for this transaction, *mutatis mutandis*,

# Appendix C

District of: Alberta  
Division No. 02 - Calgary  
Court No. 25-095231  
Estate No. 25-095231

FORM 31 / 36  
Proof of Claim / Proxy  
In the Matter of the Receivership of  
Alter NRG Corp.

All notices or correspondence regarding this claim must be forwarded to the following address:

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In the matter of the receivership of Alter NRG Corp. and the claim of \_\_\_\_\_, creditor.

I, \_\_\_\_\_, of the city of \_\_\_\_\_, a creditor in the above matter, hereby appoint \_\_\_\_\_ of \_\_\_\_\_, to be my proxyholder in the above matter, except as to the receipt of dividends, \_\_\_\_\_ (with or without) power to appoint another proxyholder in his or her place.

I, \_\_\_\_\_ (name of creditor or representative of the creditor), of the city of \_\_\_\_\_ in the province of \_\_\_\_\_ do hereby certify:

1. That I am a creditor of the above named debtor (or I am \_\_\_\_\_ (position/title) of \_\_\_\_\_, creditor).

2. That I have knowledge of all the circumstances connected with the claim referred to below.

3. That the debtor was, at the date of receivership, namely the 29th day of April 2021, and still is, indebted to the creditor in the sum of \$ \_\_\_\_\_, as specified in the statement of account (or affidavit or solemn declaration) attached and marked Schedule "A", after deducting any counterclaims to which the debtor is entitled. (The attached statement of account or affidavit must specify the vouchers or other evidence in support of the claim.)

4. (Check and complete appropriate category.)

A. UNSECURED CLAIM OF \$ \_\_\_\_\_

(other than as a customer contemplated by Section 262 of the Act)

That in respect of this debt, I do not hold any assets of the debtor as security and

(Check appropriate description.)

Regarding the amount of \$ \_\_\_\_\_, I claim a right to a priority under section 136 of the Act.

Regarding the amount of \$ \_\_\_\_\_, I do not claim a right to a priority.

(Set out on an attached sheet details to support priority claim.)

B. CLAIM OF LESSOR FOR DISCLAIMER OF A LEASE \$ \_\_\_\_\_

That I hereby make a claim under subsection 65.2(4) of the Act, particulars of which are as follows:

(Give full particulars of the claim, including the calculations upon which the claim is based.)

C. SECURED CLAIM OF \$ \_\_\_\_\_

That in respect of this debt, I hold assets of the debtor valued at \$ \_\_\_\_\_ as security, particulars of which are as follows:

(Give full particulars of the security, including the date on which the security was given and the value at which you assess the security, and attach a copy of the security documents.)

D. CLAIM BY FARMER, FISHERMAN OR AQUACULTURIST OF \$ \_\_\_\_\_

That I hereby make a claim under subsection 81.2(1) of the Act for the unpaid amount of \$ \_\_\_\_\_

(Attach a copy of sales agreement and delivery receipts.)

E. CLAIM BY WAGE EARNER OF \$ \_\_\_\_\_

That I hereby make a claim under subsection 81.3(8) of the Act in the amount of \$ \_\_\_\_\_,

That I hereby make a claim under subsection 81.4(8) of the Act in the amount of \$ \_\_\_\_\_,

F. CLAIM BY EMPLOYEE FOR UNPAID AMOUNT REGARDING PENSION PLAN OF \$ \_\_\_\_\_

That I hereby make a claim under subsection 81.5 of the Act in the amount of \$ \_\_\_\_\_,

That I hereby make a claim under subsection 81.6 of the Act in the amount of \$ \_\_\_\_\_,

G. CLAIM AGAINST DIRECTOR \$ \_\_\_\_\_

(To be completed when a proposal provides for the compromise of claims against directors.)

That I hereby make a claim under subsection 50(13) of the Act, particulars of which are as follows:  
(Give full particulars of the claim, including the calculations upon which the claim is based.)

H. CLAIM OF A CUSTOMER OF A BANKRUPT SECURITIES FIRM \$\_\_\_\_\_

That I hereby make a claim as a customer for net equity as contemplated by section 262 of the Act, particulars of which are as follows:  
(Give full particulars of the claim, including the calculations upon which the claim is based.)

5. That, to the best of my knowledge, I \_\_\_\_\_(am/am not) (or the above-named creditor \_\_\_\_\_(is/is not)) related to the debtor within the meaning of section 4 of the Act, and \_\_\_\_\_(have/has/have not/has not) dealt with the debtor in a non-arm's-length manner.

6. That the following are the payments that I have received from, and the credits that I have allowed to, and the transfers at undervalue within the meaning of subsection 2(1) of the Act that I have been privy to or a party to with the debtor within the three months (or, if the creditor and the debtor are related within the meaning of section 4 of the Act or were not dealing with each other at arm's length, within the 12 months) immediately before the date of the initial bankruptcy event within the meaning of Section 2 of the Act: (Provide details of payments, credits and transfers at undervalue.)

7. (Applicable only in the case of the bankruptcy of an individual.)

- Whenever the trustee reviews the financial situation of a bankrupt to redetermine whether or not the bankrupt is required to make payments under section 68 of the Act, I request to be informed, pursuant to paragraph 68(4) of the Act, of the new fixed amount or of the fact that there is no longer surplus income.
- I request that a copy of the report filed by the trustee regarding the bankrupt's application for discharge pursuant to subsection 170(1) of the Act be sent to the above address.

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Individual Creditor

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Name of Corporate Creditor

Per \_\_\_\_\_  
Name and Title of Signing Officer

Return To:

Phone Number: \_\_\_\_\_

Fax Number: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

MNP Ltd. - Licensed Insolvency Trustee

Per:

\_\_\_\_\_  
Victor Kroeger - Receiver  
1500, 640 - 5 Avenue SW  
Calgary AB T2P 3G4  
Fax: (403) 537-8437  
E-mail: calgary.insolvency@mnp.ca

NOTE: If an affidavit is attached, it must have been made before a person qualified to take affidavits.

WARNINGS: A trustee may, pursuant to subsection 128(3) of the Act, redeem a security on payment to the secured creditor of the debt or the value of the security as assessed, in a proof of security, by the secured creditor.

Subsection 201(1) of the Act provides severe penalties for making any false claim, proof, declaration or statement of account.